

2009 HOUSE FINANCE AND TAXATION

HB 1422

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1422**

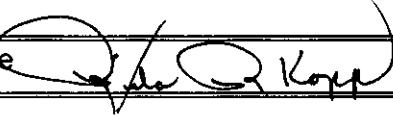
House Finance and Taxation Committee

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Hearing Date: January 28, 2009

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Committee Clerk Signature



Minutes:

Vice Chairman Drovdal: We will open the hearing on HB 1422.

Representative Kasper: I am here to go through HB 1422 to explain this bill and why I think this is an important bill for the committee to favorably consider, as well as this legislative assembly. I will begin my remarks by saying HB 1422 is property tax reform, not property tax relief and there is a huge difference. In the last legislative session, Governor Hoeven worked on a bill that was property tax relief, whereby hundreds of millions of dollars were given back to people in their property taxes. That is property tax relief. However, the last legislative session did nothing to reform the system of how our property taxes are levied. I have had discussion with fellow legislators who say that property tax reform and property tax issues are local issues. From the perspective of how the dollars are spent and how they are levied to the very bones, we, the legislature, provide the framework for property tax formulas. The only body in North Dakota that can change how property taxes are levied is this legislative assembly. HB 1422 is going to reform the formula. I would like to walk through the bill to explain what the formula does. I see John Walstad is here from Legislative Council; he has been extremely helpful in the drafting of this bill. If there are questions I get stumped on, I would hope that we could refer to John Walstad. Go to page one of the bill, line 24 at the bottom and the top of

page two, you will see that home rule charter of any municipality cannot supersede this legislation. Therefore, home rule charters can do whatever they wish in other areas; but if this legislation is passed, the home rule charter cannot change this bill at all. If you go to the bottom of page 2 under section 3, we are talking about true and full value. If we read from line 25, the relative age and location of residential property must be considered in determination of market value. That is not in statute. It is a method by which assessors historically value property. I know there are certain circumstances in my city of Fargo whereby property on the north side of Fargo may be less valuable than property on the south side of Fargo and they have comparable square footage and so on. What this is saying is that that has to be taken into consideration. I think it is important that we just don't use a computer formula to value one home in one city all the same because I think location matters. At the bottom of page 2, we are excluding special assessments from the valuation of a residence. Currently in some cities, your costs of your construction (\$100,000) and the specials (\$20,000) and the valuation for tax purposes is \$120,000. I don't think that specials are an asset or an equity situation; I think they are a liability. Unless it can be shown that specials increase the value of the home, they cannot use specials to increase the valuation. On page 3 on listing of the property, we talk about taxable value. On line 9, notwithstanding any other provision of law, the taxable valuation of real property may not be increased by more than 2% from its taxable value from the previous year unless there are improvements added under "a" or classification changes under "b". I would like to distribute a handout and walk through it (**Attachment 1**). This is a key part of the bill. Sometimes I think there is a real misunderstanding of how the property tax formula works, maybe not with this committee but other people may need to see this in black and white. If we look under item 1, the market value; that is the true and full value of a piece of property. Let's assume we have a home worth \$100,000. As the committee knows, the

formula says we take 50% of that home value with our remainder of \$50,000, take that number times 9% and in item 5 we come up with the taxable value of \$4,500. What my bill does is put a cap on the taxable value so the taxable value of \$4,500 cannot increase by more than 2% over the previous year's taxable value. That is a percentage cap increase. Now this is important because as we move forward, if this bill is adopted, each home and each piece of property would have its own taxable valuation, which would become a base part of their property. Ten years down the road, for example, that \$100,000 home might be worth \$200,000, but its taxable value would not have grown like it has been in the past. Now we have a new home built at \$200,000 ten years from today. That new home, if we don't have a cap in here and a basis, would come in at a \$200,000 value and would come in at a much higher tax than my property that has been capped for ten years. The new homes that are built need to have a basis from which to have a taxable value equal to older structures. That is the reason this cap is in here so that as time goes on, those new structures will not have to pay more for property tax than the structures that have been capped. It took a long time for me to understand how that worked and I think I have got it now. I hope this committee will consider the value of that. On page 3, line 20 – notwithstanding any other provision of the law, true and full value would be based on a five-year rolling average of the market value. This would tend to smooth out the “ups” of the property taxes we have seen in the past. With the caps we have in the bill in this area and some other areas, that may not be as important as it might have been, but it would help in smoothing out property tax increases. Page 3, line 24 – The true and full value of land underlying residential or commercial property may not be uniformly increased within an assessment district. I don't know what has happened in other cities; but in Fargo, I was told by a member of this legislative body, who owns some property in Fargo, that his property taxes were increased 23% on a building that is 15 years old. He was told by the

assessor that the land he bought 15-20 years for \$1 per square foot is now worth \$3 a square foot and his property taxes went up. This would prevent that; it would not allow the assessor to come in and assess that special tax on those buildings. It cannot be uniformly increased. The true and full value of land underlying residential commercial property must be determined separately for each parcel so that cannot be a blanket change in how taxes are levied. I think that is a fairness issue. On page 4, line 19 is simply a restatement to be consistent with page 3. Again we say taxable value of property may not be increased by more than 2% from the taxable value of the previous year. Flipping over to page 5, we are now getting into notice of appeal on property tax increases. This simply states on line 23 that if the township board is going to increase property taxes, they must give notice to the person on the person's right of appeal to the County Board of Equalization. Section 7 says the same thing—that cities must do that as well. Section 8 talks about the County Board of Equalization. On line 18, the board may not make any adjustment to taxable valuation of property, which would exceed the limitations of subsection 2, which is the 2% taxable valuation increase so we are restating that the county board is not to supersede this bill as well. Flipping over to page 8, here we talk about the County Board of Equalization shall advise any person who has appealed an assessment of that person's right to appeal to the State Board of Equalization. We are just putting in statute that these folks must be given written notice. Section 10, notice of increased assessment to real property. Currently if the assessment is going to be increased by more than 5 or 10%, the home owner or the property owner must be notified. That was changed in last session. I think it used to be 15% and we amended it down to 10%. I am amending it further down to 5%. Five percent of a home worth \$200,000-300,000 is a lot of money. We just want to be sure those homeowners are not surprised and can go through the appeal process if they so desire. We are also on lines 17 and 18 increasing the amount of time a

property owner has to be notified of an assessment increase from 15 days to 20 days. Section 11 is where we are limiting property tax increases in dollars. The top of page 9, line 3 says property taxes levied in dollars by a taxing district may not exceed the amount levied in dollars by that taxing district against taxable property in that taxing district in the preceding taxable year by more than 4% or the percentage change on the Midwest Consumer Price Index, whichever is less. What we are saying here is that any taxing authority cannot increase the total property taxes that they levy by more than 4% or the Midwest Consumer Price Index, whichever is less. Line 8 and property taxes levied in dollars by a taxing district against a parcel of property may not exceed the amount of taxing district levied in dollars by more than 2% over the previous year. We are not only capping the taxable value, we are capping the dollars so if your property taxes last year were \$4,000, irrespective of anything else in the bill, your property taxes on your piece of property could not increase by more than \$80 next year.

