

2013 SENATE FINANCE AND TAXATION

SB 2279

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee

Lewis and Clark Room, State Capitol

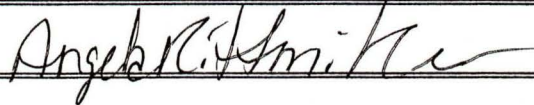
SB 2279

2/18/2013

Job Number 19101

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-57-02 and 57-57-06 of the North Dakota Century Code, relating to the forest stewardship tax; and to provide an effective date.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on SB 2279.

Senator Holmberg introduced SB 2279.

Larry Kotchman, State Forester, North Dakota Forest Service - See attached testimony 1 in favor of SB 2279.

Chairman Cook - Explain what your role is as a State Forester.

Larry Kotchman - My role according to this law is to determine whether or not lands that are in application for the forest stewardship tax law are in fact eligible for taxation under this particular section. What that means is that we look at the properties and determine whether or not they have forest cover on them and determine whether or not they are in a condition that would warrant inclusion in to this particular section of the law. The law is specific in saying that it has to be at least 10 acres in size, at least 60 feet or more in width and it cannot have been grazed or not have been destructively burned, or if it's cleared during the course of being enrolled in a program we would issue an order for declassification. That is our role primarily but the county commissioners are the ones that take the application and determine whether or not they want to approve it.

Chairman Cook - So you don't get to make the final determination, that still lies with the county commission but could the county commission approve it without you saying it's alright?

Larry Kotchman - I suppose they could approve it without me saying it's alright but they would not have the ability unless they sent someone into the field to take a look or looked at maps for example to determine whether or not there is forest cover.

Chairman Cook - The criteria that you refer to, you said 'in law' so that is somewhere else in this chapter?

Larry Kotchman - Yes chapter 57-57. SB 2279 amends 2 sections of that law.

Vice Chairman Campbell - Why couldn't this gentleman in Nelson County just apply for the forest stewardship tax relief and receive it, because he was over 10 acres, am I missing something? Why couldn't he have done that prior to this?

Larry Kotchman - The primary reason that he wasn't able to qualify is because the county which is actually Steele County I understand, I think Mr. Holmberg said it was Nelson but I think it's Steele because Nelson County for example the county commission has approved by resolution the application of this law, but Steele County has not.

Vice Chairman Campbell - Why wouldn't some of these counties adopt that?

Larry Kotchman - I think some of it relates to confusion. Just not knowing the law exists and not understanding its application. Others may be that perhaps they are concerned about the application of the law and its effect on revenues. (17:36)

Senator Burckhard - There is no fiscal note attached to this. Does that mean it's a small amount, or we don't know?

Chairman Cook - It's only going to affect county revenue.

Senator Burckhard - Is there any reported cases of the emerald ash borer in our state yet?

Larry Kotchman - No, there is not and we are very pleased to be able to report that, but it's as close as St. Paul-Minneapolis Minnesota. We think it's just a matter of time before that invasive pest does arrive somewhere else in the Great Plains like in North Dakota.

Senator Triplett - Senator Holmberg in introducing the bill mentioned it's been through a couple of iterations before he produced this version that he sponsored this morning. When he had discussed this matter with me before the session he was actually talking about putting in a bill that would simply remove the county from the process entirely and basically have all the forested land in the state eligible for the forest stewardship tax relief and then just basically have your office determine if they qualify as you already do. Do you have an opinion on whether that would be a good idea or is that one of the, like Rolette County issues that you were just discussing?

Larry Kotchman - We stand ready to assist North Dakotans any way we can, including everyone in the legislature. We think having the county commission involved with this has been a good process in the past and the 8 in which we have relationships they have been strong with the county commissions. I would leave that sort of decision up to this committee.

Senator Triplett - You mentioned also that even in counties, like my county of Grand Forks that does have a resolution pretty much automatically approving all of them who apply that we only have like a 37% participation rate. Can you describe what efforts your office makes in terms of getting the word out to individual land owners about the opportunities under this law?

Larry Kotchman - Our office routinely does outreach and educational opportunities with land owners throughout North Dakota, especially woodland owners. This is on our website which is part of North Dakota State University. We periodically do some news releases. We don't do a lot of advertising on this because this is really a program that benefits the counties and we rely on the county commissions a lot to determine whether or not they are interested in it. (20:58)

Chairman Cook - If I had Ag land in one of the counties that participated with this and I planted trees all over the 80 acres, how long would those trees have to grow before I could qualify for this program?

