

2009 HOUSE FINANCE AND TAXATION

HB 1448

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1448**

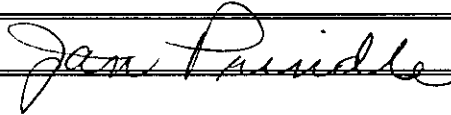
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: **January 28, 2009**

Recorder Job Number: 7971

Committee Clerk Signature



Minutes:

**Chairman Belter opened the hearing of HB 1448.**

**Representative Drovdal** introduced the bill. This is a very complicated bill, but this committee understands it quite well. Two years ago at the 2007, we had the

opportunity to work with the other side of the aisle to send out \$116,000 in property tax credit. Somehow we had an oversight and we eliminated our farm corporations and our partner plan corporations for our residential farmers. They dollars were put in to the bill but they were not. This corrects that mistake. This gives four years for recovery. There is no fiscal note on this bill. In a nutshell, they can claim this on the 2009 income tax and therefore do not have to go back and refile 2007 income tax.

**Representative Weiler:** If I understand this correctly, the money is there in what we passed last time and it's just a group of people that were left out. The fiscal note says there will be a reduction in state general fund revenues in an amount that can't be determined. Is this for the upcoming biennium?

**Representative Drovdal:** That is correct. It will not be in the upcoming biennium, because it is in the 2007. It will probably be returned as surplus money and then taken back out. I will leave that to the experts in the tax department.

**Sandy Clarke, ND Farm Bureau**, testified in support of the bill. This is very short—we support the bill.

**Donnita Wald, counsel, ND Tax Department**, stood for questions.

**Representative Weiler:** Are we going to know at some point how much money was used of that \$100 million for the property tax plan over the last two years?

**Wald:** We will know after all the returns have been filed for this. The time is coming up.

**Chairman Belter closed the hearing of HB 1448.**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1448**

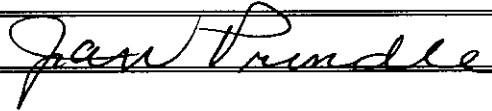
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: **January 28, 2009**

Recorder Job Number: 8072

Committee Clerk Signature



Minutes:

**Chairman Belter opened discussion of HB 1448.**

**Representative Froseth: I move Do Pass.**

**Representative Brandenburg: I Second.**

There was no discussion.

**A role call vote was taken: Yes: 13, No: 0, Absent: 0**

**Representative Drovdal will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/05/2009

Amendment to: HB 1448

**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).*

HB 1448 with Senate Amendments authorizes an individual income tax credit for property taxes paid on certain agricultural and commercial property for property tax years 2006 and 2007.

**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 1448 with Senate Amendments will allow taxpayers that own agricultural and commercial property in partnerships, trusts and estates, and were excluded from the property tax relief income tax credits enacted by the 2007 Legislative Assembly, to claim the credit on their 2009 individual income tax returns.

**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.*

The fiscal impact will be a reduction in state general fund revenues in an amount that cannot be determined.

**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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/05/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1448

**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).*

HB 1448 authorizes an individual income tax credit for property taxes paid on certain agricultural property for property tax years 2006 and 2007.

**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 1448 will allow taxpayers that own agricultural property in partnerships, trusts and estates, and were excluded from the property tax relief income tax credits enacted by the 2007 Legislative Assembly, to claim the credit on their 2009 individual income tax returns.

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The fiscal impact will be a reduction in state general fund revenues in an amount that cannot be determined.

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<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/25/2009

Date: 1/28/09

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1448**

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 Froseth Seconded By Brandenburg

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment Representative Drovdal

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

**REPORT OF STANDING COMMITTEE**

**HB 1448: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1448 was placed on the Eleventh order on the calendar.**



2009 SENATE FINANCE AND TAXATION

HB 1448

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1448

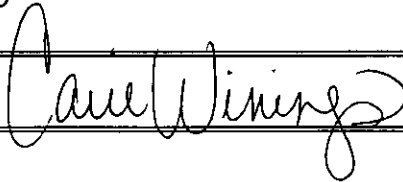
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/25/2009

Recorder Job Number: 9679

Committee Clerk Signature



Minutes:

**Chairman Cook:** Opened hearing on HB 1448.

**Representative David Drovda, District 39:** Testified in support of and as a sponsor of the bill. Last session we were honored to be able to work on giving 116 million dollars back to the tax payers in North Dakota. In getting that bill done, we had certain limitations and things that we had to do. We had to make sure that this went to North Dakota residents only. Somehow in the process of doing the amendments we missed out on farm corporations and on family partners. When the tax season came, we heard that we had messed up. It was accidental, we put the money in there but somehow the language did not get in there and this bill corrects that. With this, they can go back and do that. They can do it in this tax season. The money is in there. This bill will expire the same time the one from last session does. It is simply a correction bill.