Now we do have exceptions. Items a, b and c to the 4% limitation of the taxing entity on their budget. You can see that if improvements are made, that is obviously is an allowable condition under item a, when a property tax exemption that comes off, item b, and when temporary mill levy increase authorized the electorate or the taxing district, a 4% and the 2% cap can be increased. At the top of page 10, I was talking with a fellow legislator the concern for the smaller taxing entities in the state of North Dakota and he said, "You know there are certain circumstances where we simply have to increase property taxes." What we did was put in some additional exceptions for an increase and they are listed at the top of page 10, a) New or increased mill levies authorized by the state or the electors., b) any irrepealable tax to pay bonded indebtedness, c) levies for a building fund or capital improvements, d) levies for fire protection, law enforcement or emergency services, e) budget expenditures or substantial equipment purchases. We do give exceptions for the 4% cap in that respect. In line 14, we

also allow for the involvement of the people. What we say there, irrespective of anything else, if the taxing entity wants to make a case to the people of their taxing authority that they need more than a 4% budget increase, they can go to a vote of the people. A vote of the people of 60% or more would allow the caps to be lifted. I don't have heartburn on the 60% or 51%. If the committee feels it should be amended down to the majority, I would not object. The bottom of page, the last section which I would amend now to say that the property owner would now be given three years of history (line 31). The last two years, plus the current year have been gathered, the computer system is in place so this should not be any additional cost to the taxing entities to provide one additional year of information. Sections 13 and 14, what we are saying here is currently specials that a property owner pays are not tax deductible under North Dakota statute. This amends the statute so that whatever specials a person pays against a property are tax deductible under North Dakota law on both the short form and the long form, only on ND income taxes. That is the bill. I think it is time that this legislature adopts and reforms our property tax system. When I was campaigning, the number one issue I heard about was property taxes going out of sight. I think it is also time that our citizens have an opportunity know that this legislature is taking action. By reforming the formula, we are taking action. The local political subdivisions will have to become more responsible in their budgeting and I am not suggesting that all of them are, but I do believe that some of them are. I would try to answer any questions.

Representative Kelsh: We have heard a lot of tax bills this session that have said that caps are an interference with the free market. Can you respond to that? That it doesn't reflect what is happening out there with the increase of valuation and property values.

Representative Kasper: Any caps are an interference with the free market. That is a new one. I don't see that there is any free market in taxation. Taxation is implemented by a

legislative body. That is not a free market situation; that is not a competition situation. That is simply a legislative situation. I think again that it is the responsibility of this legislative assembly to establish tax policy and to implement the rules that we must live by in our state. This is a tax reform. I can't see where it goes to the area you are specifying.

Representative Kelsh: Let me rephrase that. If the market tells you that property values are increasing by 5% per year and you are limiting the political subdivisions to 2% increase in valuations, it is not a true reflection of what is actually happening in the free market.

Representative Kasper: Again the property taxes have escalated out of sight over the last ten years for the people of our state. The valuations have gone up according to what the market says. This bill does not interfere with the market value; let's again state that. That's why we are capping the taxable value, not the marketable value. When the political subdivisions simply keep their mill levy level and you see in the paper that the political subdivision did not increase the mill levy, but personal property taxes went up by 8-9%, there is a disconnect. To me, it has been a gravy train too long. We have to stop the growth. Our average income in the State of ND is now about \$35,000. There are some senior citizens that are paying \$5-6,000 a year in property taxes and it is going up dramatically every year. That is not right. It the onus of this legislative body to try to fix what is out of control (21:00)

Representative Kelsh: Another bill we heard about recreation district where the property values had increased and people were willing to pay more for it because it was on a lake. One of the proposals we heard to fix that was maybe a freeze on the valuation of that property until it changes hands similar to Proposition 13 in California.

Representative Kasper: That's a whole different concept. Initially you are saying the lakeshore property did not change status; it just became more valuable. It is up to your committee to discuss that. I don't see how that is germane to the bill.

Representative Weiler: Not a question for Representative Kasper. Representative Kelsh, you talked about market values going up 5%. This does not cap the market value. This only caps the taxable value. The market value can be 20% more than that.

Representative Kasper: That is exactly right. There is some misunderstanding that people had talked about that we were interfering with the market value of a piece of property with this bill. We are not at all. We are just capping the taxable value. The market value can go up 50% here. It doesn't matter to me. We are just not going to let that taxable value increase that much anymore. If the property changes status and goes from agricultural to commercial, now you have an opportunity to change the tax because that is a change in property status. The bill allows that.

Representative Headland: I am struggling to find it now, but doesn't this bill cap true and full value at 2% because true and full value is market value?

Representative Kasper: No, true and full value is market value. This bill does not do anything with capping market value. This bill caps taxable value.

Representative Winrich: What happens when a piece of property is sold and you have an actual reflection of market value?

Representative Kasper: Once a cap goes into place on a piece of property for taxable value, that cap stays with the property forever unless it is changed by a vote of the people. If a property is sold, the market value will determine what the property sells for but that property tax basis stays capped for the new owner. That is the **intent of the bill** to not keep on increasing the amount of dollars collected by the taxing authorities because market values change. Let the market values be where they wish; we are going to cap the taxable value and give that property the basis in perpetuity. The relationships you are dealing with here mathematically are completely linear. If the true and full value was increased by 50% and you

chased it through the 50% and the 9% to get the taxable value, the taxable value would increase by 50%. But then you impose the cap. It seems to me that it is quite possible for adjacent properties or properties within a single neighborhood where the market changes over time where effectively because of the cap; you would have one property where the formula was 50% of true and full value and 9% of that to get to a taxable value. A different property, because of the cap, would actually have different percentages so you are assessing the taxable value of different properties with different formulas. How is that fair?

Representative Kasper: I am so glad you asked that question because when a new piece of property comes into existence, that piece of property's market value (let's say it is \$200,000) and it is ten years from today. The assessor will assess that property at market value of \$200,000, and then he will be required to go back and look at comparable structures at that point in time and go back to the taxable average that those structures have had in existence with a cap for ten years and give that new piece of property that taxable value average. All new pieces of property coming on will have the benefit of the cap because the bill requires them to do that. The new properties will not have to pay increased property taxes; they are going to get the average of the property tax cap the other properties have in that area.

Representative Winrich: Where is that in the bill?

Representative Kasper: That would be a question we could have John Walstad answer, but it is there.

Representative Headland: I was mistaken. You are capping taxable value. You are also capping the mill levy authority increase at CPI. Correct?

Representative Kasper: What we are capping is the budget increase at 4% or the consumer price index in the Midwest, whichever is less so the mill levies will have to be adjusted upward or downward so that the budget does not increase by more than that. You will notice that my

bill has no funding in it. The Governor has a funding bill for property tax relief that this body may or may not pass. I don't care about funding; I care about the formula.