Larry Kotchman - Typically speaking the law says that it has to be demonstrated that the land has a forest cover. If you planted trees that would not likely be evident for probably a minimum of 5-10 years after you've planted because typically survival can be affected by a lot of things during the first 3-5 years after a planting. Generally after 5 years it's evident whether or not you are going to have a successful tree planting. The other thing that would be a determining factor is the number of trees you planted per acre. It needs to be a high enough number of trees per acre that the site would be occupied and could be determined to be forested. Most of the lands enrolled in this program are native or natural forest lands, especially along rivers and tributaries. Then places like the Pembina Gorge and areas of Pembina County that have natural forest areas.

Chairman Cook - Property tax is an interesting little animal. You always continue to learn more. Now I learn that we have property out there, property covered with trees where the tax is actually fixed. I would argue it's probably the only property in the state where the tax is fixed and it's been fixed for a long time at \$.50 an acre which back when that was done was relatively I'm sure close to what crop land was taxed at. We've got quite a disparity now. Do you think the fact that there is such a disparity between this \$.50 an acre and what it would be taxed at if it was pasture is something that keeps other counties from even wanting to look at this program?

Larry Kotchman - It's a possibility. The thing that we have seen over the years is that in working with land owners and counties land owners in particular will say that when they have crop land that they are getting income off of it and they realize they are going to pay tax and they need to pay tax, but when they have forested lands and they are taxed at a very high rate and they receive little if any income off of them they are troubled by that.

Senator Triplett - One thing that disturbs me about the way this bill is written is that it moves from the county approving by resolution all potential woodlands in the county to individual application. Do you know in your conversations with Senator Holmberg if there was any thought given to having both options available to a county so that if a county wants

to continue just saying all comers welcome that would be okay and other counties who have more concerns about it could chose to do it on a person by person basis?

Larry Kotchman - I didn't have a clear conversation with Senator Holmberg about this, in terms of answering your question. I think he had a question that was raised by this legislation and I do to because for those counties that already have approved by resolution the application of this law, from my perspective I guess just as the state forester I would hope that we wouldn't interfere with what they've done. (25:14)

Randy Kreil, North Dakota Game and Fish - This is the first time in history that we have ever testified before this committee. We typically don't get involved in these types of issues and my directions from our director are, be neutral but supportive. With those orders I'm here to provide some comments about this bill. As most of you know, native forests are very important and excellent habitat for all types of wildlife whether it's elk or moose, or grouse or deer. Our game and fish department has recognized this for a long time and under the umbrella of our plots program we offer a private forest conservation program where we actually lease private forests from people in the Turtle Mountains and Pembina Hills and provide public access, walking access for hunting and fishing. I was just with Larry Kotchman at Rolette County when this issue came up. It was really interesting to be there and watch the county commission struggle with the balance. Trying to find a balance between conserving what they know is a very valuable resource to their part of the world, and at the same time they need taxes to run the county. So it was interesting to see them struggle at this hearing and they heard from landowners who are seeing their taxes go up because of the new formulas and those sorts of things. At the same time they don't want to see the bulldozers come out and see the native forests disappear. Our agency along with the State Forest Service offered to work with Rolette County to use all the tools in the toolbox to try to meet both demands. (29:00)

Senator Triplett - Do you know off hand what the overlap is between your plots program and the woodlands that are enrolled in this program?

Randy Kreil - I don't have an exact number, but the reason we are even aware of this is because we had 3 people that were in our private forest conservation program and Rolette County come to us and say our future participation in this program is in jeopardy because unless the modifiers are applied and if it's taxed at crop land value they will have no choice but to remove that native forest and drop out of the program, and they asked, isn't there something you can do to help? And that is when we got ahold of Larry Kotchman and got involved with the discussions with the Rolette County Commission which were very informative and you can see the county commission struggle with where they wanted to go. They want to keep forest on the landscape but they also have an obligation to meet the financial needs of the county. (32:38)

Vice Chairman Campbell - Do you see any CRP that has been in CRP for 20 years, it has some trees grow up in it because it was let go that would be involved in this, or not?

Randy Kreil - I personally have seen 20 year's worth of CRP develop volunteer trees on them. Whether you would count them as forest or not that would be a question for State Forester Kotchman.

Mike McEnroe, North Dakota Chapter of the Wildlife Society - The bill supports maintaining the states forest and woodland acres, I'm not a tax expert and the Wildlife Society isn't a tax group but we support the testimony the State Forester and Game and Fish and urge you to support this bill.