**2.45 Sandy Clark, North Dakota Farm Bureau:** Appeared in support of the bill.

**Chairman Cook:** Any further testimony in support? I have a question for the tax department.

What was the cost of the first year and biennium for the bill that we passed last session?

**Donnita Wald, Tax Department:** I believe that through December 31<sup>st</sup> \$41 million in credits were claimed.

**Chairman Cook:** What did we estimate would be claimed?

**Donnita Wald:** I think we estimated around \$50 million.

**Senator Dotzenrod:** I had heard about this bill coming. I expected it to be an amendment. Instead this bill recreates these subsections and adds quite a bit. I am surprised that it came in this way, is that what is necessary to get this done?

**Donnita Wald:** That is one of the issues we had with this. The other issue is that if I went from a drafting standpoint, and made those changes to the statute, I would have to put a retroactive effective date clause. What this bill does instead of being a retroactive fix, I call it my prospective retroactive fix. It goes back and calculates a credit for this tax year based on something we should have had in prior without requiring amended returns. We did not want to do amended returns and have to go that route.

**Chairman Cook:** Fiscal impact – amount cannot be determined? How did we figure the fiscal impact of the bill last session?

**Donnita Wald:** I think that the \$115 million was based on information that Marcy Dickerson got from the counties based on the total. In that estimate it included these ag properties that were paying taxes, it was just that when we got to the actual bill drafting that it was limited to just the individuals.

**Chairman Cook:** The six million dollars that did not get spent before that was anticipated to be spent, is that in a pool of money to cover last year's biennium?

**Donnita Wald:** That is correct.

**Chairman Cook:** At the end of the biennium, then we will have the money that is left, and I assume that whatever this costs, that would come out of that?

**Donnita Wald:** I would assume it would work that way.

**Chairman Cook:** Is it safe to say that this will not cost \$7 million a year?

**Donnita Wald:** I would guess yes that it is safe to assume that.

**Chairman Cook:** Are we comfortable that we are not missing anyone?

**Donnita Wald:** That is correct. That is not saying that we will not get some phone call saying that they cannot get relief.

**Chairman Cook:** One of the primary motives was to keep the money in state, is that a problem now with this correction?

**Donnita Wald:** It is possible that if a family farm partner is out of state then they would be eligible for the credit.

**Chairman Cook:** Irrevocable trust or any trust?

**Donnita Wald:** Any trust. There is no limitation. That is something that we determined based on the aspects of the irrevocable trust and some of the other trusts.

**Chairman Cook:** There would have to be someone in the trust that is in state?

**Donnita Wald:** Yes.

9.20 **Chairman Cook:** Closed hearing. Committee your wishes?

**Senator Hogue:** Moved a Do Pass.

**Senator Dotzenrod:** Seconded.

**Senator Triplett:** Senator Dotzenrod was the person that contacted me and wondered why or how we missed such an important group of people.

**Senator Dotzenrod:** I have been watching this one.

**Chairman Cook:** Any further discussion?

**A Roll Call vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).**

**Senator Cook will carry the bill.**

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1448

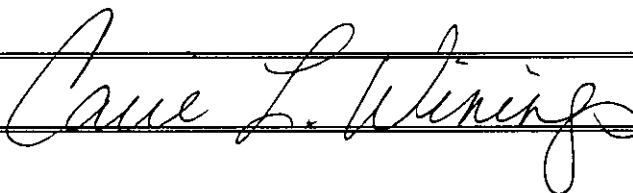
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9967

Committee Clerk Signature



Minutes:

**Chairman Cook:** Reopened discussion on HB 1448. (Passed out proposed amendments – attachment #1) Is this the only change that needs to be made?

**Donnita Wald, Tax Department:** Reviews proposed amendments. I believe that if we add this, all would be able to get it that was excluded.