Representative Headland: What I am trying to get at is that you have allowed parameters where the voters can override the levy. Does that also allow them to override the 2% cap on the taxable value?

Representative Kasper: No, the cap would stay. The mill levies would have to increase if the voters said we are going to approve a 5% increase in the budget, then the mill levies would go up to reflect it but the cap would still be there.

Representative Headland: It would force them to raise the mills?

Representative Kasper: Yes, it would.

Representative Koppelman: (28:20) I am a co-sponsor of the bill before you for the simple reason that Representative Kasper came to me with this idea. As he very clearly mentioned, his effort is an effort at property tax reform, not property tax relief. That is an important distinction. I think it is something we in North Dakota are in great need of. You have already seen a couple of bills I have introduced and I think I have one more that will come before your committee that takes an incremental approach to specific areas I think are unfair and may be skewed in our system of taxation in North Dakota. Representative Kasper has taken another approach, which is a far more comprehensive approach. I don't envy your duty, but I do believe it is the duty of this committee to sift through that this session and to advise us in the House of Representatives as to best way to deal with the property tax dilemma our constituents face. I think I can best illustrate that by the fact that some of my constituents have come to me with almost a tear in their eye and said you have to do something. Here's the good news and here's the bad news. The good news is I have owned my property for many years and I have achieved one of my lifetime goals to own my property free and clear. I have

finally done that. I have paid off my mortgage and own my property. Now the bad news— what I pay in taxes is more than I used to pay for my mortgage. There is something wrong with that. The crippling burden of property taxes in North Dakota is a burden our constituents cannot much longer bear. We hear about it and I have asked myself why because we in the legislature don't levy property taxes. I believe the reason we hear about it is because we do what this bill deals with. We set the primers; we set the public policy; we set the law that lays out how property taxes are levied. Yes, we elect local officials to carry that process forward. Yes, I believe they are responsible. Yes, I believe they do a good job, but we set the framework. We set the skeleton and they put the meat on the bones. Perhaps it is time to take a real hard look at that skeleton. I don't know what the solution is. This bill has some good features; it has some features that may not be good. I don't know. I trust this committee's judgment to determine how we best attack this, but I do believe the time has come for property tax reform. If all we do is property tax relief, which is an interesting animal in itself, we the entity of government that doesn't receive property tax are going to relieve the taxpayers of the entities of government that do. That is an interesting dichotomy in itself. Even if we do property tax relief, it is a one-time effort to make up for a system of taxation that is broken and needs to be fixed. One of the reasons I believe it is broken is issues like valuation. I have a bill which will come before you that deals strictly with dollars paying taxes. It doesn't deal with valuation as this bill does. I don't know which approach is best, but it is one for you to consider. I believe one of the reasons that our system has spun so headlong out of control in terms of the property tax burden in North Dakota is because of the lawsuit. To refresh the memories of the committee, North Dakota used to have a system of taxation where the taxable value was lower than the market value. I remember that very clearly where property tax bills would show true and full value or market value and another term would be taxable value,

which was a much lower number. Your taxes were levied based on that number. Then there was a lawsuit because those levying taxes were taxing railroad property at 100% of its market value. The railroad sued the state and said it wasn't fair. The Constitution calls for a fair and equitable system of taxation and you are not doing that. This is a skewed system because railroads are charged tax at 100% of the value and residents are taxed on a lower number. They won the lawsuit and the court said you must value property for taxation purposes at 100% of its market value. As a result of that, property taxes have escalated and have spun out of control. (33:09) I think it is very important for this committee to carefully consider and I trust your judgment to do that. I will attempt to answer any questions you may have.

Chairman Belter: How many people want to testify on this bill? I would like to give no more than 10-15 minutes to proponents here. I will take further testimony in support of HB 1422.

Sandy Clark, North Dakota Farm Bureau: HB 1422 covers a number of different topics and we stand in support of many sections of this bill. We support sections 1 and 2, which say that home rule counties or cities cannot supersede state law. If home rule counties and cities exercise their authority to establish different levies and different parameters, we will have inconsistency across the state and a hodgepodge of laws that will only confuse taxpayers. We don't believe that the legislature should give up its authority to grant taxing powers to political subdivisions in home rule counties so we would be a strong supporter of sections 1 and 2. We support section 3 which stipulates that modifiers must be used on ag land. However, this is covered in another section of the law. We also support sections 6 and 7 which require taxpayers to be informed of the right to appeal. We do believe there are taxpayers out there who do not understand that they have the ability to appeal. This would simply further inform the taxpayer. We strongly support changes in section 11 which would limit the dollars in growth in property taxes levied. This means the property taxes generated in dollars cannot

exceed the previous property taxes in dollars by more than 4% of CPI. At the same time, property taxes on a parcel of property could not increase more than that. Limiting growth in dollars not only provides property tax relief in the short term; but it does, we believe, represent real property tax reform. Government has grown beyond the taxpayer's ability to pay and this is the way to slow down that growth. It forces local officials and taxpayers alike to establish priorities on those services they think are important. We talk a lot at Farm Bureau about property taxes and we think the adoption of section 11 will result in what we call the three "r's" of property tax—property tax relief, property tax reform and spending restraint. The three "r's", relief, reform and restraint. We think that this section of the bill really gets started on that. Section 11 also allows the local taxing district to increase its levying authority with a 60% vote of the people. We support that as well. We have always thought the people should have the right to vote and they decide what those priorities will be and what is important to them.

Finally, we don't generally comment on residential property taxes other than to acknowledge that property taxes are too high on agriculture, commercial and residential properties. We feel strongly about that. We do join residential owners for their cry for property tax reform. There is language in this bill that requires age and location of residential property be considered. The bill also calls for a five-year rolling average to determine that true and full. We do not support or oppose those provisions, but we do want to point out that some might be logical and worthy of your consideration. In conclusion, this bill contains some positive steps on the road to property tax reform that will turn the tide on rapidly escalating property taxes. We hope you will give these provision serious consideration and give HB 1422 a do pass.

Dustin Gawrylow, North Dakota Taxpayers' Association: (Testimony 2).

Representative Winrich: The common metaphor for the state tax system in the three-legged stool. There are some opinions that say....that metaphor seems to generate the approach that

says that the real problem with tax reform is that the system is out of balance, that we have relied too much on certain portions of the tax structure. Why does it make sense to attack property taxes in isolation with reform, rather than reforming the whole system?

Chairman Belter: Representative Winrich, I don't believe that your question pertained to the bill. It is a philosophical question.

Representative Winrich: I am sorry, Mr. Chairman. I thought it did, but I will abide by your ruling.

Dustin Gawrylow: I would just add that I agree that the whole tax scheme should be looked at together because it is.....people we have met and talked to don't really care which pocket or which bucket the money goes into. They are looking at how much their total taxes are, sales, income, property and how much they are taking out of their family budgets. That's what matters, not which bucket it goes into or out of.