Terry Traynor, North Dakota Association of Counties - We didn't bring this bill forward but we certainly worked on it and we I think supportive of the direction it goes. We understand the purpose is to encourage the preservation of forested lands and supportive of that concept. As was brought out, this really, Senator Holmberg brought this issue up because of a concern when the valuation by soils kind of disrupted the way the valuation was happening on forested lands in Steele County. Part of that has been resolved because they have since implemented their modifiers but even in that case the maximum modifier is a 35% reduction off of the otherwise high value as it was pointed out the value of the soils under many of these tracks is quite high and the maximum reduction is 35% based on the modifiers for trees. We tried to come up with a way that would address the 2 issues that seem to evolve from the issue and that was one, there was a reluctance at least on Steele County's part of doing a county wide resolution. They certainly recognized that the particular parcel in question was a value, and maybe as the state forester brought out it was a lack of understanding of the program, but they felt that was opening the door quite wide. In line 8 where we talk about that property rather than all qualifying property the idea was to make it available on a parcel by parcel basis which seemed to, at least to us, maybe open the door for more counties considering it. Then, looking at the statute we recognize that \$.50 an acres had been established a long time ago and that maybe we needed to look at that and that would also encourage the counties to consider it if there wasn't a frozen dollar amount there. We suggested to Mr. Walstad the 50% of the non-crop land because that's what we do for inundated acres. (37:00)

Senator Triplett - Would the counties do you think have any objection if we modified the language between lines 7 and 10 to suggest that it could go either way, either by individual application or on a county wide resolution?

Terry Traynor - No, my understanding is that even though they do a county resolution there is still an individual application for a particular parcel. The forester takes a look at it and makes sure it's appropriate and that sort of thing. I don't see that as a problem and I certainly don't want to disrupt what's already in place in those counties.

Marcy Dickerson, Tax Department - I would make a suggestion for some additional language that's similar to what comes up in some other bills. That would be some statement that this provision is subject to equalization and abatement as other taxes are. Just in case for some reason someone does not get what they feel is equitable from their county commission they could go through the equalization process or the abatement process. It may not be necessary language, but it would be clarifying language.

Chairman Cook - Page 2 of the bill line 5, but must be excluded from calculations of agricultural value for the county under section 57-02-27.2. I assume what that is doing is saying that this property cannot be used by NDSU as they calculate the average crop land and non-crop land?

Marcy Dickerson - Yes, and one other point I would like to make for clarification, where this is similar to the way inundated land is valued there is also an income provision on the inundated land that it must not have received more income than the average county return for non-crop land of the county in the previous year. I'm not saying it has to be in here, I'm just making that statement so you know that difference does exist between the inundated land and the forested land.

Chairman Cook closed the hearing on SB 2279.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee

Lewis and Clark Room, State Capitol

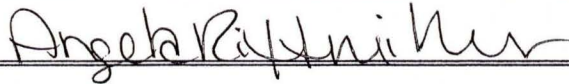
SB 2279

2/19/2013

Job Number 19208

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-57-02 and 57-57-06 of the North Dakota Century Code, relating to the forest stewardship tax; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2279.

Senator Triplett proposed amendment numbered 13.0710.01001 (attachment 1A).

Chairman Cook - Why did you move the 50% down to 30%?

Senator Triplett - Because there was testimony that the 50% is what is used for inundated lands and my understanding of the inundated lands thing is just a way of acknowledging to people who have inundated lands that they have land they wish were productive but it's not and during the time period that it's not productive we will give them a bit of a tax break. I see this as we should give more of an incentive on this for people not to take their lands out of the forest woodland circumstance because I think it's, truthfully I think we ought to be paying them to leave it, in the same way that we, sort of a CRP kind of notion. Obviously we aren't going to get to a place of paying them on a taxation bill so, it was my amendment and that's what I did. I like this program and I talked to Terry Traynor and Larry Kotchman together after the hearing and they agreed that the numbers right now, the \$.50 per acre if you work it out in to a percentage would come to between 24% and 27% kind of in that range and so 30% is still an increase from what is currently there and it does solve the problem of getting it on the same playing field as all the rest of property tax by being a percentage based and so it will go up over time as opposed to being locked in at a specific dollar value, but it's only a tiny increase as opposed to the 50% which they testified I believe would be in some cases a 100%-150% increase.

Senator Burckhard - Randy Kreil suggested be aware of unintended consequences regarding forested lands. Anybody remember what that meant?

Senator Triplett - When he heard us referencing inundated lands he jumped up to make that comment and he said if we tracked the whole amount of the inundated lands reduction

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2279
2/25/2013
Job Number 19427

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-57-02 and 57-57-06 of the North Dakota Century Code, relating to the forest stewardship tax; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2279.

Chairman Cook handed out proposed amendment 13.0710.01002 (attachment 1B).

Senator Miller - I'll move your amendment.

Seconded by **Senator Burckhard**.

Senator Triplett - I'd be happier with the study resolution if it were a mandatory study. I think there are issues out there and people who are concerned and if we go back to the constituents who expressed concern and say we are going to recommend that Legislative Management study it and then it doesn't get accepted for a study then it's like we've done nothing. Maybe just make it a 'shall study'. I would offer that amendment to the amendment.

Chairman Cook - Considering it's a tax study it's got real good chances, they tend to run most of them through. I'm always reluctant to make too many of these shall because then we step on peoples toes and then they get offended like we aren't letting them do their job.