**Chairman Cook:** You weren't giving the tax exemption to the primary resident, is that correct?

**Donnita Wald:** That is correct, you had to have a primary residence in North Dakota and live in that residence and pay taxes and then if you met that qualification you could also claim for any ag property you owned. That primary residence qualification precluded the non-resident from getting the credit. For commercial property though, there was not that qualification so that if you owned commercial property in this state we didn't care where you lived. There was no non-resident or resident requirement. The commercial property tax was broader.

**Chairman Cook:** OK.

**Donnita Wald:** With your situation with the irrevocable trust they were unable to claim it for commercial property it owned; the reason that it was precluded was because for the commercial property income tax credits it was given to an individual or corporation and you didn't have – when you give credits away you have to identify who those are. If you say

taxpayers entitled to a credit everybody gets it. It was given to an individual or corporation. If you start identifying you are limited to those types of taxpayers.

**Chairman Cook:** That is the same that we mistake we made with the agricultural property that got missed.

**Donnita Wald:** Yes.

**Chairman Cook:** These amendments that we passed out of here, in this case it is not contingent on having a primary residence.

**Donnita Wald:** No, that is the reason why we determined that in a state or trust or any kind of an entity like that couldn't get the residential for a property because a corporation can't have a primary residence in the state.

**Chairman Cook:** Is it possible now with this correction that an out of state land owner could form a pass through corporation just to obtain property tax relief they didn't get?

**Donnita Wald:** It would be hard to create one today. They would have to file in a manner that they did. You cannot go retroactive for a tax purpose. The ownership and the type of taxpayer that is claiming that must be the same. You couldn't go in today and do that.

**Chairman Cook:** The way this bill is drafted, you called this prospective retroactive ag property, so it is pretty clear in the bill that it is still contingent on the ownership and how it applied back.

**Donnita Wald:** On paying taxes, yes.

**Chairman Cook:** Your wishes on this amendment?

**Senator Anderson:** Moved to reconsider actions on HB 1448.

**Senator Dotzenrod:** Seconded.

**A voice vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).**

**Senator Dotzenrod:** Moved the amendments 90973.0101.

**Senator Anderson: Seconded.**

**A voice vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).**

**Senator Hogue: Moved a Do Pass As Amended.**

**Senator Dotzenrod: Seconded.**

**A Roll Call vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).**

**Senator Cook will carry the bill.**

Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. : 1118

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Senator Hogue Seconded By Senator Dotzenrood

[illegible]

Total: Yes 6 No 0

Absent 1 Senator Miller

Floor Assignment Senator Cook

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



**REPORT OF STANDING COMMITTEE**

**HB 1448: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1448 was placed on the Fourteenth order on the calendar.**

Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. : 11157

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

## Reconsider Action

Legislative Council Amendment Number

### Action Taken

☐ Do Pass☐ Do Not Pass☐ Amended

Motion Made By Senator Anderson Seconded By Senator Dotzenrood

[illegible]

**Total: Yes**

**Yes**

No

**Absent**

## Floor Assignment

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

**Senate Amendments to HB 1448 (90793.0101) - Finance and Taxation Committee  
03/02/2009**

Page 1, line 2, after "agricultural" insert "or commercial"

Page 1, line 10, after "agricultural" insert " or commercial"

Page 1, line 11, after "Agricultural" insert "or commercial"

Page 1, line 17, after "agricultural" insert "or commercial"

**Senate Amendments to HB 1448 (90793.0101) - Finance and Taxation Committee  
03/02/2009**

Page 2, line 2, after "agricultural" insert "or commercial"

Renumber accordingly

Roll Call Vote #: *J*

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. : 1448

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

## A mendment

Legislative Council Amendment Number 90973:0101

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Senator Dotzenrod Seconded By Senator Anderson

[illegible]

Total: Yes 6 No 0

Absent 1 Miller

**Floor Assignment** \_\_\_\_\_

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

Date: 03/02/09

Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. : 1448

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended AS

Motion Made By Senator Hogue Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehike	✓				

Total: Yes 6 No 0

Absent 1 Senator Miller

Floor Assignment Senator Cook

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

**REPORT OF STANDING COMMITTEE**

**HB 1448: Finance and Taxation Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1448 was placed on the Sixth order on the calendar.

Page 1, line 2, after "agricultural" insert "or commercial"

Page 1, line 10, after "agricultural" insert "or commercial"

Page 1, line 11, after "Agricultural" insert "or commercial"

Page 1, line 17, after "agricultural" insert "or commercial"

Page 2, line 2, after "agricultural" insert "or commercial"

Renumber accordingly