Robert Harms, Taxpayer: I have been interested in this issue for a number of years. I want to talk to you briefly about two or three points. What is the problem? What are we trying to address here? How does this bill attempt to address the problems we are facing in North Dakota? Let me give you a couple of statistics with respect to property taxes. This is from 1998 to 2007. Property taxes overall have increased 59%, city parks property taxes have increased 89%, other entities have increased 63%, school districts 59%, cities 59%, counties 55%. That is over the ten-year period from 1998 to 2007. How does that increase take place and who gets to bear the responsibility of that? Pretty regularly, you hear complaints that the legislature doesn't do enough for schools and cities, that it is the legislature's fault for the increase in property taxes. I think that is an issue you should pay attention to because as you know, you don't set property taxes. Local elected officials do. How does the property tax increase take place? This is kind of a pernicious challenge for taxpayers to follow. Basically,

here is what happens. I have a house worth \$100,000. In Bismarck, in the last couple of years, it is not unlikely for that house to appreciate in value for perhaps 10, 11 or 12% so my valuation automatically goes up by that 9, 10, or 11% valuation so when the school district or the park board or the city commission or the county commission sets its budget, if it chooses to, it uses that increased valuation on my property. My house that was paying taxes for \$100,000 value the year before can pay taxes on \$110,000 in the coming year unless the governing body does one of two things. Either the governing body says we are not going to accept that valuation into our budget; we will set our property valuation on a certain level or it reduces the mill rate. It has to make a conscious decision to avoid and join the increase in its budget that that increase in valuation produced. I was at the Burleigh County Commission last fall and objected to a city increase the Burleigh County Commission was about to adopt that included a 10% valuation increase in their budget. What that does to the county budget is it automatically gives them a 10% increase in their budget without specifically voting for a tax increase. That's the problem. You get an automatic tax increase in your bill without the decision makers having to expressly adopt a tax increase. That is how it works so when they set their budget for the fall and submit it to the county auditor, if they haven't reduced their mill rate or if they have accepted the valuation increase, property taxes go up. Two other quick things. The two features that I like the most that address this issue is section 4 and section 11. I don't have strong feelings which one of those vehicles or tools is used, but both of those, I think, will address the problem. In fairness to school districts and city commissioners, I also think that state law should allow those governing bodies to expressly adopt a mill rate or a tax increase above CPI or above the 4% the bill provides for. If the city commission wants to raise taxes in Bismarck by 10%, that is okay if they choose to do that; but they should do that expressly so the taxpayers understand that that is what it does. With that, Mr. Chairman, I

think this is a good bill and it gets to the crux of the issue with property tax issues. It is an essential component of what you are dealing with in this session, particularly, if you agree to take general fund monies that have come out of the oil trust fund to pay property taxes to the tune of \$300 million. (46:22)

Lynn Bergman: I am a retired city engineer who retired two months ago. We just lost our best young municipal engineers who went over to the city government. We lost an excellent young lady who was doing our electrical work to city government and there have been others over the ten years I worked for that firm. I myself worked for five different cities throughout the country from 1972 to 1984 and then worked for a mining company. About the time I left public service in 1984, municipal employees were just getting even with the population. In North Dakota today, public employees are way ahead. (47:50)

Chairman Belter: Further testimony in support of HB 1422? If not, how many want to testify in opposition? Okay, six. I would ask each of you to hold your testimony to five minutes. We appreciate that. We will take testimony in opposition.

Ben Hushka, Fargo City Assessor: (Testimony 3).

Representative Pinkerton: As I understand it, if new and old properties are taxed irrespective of age, then eventually a new property would be taxed identically (if this bill was in effect for 20 years), by law it would have to be taxed the same as a 20 year old property. Is that correct?

Ben Hushka: That is not how I understood the bill when I read through it because it says taxable valuation of improvements, of which it says improvements are not subject to the 2% cap. It means the value determined by comparison with the taxable valuation of comparable property. An old property and a new property are not comparable properties so I would think you would have to apply comparable to mean age, size, neighborhood, style, quality—all of

those factors determine comparability of property. I don't see how you would compare a 20 year old house to a 10 year old house. I guess I am confused about that part of it.

Representative Pinkerton: In the bill on page 2, line 25, 26, and 27—the relative age and location must be considered. Okay, I am sorry; I misunderstood.

Chairman Belter: We will need to get that clarified because I had the same concern.

Terry Traynor, Association of Counties: (Testimony 4).

Kevin Ternes, City Assessor, Minot: (Testimony 5). (60:12) We do not believe that 2% caps but allowing the true and full value to go wherever it needs to go is fair, when certain neighborhoods have more growth than others, but all neighborhoods only see a 2% growth in taxable valuation. How can that be fair to anybody?

Warren Larson, North Dakota Council of Education Leaders: Also in support of my testimony is Bev Nielsen of the North Dakota School Board Association. We oppose HB 1422. At a time when school districts are just starting to come out of financial hole we have been in for many years, this would seriously hamstring them. Costs and skyrocketing; textbooks that ten years ago were \$40 now approach \$200 because there are only a handful of companies. We are starting to bring staff salaries up to where they should be and this would seriously curtail that process. Taxing entities have boards. I know from 40 years of experience in education, that if people don't like boards they replace them. That option is there; it is used and it works very well. I encourage you to use good judgment for the kids of North Dakota and do not pass HB 1422.

Jerry Hjelmstad, North Dakota League of Cities: I want to go on record in opposition to HB 1422. Sections 1 and 2 of the bill relate to city and county home rule authority. I just want to remind the committee that authority granted by home rule charter has been approved by a majority of the voters in those jurisdictions. Sections 3, 4 and 5 of the bill limit the ability of the

assessors to use actual value. If the actual value of one property increases by 5% and it is limited to a 2% increase, it merely shifts the burden to the other properties in that jurisdiction. Section 7 of the bill is related to the notice of the right to appeal; I have no problem with that being added. Section 11 of the bill—we do want to point out that political subdivisions do levy their budgets in dollars, rather than based on the taxable valuation. Once those dollars are levied, the mill levy is determined after that point and not beforehand so they are really levying in dollars. Most of our cities have actually been capped in the amount of dollars they can levy to their base year since 1997, the only exception being if they are taking on new valuation or if the voters have approved authority for them through home rule charter. This is just to impose caps on cities that are growing, caps that would be lower than taking on new valuation so we are in opposition to HB 1422.

Sue Finneman, Burleigh County Tax Director: My concern with this bill is the cumulative effect of the changes that are being proposed. I understand the legislature's concern with property taxes, but there are so many changes being considered at this time. You are looking at tax relief and tax reform, not only at the assessment level but also at the levy level. When the session is done, what will the actual impact be if we combine all these forces as we go forward in the state? I understand your concern about the level of taxation; but as I look around the country, I see our state doing a lot of good things as compared to many areas. There are laws being considered here that are being used in areas that are not enjoying the same level of success we are in being able to afford their civic services. Before we start changing it, I think a thorough review of what the impact would be is very important. Also, my concern is with section 12 going from three years of tax information to four years of tax information. It took our county nine months to get that three years of information on there (not full-time, but part-time). It may sound like a simple matter to add a fourth year, and possibly it

would helpful to our taxpayers, but I think it might be the point of diminished return. I think three years of tax information has been satisfactory to provide them with the information they need.

Chairman Belter: Any other opposition to HB 1422? Any neutral testimony? If not, we will close the hearing on HB 1422.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1422

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 9119

Committee Clerk Signature

Minutes:

Chairman Belter: Let's look at HB 1422. Representative Kelsh had some concerns.

Representative Kelsh: The bill sponsor stated that you might know where in the bill there is a section that says if you build a new house next to a house which falls under the cap, there is the protection for the new homeowner where the property taxes won't be the full value (inaudible).

John Walstad, Legislative Council: Well, in one of the versions I wrote there was a provision that for new construction, the taxable valuation of that property had to be determined by a comparison with taxable valuation of pre-existing properties. The reason was that with a 2% on growth in taxable value, over time new property would obviously have a much higher taxable value and would be unfairly taxed in comparison to older properties. I am not finding it. I am wondering if he had me pull it out of here. I don't see it and I think it was right in here. It may have been in some of the earlier drafts and he may have had me pull it out. Maybe Representative Kasper was thinking of that provision. I can dig up an earlier version. It is easy enough to make an amendment to add that.

Chairman Belter: Committee, would you like to have an amendment put on here, but it would have to fit with the .0301 amendments.

Representative Weiler: Maybe we could have Mr. Walstad dig that stuff up.

Representative Winrich: I would like to ask another question about the bill. On page 3 in lines 20-23, it says notwithstanding any other provision of law, the true and full value of residential and commercial property must be appraised on a five-year rolling average of market value of those properties as determined by sales, market and productivity studies. Although our typical environment has involved property values that were inflating, it appears there is a real possibility that that might change or maybe it already has. In a market where property values were deflating and going down, doesn't that guarantee that the true and full value will be assessed too high?

John Walstad: That is correct. The odd thing is taxable value is what the mill rate gets rolled against so this provision of the bill disconnects taxable value from the true and full value, the way we have always done it as a percentage. There is a disconnect now. Having this rolling five-year average for the true and full value would not affect your tax bill one bit, but it would affect that true and full. The only value that would be remaining in knowing what the true and full is is knowing how it relates to market value, but this would make a disconnect from market value.

Representative Winrich: I thought there was a section of the century code that essentially said all property had to be assessed uniformly based on true and full value. Don't we have to change another section of the century code if we are going to disconnect the taxable value from true and full value?

John Walstad: We are still assessing based on the market value of property. The Constitution actually has the provision that all property in the state must be uniformly assessed with reference to ...and I forget the rest of it. This will not truly affect how the assessment is done. It affects the math that is done with that assessment value and then the taxable value

that the mill rate gets applied against is what is being restricted here. Another way of looking at this is that it creates a disconnect between property taxes and assessed value.

Representative Winrich, that is true.

Representative Kelsh: When we talk about the amendment that would protect new construction with the cap, doesn't that somehow conflict with the portion of the bill on page 9 that limits the 2% in dollars per year except when improvements to property have been made? It says you are making an exception for new construction with a 2% cap, but in another part of the bill, you are including it.

John Walstad: The earlier provision related to how taxable value is determined for new properties. This also will affect that; but to the extent the improvement is added to the property, the increase in taxable value needs to be more than 2%. Otherwise raw land would be charged as raw land plus 2% forever no matter what you put on it.

Representative Kelsh: The new amendment says if you build a new house next to a house that falls under the cap, you cannot assess the new house more than the existing house next to it or you must incorporate that into it. In this part you are saying if you do make an improvement, it is exempt from the cap.

John Walstad: That is correct. The language that was in here was that 2% limit on taxable valuation increases for property where an improvement is put in place. The pre-existing value for bare land, that taxable value can be increased 2% and then the value of the improvement can be added to that. When it is added, the taxable value of that improvement has to be determined by comparison with surrounding properties. Actually the taxable value does come up more than 2% and the cap here does not limit the taxes on that parcel to 2%. There is still a restriction on how much the value of that home is going to be subject to the mill rate (and it won't matter much for the first two years this law might be in place; but after 10 or 20 years of

a 2% limit, a brand new property, if it was not subject to a comparison to that limit that was artificially placed there, would end up with a much higher taxable value.) Without that, over time, there would be an inequity between older and new housing and commercial property as well.

Representative Schmidt: One of the assessors quoted the century code as article 10, section 5 – Taxes should be uniform on the same class of property. That is where it ends. Would it be unconstitutional the way the bill is now?

John Walstad: That is arguable. I think that if that new property restriction is put in so that new property taxable value is made comparable to existing property taxable value after this restriction, then they should be comparable. I think then that property taxes would be uniform against those properties. Without that limitation, you get the California Proposition 13 situation where a 30 year old property has never had an assessment increase; new property is up here. There is no way you can consider that to be uniform taxation.

Representative Pinkerton: In section 5 on line 19 through 21, it talks about how the taxable value of property may not increase by more than 2% so if you have commercial property on the south side of town and you have commercial property on the north side of town and the south side has gone up 10% per year. The north side, where I own property, has stayed pretty much level the whole time. Within a couple of years, would my property taxes be the same as the property on the south when the real value of the property on the south has doubled over an eight year period while mine to the north has increased in value only about 16%? Wouldn't that be in violation of the constitution where they would be taxed the same and yet their values would be different? (15:11)

John Walstad: That is certainly arguable. I don't know if there is a yes or no answer. If taxes were absolutely uniform, as our Constitution seems to require, that would be lovely. I don't think such a thing exists. I am pretty sure it doesn't exist in the state right now.

Representative Pinkerton: Both properties have been increased by 20% as far as the tax bill is concerned (2% per year for ten years), but one property has increased 8% and the other has doubled in value. The taxes are the same, but one property is worth twice as much as the other. (inaudible).

John Walstad: Those kinds of situations could occur. Switching to taxable valuation for increases disconnects that number from market value. As you said, if properties start out with relatively equal values but over time one becomes worth more because of its location, they are still both going to be subject to that 2% cap on taxable value.

Representative Winrich: Is there any provision in this bill for a change in classification or property?

John Walstad: There is a provision on page 3, line 19, which is one of the exceptions to the 2% cap on taxable value increase so if ag land becomes commercial, that 2% wouldn't apply to that property.

Representative Winrich: What I was thinking of was annexation from land that had been agricultural to a city where it was going to be developed as residential.

John Walstad: When the classification change occurs, the annexation by itself wouldn't necessarily do that. Coming into city limits, you can still be ag class. Did I forget to mention that I am not for or against this bill?

Chairman Belter: John, why don't you draft those amendments so that we have them for tomorrow because time is drawing near here?

Representative Kelsh: It may be on page 3, line 16.

John Walstad: Good find. Good eye.

Chairman Belter: Thank you, Representative Kelsh. Okay, committee, we have a **motion to move the .0301 amendments from Representative Weiler and a second from Representative Grande.** Any discussion? **Amendments adopted.** We have a "do pass as amended" motion from Representative Grande and a second from Representative Brandenburg. Any discussion? A roll call vote on a **"do pass as amended" on HB 1422 resulted in 7 ayes, 6 nays, and 0 absent. Representative Weiler will carry the bill.**

FISCAL NOTE
Requested by Legislative Council
02/12/2009

Amendment to: HB 1422

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1422 makes changes to property tax provisions including those affecting mill levy increases, valuations, home-rule authority and others.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, Engrossed HB 1422 will make significant changes to existing property tax law. Except for the limitations contained in the bill, most of the changes will result in tax shifts among the various classes of property but may not actually reduce or increase property taxes overall. The limitations specified in the bill will have a fiscal effect that cannot currently be estimated.

Engrossed HB 1422 no longer has the income tax deduction provisions contained in the original bill.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/13/2009

FISCAL NOTE
Requested by Legislative Council
01/16/2009

Bill/Resolution No.: HB 1422

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$2,900,000)			
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1422 makes numerous changes to property tax provisions including those affecting limitations, valuations, home-rule authority and others. The bill also creates an individual income tax deduction for special assessments.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1422 will make significant changes to existing property tax law. Except for the limitations contained in the bill, most of the changes will result in tax shifts among the various classes of property but may not actually reduce or increase property taxes overall. The limitations specified in the bill will have a fiscal effect that cannot currently be estimated.

Sections 13 and 14 of HB 1422 create individual income tax deductions for special assessments paid by the taxpayer. These deductions are made available on both of the individual income tax filing methods, Form ND-1 and ND-2. Assuming 80% of the current level of special assessments are deductible for individual income tax purposes, these sections are estimated to reduce state general fund revenues by approximately \$2.9 million in the 2009-11 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/27/2009

VR
2/11/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1422

Page 1, line 1, remove ", a new subdivision to subsection 1 of"

Page 1, line 2, remove "section 57-38-01.2, and a new subdivision to subsection 2 of section 57-38-30.3"

Page 1, line 3, remove "and an income tax"

Page 1, line 4, remove "deduction for special assessments"

Page 1, line 6, after the first comma insert "and" and remove ", 57-12-09, and 57-20-07.1"

Page 1, line 7, replace "notice" with "and"

Page 1, line 8, remove "of assessment increases," and remove ", and contents of property tax"

Page 1, line 9, remove "statements"

Page 8, remove lines 8 through 26

Page 9, line 3, remove "taxes levied in dollars by"

Page 9, remove lines 4 through 7

Page 9, line 8, remove "recently completed calendar year, whichever is less, and property"

Page 10, remove lines 18 through 31

Page 11, remove lines 1 through 12

Renumber accordingly

Date: 2/10/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1422

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90757.0301

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Grande Seconded By Brandenburg

[illegible]

Total (Yes) _____ No _____

Absent _____

Floor Assignment

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

Amendment Page = 4

Date: 2/10/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1422

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovda		/	Representative Kelsh		/
Representative Brandenburg	/		Representative Pinkerton		/
Representative Froseth	/		Representative Schmidt		/
Representative Grande	/		Representative Winrich		/
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 7 No 6

Absent 0

Floor Assignment Weiler

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

REPORT OF STANDING COMMITTEE

HB 1422: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1422 was placed on the Sixth order on the calendar.

Page 1, line 1, remove ", a new subdivision to subsection 1 of"

Page 1, line 2, remove "section 57-38-01.2, and a new subdivision to subsection 2 of section 57-38-30.3"

Page 1, line 3, remove "and an income tax"

Page 1, line 4, remove "deduction for special assessments"

Page 1, line 6, after the first comma insert "and" and remove ", 57-12-09, and 57-20-07.1"

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Page 10, remove lines 18 through 31

Page 11, remove lines 1 through 12

Renumber accordingly

2009 TESTIMONY

HB 1422

PROPERTY TAX REFORM:

HB 1422

Jan 28, 2019	CURRENT LAW	HB 1422
1. MARKET VALUE (True & Full VALUE)	\$100.000	\$100.000
2.	$\times 50\%$	$\times 50\%$
3.	\$50.000	\$50.000
4.	$\times 9\%$	$\times 9\%$
5. Taxable Value	\$4500	2% cap \$4500
6. Maximum Property TAX INCREASE ANNUAL		\$90 ⁰⁰

North Dakota Taxpayers' Association - PAC

Wednesday, January 28th 2009

HB 1422

Testimony 2

Chairman, and Members of the Committee,

House Bill 1422 is a straight forward limitation on how much an individual homeowner's property tax bill can increase based on unrealized gains in the property's value.

While we would prefer to leave these decision in the hands on local officials, it seems those very hands are being held out to the state and asking for more money from state sources.

State restrictions on local decisions are not desirable, but neither is the situation with skyrocketing property taxes.

Therefore, caps on future increases should be considered in the property tax process.

If the legislature decides to take the governor's suggestion and fund local property tax relief with a shift to state sources, we will insist that caps and other strings be attached to that plan. If the state is going to bail out local government, there must be strings and regulations attached.

As HB 1422 sits, it is a tool in the legislature's toolbox to be used sparingly, but if the situation persists it must be used.

Thank you.

-Dustin Gawrylow, Executive Director (Lobbyist # 198)

NORTH DAKOTA HOUSE OF REPRESENTATIVES
FINANCE AND TAXATION COMMITTEE

House Bill 1422
Testimony of Ben Hushka
Fargo City Assessor
January 28, 2009

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Ben Hushka. I am the City Assessor for Fargo.

The official position taken by the Fargo City Commission is to oppose this bill.

There are several concerns I have with items in this bill and I will briefly address two that are of most concern and specifically relate to the good of the taxpayers in this state. Those items relate to the affect to which the standard of valuation for assessment purposes would be altered. This bill calls for that alteration by placing a cap on increases in value and using a five year average of sale prices to determine value.

At the very least, these methods to change the standard of valuation will lead to more confusion for the taxpayer. Most people have an understanding of the concept of market value as it relates to properties. It is after all the majority measure by which properties are exchanged. For instance, if someone purchases a property for \$90,000 and the assessment valuation is over or under \$90,000, they know whether or not they are being fairly assessed. And, they know that without needing to understand any more about appraisal or assessment.

With the valuation being set by a method detached from market value, it would be very difficult to know the fairness of an assessment without a thorough understanding of all factors of that method and the associated data.

With respect to basing the values on the previous five years of sales, there are three things that can happen. First, in a steadily increasing market, assessments would simply stabilize at a certain level of values under real market value. The percentage of value and number of years to stabilize would be determined by the real inflation in values.

Second, in a steadily decreasing market, values would stabilize at a level above real market value. And, third, if there is a change in market conditions from up to down or vice versa, the effect of that change would lag behind. So, if an increasing market were to change and values were to decline in an area, it would take a good part of five years of over-assessment at a time when real values are declining. Again, people would be less likely to understand or agree with the fact that their "proper" assessment under this method is to assess their value at higher than current real market value or what they could sell the property for.

My final concern is that of placing any kind of cap or limit on value increases. That will cause inequities in the assessments and ultimately taxes on the same class of property. This is not just theorized or hypothesized in computer model simulations. This is fact. We have over 30 years of real life case study in this. The most notable of property assessment valuation caps was Proposition 13 enacted in California in 1978. It has also been done in several other states since. You can easily go online and get writings on that consequence of capping valuation in assessment.

Not only would properties within the same classification be assessed at different effective tax rates, generally more desirable properties often at the higher value range would be assessed at lower rates than other properties. That is because they tend to inflate more in up markets. The properties whose real inflation in value is closer to the percentage of the cap will be assessed closer to their real market value. Those that inflate more, would be assessed at a lower percentage of real value, thereby shifting the tax burden to the others.

Article X, Section 5 of the Constitution of North Dakota says, "Taxes shall be uniform on the same class of property...". Capping assessment values assures that would not be the case.

Finally, the role of valuation in the property tax process does not determine the level of taxation. It determines and affects the uniform distribution of the property tax. Altering or arbitrarily lowering the value will not lower the taxes. Budgets determine the amount or level of taxation.

This concludes my testimony. Thank you for your consideration.

**Testimony To
THE HOUSE FINANCE & TAXATION COMMITTEE
Prepared Wednesday, January 28, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING HOUSE BILL No. 1422

Chairman Belter and members of the House Finance & Taxation Committee, the North Dakota Association of Counties opposes House Bill 1422.

Sections 1 and 2 of the bill overrule and overturn one of the strongest and most beneficial authorities of home rule. Cass County is possibly the best example of a county that has, through this authority, collapsed many of its separate mill levies into a consolidated general fund allowing the most efficient use of funds. This authority has removed the incentive to levy without need, which the current statutory structure of mill levies can promote. Not only do these sections preclude additional counties and cities from using this authority, it would override the voters of counties and cities that have approved such changes in good faith.

Subsection 2, of section 4 of the bill would artificially limit valuation increases on property that have had no additional improvements to two percent per year. Property that is not valued at its true & full value will gradually create different values (and therefore taxes) among similar properties of different ages within districts – something that is inconsistent with the language of Article X, Section 5 of the North Dakota Constitution that reads: "*Taxes shall be uniform upon the same class of property...*". Additionally, this provision would greatly weaken the State Board of Equalization's role in protecting taxpayers, if not removing them entirely from the property tax process. They would lose their ability to gauge whether property was being appropriately assessed because the sales ratio information would become meaningless. It seems this would also have a rather chilling effect on new home construction.

Subsection 3 of section 4, while moderating the increase in valuation in an "up" market, appears to limit the actual decrease in value that a "down" market would otherwise dictate.

Subsection 4 of section 4 would either require a huge, new property tax cost for implementation, or value disparities would grow much quicker. The 700,000

taxable parcels could simply not be individually assessed each and every year with the current assessment staff.

Section 5 seems unnecessary. If subsection 4 limits the true and full value to a two percent increase – it should also mathematically limit the taxable value increase.

Sections 6, 7 and 9 appear reasonable, as I am told it is common practice.

Section 10 would dramatically increase the staff time and cost of notification, well beyond the increase incurred by the threshold change from 15% to 10% last Session.

Section 11 to limit tax growth, would undoubtedly encourage four percent increases (where levy limits allow) every year. Particularly with a 20+ percent health insurance increase, the State's shifting of immunization costs to counties, and a "snow emergency" fresh in the minds of a governing board, the tendency would be to take the limit of growth to avoid "losing" that opportunity and therefore the ability to respond to future mandates and uncontrollable events. The "exceptions" to this limitation fail to address mandated public health, and particularly social service costs over which county government has very little control – but is statutorily and constitutionally required to fund. (The bill seems to override the "emergency poor" levy, which has been the safety valve for the Legislative shift of human service costs for decades.)

Section 12 to again add information to an overcrowded tax statement will, at some point, make the columns illegible, and force two pages for each parcel instead of one. (Before last session, many counties did seven parcels to a page.) Small, incremental costs, when they are multiplied 700,000 times, are still a very real new property tax cost for everyone.

Sections 13 and 14, while directly impacting the income tax process, will likely have an indirect effect on counties. Like the property tax relief provisions from last Session, county offices will likely be inundated with calls, emails and visitors trying to understand which numbers from their tax statements they are to use for their income tax forms this year.

Mr. Chairman and committee members, this Association urges a "Do Not Pass" recommendation for House Bill 1422.

Testimony to the House Finance & Taxation Committee,

Chairman Wesley R. Belter

1/28/2009 by

Kevin Ternes, City Assessor

City of Minot

kevin.ternes@minotnd.org

House Bill 1422

Mr. Chairman, my name is Kevin Ternes and I am the City Assessor in Minot.

I would like to speak against portions of this bill as they relate to fairness and equity for all property owners.

The last portion of Section 3 indicates the assessor would not include the value of special assessments in the True and Full Value estimate without supporting evidence. If lots within a subdivision are selling for \$15,000 plus \$25,000 in specials to be assumed over 10 years, is this not evidence of a lot being worth something in the \$40,000 range? This bill indicates the True and Full Value cannot include any portion of the value or cost of improvements by special assessment without supporting evidence. Would the sponsors consider amending this bill to simply "supporting evidence"? Rather than supporting evidence within the subdivision in question. Without this change, lots will be assessed as to market value as it should be in those subdivisions that are developed by builders who don't use the special assessment finance option and those developers who do will be assessed at something that could be artificially discounted over 50%. This puts owners, builders, developers and buyers of new lots at different levels of assessment. How do we explain the fairness and equity in a system like?

Section 4 lists taxable valuation throughout the section. Assessor's deal in True and Full value and county treasurers calculate the taxable valuation for billing purposes. It seems clarification for assessors would be appropriate throughout the bill regarding true and full value versus taxable valuation.

Section 4 discusses a 2% cap on increases in taxable valuation unless improvements have been made. What is the definition of improvements? Does this mean new construction, like decks, garages and building additions? Could it be the replacement of original components like windows, siding, new kitchens and bathrooms, and new flooring throughout?

Homes that are of original condition and built in the 1960's can receive updates upwards of around \$50,000 in cost and will sell for much more than the current assessed value. Are "updates" to a home considered improvements in this bill's definition? If not, how does this relate to fairness in the neighborhood when homes that have been assessed at market value are now higher than ones that just received "updates" and would now be eligible for 2% caps? For instance, there are two homes side by side that were assessed at the same level for years because they are the same age, same location and condition. One home receives major updates like a new kitchen, all new flooring, and new bathrooms. We know this home will sell for more than the similar home next door that is still original condition. Probably as much as 30% to 50% more. Under this proposal, would these improvements be assessed at market value? If not, there will be two homes that will differ greatly in market value yet will be assessed at the same level as before. This doesn't sound like property tax reform when we move from what was fairness and equity to unfairness and inequity.

Regarding improvements to a home like living additions, or garages, or basement finishes, appraisals completed by assessors for property tax valuations are done with a view to market value of the **completed** project. What would the home be worth now with the work completed is

the question appraisers/assessors ask themselves. That is a task that can be accomplished because assessors can research other comparable homes in the market and estimate the true and full value of the property when the project is completed. However capping the original portion of the home at 2% and then estimating the value of the addition, garage, basement finish etc. will require an appraisal that is not based on market or any interaction in the market. What is the value of an addition alone, or the value of the garage alone if it is not considered as part of the overall value of the home altogether? Trying to estimate the market value of components of their home rather than the overall value of the home cannot be easily explained to taxpayers. Shouldn't all tax policy be understood by the citizens? Under current law, their property is assessed at market value, not just certain components of their home.

Would these 2% caps apply to vacant lots that have been assessed under state statutes with consideration of the time it takes to sell these lots and the supply that is available? Are lots that now sell for twice the assessment not to be adjusted to reflect the new market? What about the new lots that would be currently assessed at market in an adjoining subdivision. Would there now be concerns of equity with existing lots under a 2% cap giving them an assessment advantage but other newly subdivided lots assessed at market value?

For instance, a new subdivision has lots that under this bill would be subject to 2% caps. Three years later, a new subdivision opens up and lots are selling for the current price at that time which could be 15 to 25% more. These new lots are assessed at market value as the law states, however, lots from older subdivisions have been capped at 2% growth per year for the last 3 years. Wouldn't this proposal just have created inequity among similar lots and similar subdivisions? Lots in adjoining subdivisions that are similar to each other would be assessed at different levels? People would be paying different amounts of taxes on similar lots? Section 3 of this bill requires the assessor to consider the age and location of residential property when determining market value? Which of course is part of the appraisal/assessment process anyhow. But the 2% caps proposed in this bill prevent us from doing that. How do we explain this as property tax reform when we move from equity to inequity.

Section 4, subsection 3 requires a 5 year rolling average. If this portion of this bill would have been in effect for 2008, assessment increases would have been double in Minot then what we had. In Minot we saw 5% to 10% growth on average from 2003 to 2007. In 2008 the growth was only about 4%. A 5 year average would have required about an 8% increase in assessments rather than the 4% increase we saw for 2008.

And what if the market drops 5%? Now jurisdictions can make that adjustment the following year immediately based on the prior year's sales. With a 5 year rolling average, 4 good years would override 1 bad year and assessments would still be going up when the market is going down. How would we explain to 15,000 taxpayers why their assessment is going up even though the market had gone down the prior year?

Section 4, subsection 4 of this bill indicates the true and full value of land may *not* be raised uniformly? Equity is treating everybody uniformly. Certainly lots that have issues like drainage and poor location are already assessed less than lots without those influences. Where lots are similar, equity requires uniformity. It would seem unusual for tax policy to require uniformity *not* be considered.

Section 5 requires that "taxable valuation of property may not be increased by more than two percent from the taxable valuation of the property from the previous taxable year. Those properties in certain areas of town that are showing market appreciation faster than other less desirable areas of town will gain a property tax advantage in the first year. There are areas in every city and county where market value of property appreciates faster than in other areas.

Should the less desirable areas be penalized while the more popular areas for residential and commercial use are subsidized? Within one year, some neighborhoods will be assessed further below market value than others. This is not equitable for taxpayers.

For instance, let's assume a small home in an older part of town is probably worth 2% or 3% more than last year. We study these trends by analyzing quadrants and map factors now so this information is available to us. This bill would keep the assessment increase to 2% the following year. Yet in another section of town, we may have market growth in the 6% to 10% range. Yet these areas are capped at 2%. Within 2 or 3 years, you could have some sections of town almost 25% below market, while the older, more mature parts of a community are maybe only 4% or 5% below market? Some neighborhoods 4% to 5% below market, others 15 to 20% below market? This section would prevent the assessor from assessing fair and equitably.

Regarding Section 10 of this bill, the time that we have to complete our duties is being shortened another week. For many years, assessors had to have notices of increased assessments to property owners 10 days in advance of any appeal meetings. Then 2 years ago this was increased to 15 days. This bill proposes to increase that to 20 days. I would ask that you don't take another week away from the cities and counties that they need to finish their assessment roll.

Section 11, subsection 3 would need clarification. Is this intended to tax some property at last year's rate and some property at the current rate during the same tax year? I'm concerned that if those of us who will work with the requirements in this bill don't understand it, how we will be able to explain it to the folks back home?

Finally, Section 15 requires this act to be effective for 2009. Assessors have already been working on their assessment rolls for a year, calculation programs have been run, sales equity has been completed, values have been upload to computer billing packages, township assessor books are being printed, properties have been visited, calculations have been made to homestead credits, veteran's, blind and wheelchair exemptions using the statutes in place as of Jan 1, 2009. The state board of equalization study has been mostly completed and been used to comply with state board rules and most city notices will have been printed and mailed to comply with the state's mandate by the time this bill could be passed. It simply isn't possible to comply with the December 31st, 2008 date in this bill.

Days On Market	21	Price/SqFtAbGr	\$112.18
FEATURES			
EXTERIOR	DRIVEWAY	FOUNDATION	MISC.
Sprinkler	Paved	Concrete	Cable T.V.
Fence		POSSESSION	
Deck		COE	
FINANCIAL			
Assumable	?	Tax Year	2008
Home Warranty Y/N		Taxes	1610
Association Fee		Specials	None
Avg Monthly Cost of Heat	\$70	Financing Terms	
SOLD STATUS			
How Sold	FHA	Contract Date	10/21/2008
Closing Date	12/1/2008	Sold Price	\$122,500
Selling Agent 1	DONNA GRILLEY - (701) 721-0209	Selling Office 1	CENTURY 21, ACT OFF (701) 839-002
Additional Comments 1	no pts	Additional Comments 2	
Additional Comments 3			

PUBLIC REMARKS

New maintenance free deck in back yard which has wood fencing and double parking spot off alley. Done since 2005: new deck, kitchen sink & faucet and crown moulding, Redid tub, tile and flooring in main bath, new light fixtures in almost all rooms, moved walls and made fa and put in big 3/4 bath in basement..cedar and pine walls and laminate flooring..very nice, new sliding door off kitchen to deck. Screen an -not sound system.