Senator Triplett - I understand as committee chairman you get pressure, as a member of the minority I don't, so I think I'm going to make the motion anyway just so I can say I did. I would move to amend the amendment by deleting the words 'consider studying' and replacing them with 'study' so it would say Legislative Management shall study.

Seconded by **Senator Dotzenrod**.

Roll Call to Amend the Amendment 2-5-0

Verbal Vote on Amendment 6-1-0


Senator Oehlke - I'll move a **Do Pass as Amended**.

Seconded by **Vice Chairman Campbell**.

Roll Call Vote 5-2-0

Carried by **Senator Miller**.

February 22, 2013


2/24/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2279

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - FORESTRY STEWARDSHIP TAX. During the 2013-14 interim, the legislative management shall consider studying the benefits and implications on tax policy of the forestry stewardship tax. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Date: 2-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2279

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0710.01002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Burckhard

| Senators | Yes | No | Senator | Yes | No |
|----------------------------|-----|----|-------------------------|-----|----|
| Chairman Dwight Cook | | | Senator Jim Dotzenrod | | |
| Vice Chairman Tom Campbell | | | Senator Connie Triplett | | |
| Senator Joe Miller | | | | | |
| Senator Dave Oehlke | | | | | |
| Senator Randy Burckhard | | | | | |
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Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 2-25-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2279

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Dotzenrod

| Senators | Yes | No | Senator | Yes | No |
|----------------------------|-----|----|-------------------------|-----|----|
| Chairman Dwight Cook | | X | Senator Jim Dotzenrod | X | |
| Vice Chairman Tom Campbell | | X | Senator Connie Triplett | X | |
| Senator Joe Miller | | X | | | |
| Senator Dave Oehlke | | X | | | |
| Senator Randy Burckhard | | X | | | |
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Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

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

To amend the amendment to say 'shall study'

Date: 2-25-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2279

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Campbell

| Senators | Yes | No | Senator | Yes | No |
|----------------------------|-----|----|-------------------------|-----|----|
| Chairman Dwight Cook | X | | Senator Jim Dotzenrod | | X |
| Vice Chairman Tom Campbell | X | | Senator Connie Triplett | | X |
| Senator Joe Miller | X | | | | |
| Senator Dave Oehlke | X | | | | |
| Senator Randy Burckhard | X | | | | |
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Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Miller

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

REPORT OF STANDING COMMITTEE

SB 2279: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2279 was placed on the Sixth order on the calendar.

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - FORESTRY STEWARDSHIP TAX. During the 2013-14 interim, the legislative management shall consider studying the benefits and implications on tax policy of the forestry stewardship tax. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

2013 HOUSE AGRICULTURE

SB 2279

2013 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

SB 2279
March 21, 2013
Job #20292

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of the forestry stewardship tax

Minutes:

Attachments #1 & 2

Senator Holmberg, Sponsor: (See attached #1)

This came out of a situation where property in the Hatton area along the Goose River had taxes on land with trees go up 300%. His concern is in order to make that land profitable, he should tear down the trees and plant crops. What is good for one part of the state is not good for the rest of the state. We found that making the changes that were in the original bill had impact on other forested areas in the state and what other counties had done.

The Senate found they couldn't resolve issues of other counties. The committee decided to go with a study.

Larry Kotchman, State Forester: (See attached #2) The lands in Steele County were taxed in 2011 at \$3.04 per acre. In 2012 the taxes rose to \$9.41 per acre. The 300% increase the landowner talked about was evident. We have heard similar issues in Rolette County. We did meet with the Rolette County Commission along with the representative from the North Dakota Game and Fish Department to provide them information about the forest stewardship tax law. The original intent was to provide relief to these landowners.

Chairman Dennis Johnson: What qualifies as a forest?

(9:19)

Larry Kotchman: The law is very specific. It says that landowners that own at least ten acres of natural forest cover or a combination of planted forest cover of at least five acres in size and natural forest cover. If it is planted it has to be 60 feet wide. Windbreaks don't qualify. Native forests or areas along streams and about 1/5 of all forest lands in North Dakota are within 200 feet of a body of water or stream. Enrollments have been in the northeastern part of the state. The program could be used state wide but it has not been. It is up to the county commission to approve it.

Chairman Dennis Johnson: Going from \$3 to \$9 per acre, was that similar to surrounding lands that weren't forest.

Larry Kotchman: The state supervisor of tax assessments will have more information. It was the application of the soil productivity assessment that is mandated across North Dakota. Some of these forested areas especially along streams and rivers have very good soils underneath. So the valuation is at a high rate similar to adjacent crop land. The problem is that forest lands do not produce an income.

(11:24)

Chairman Dennis Johnson: We should be safe to not get an 80 acre apple orchard.

Larry Kotchman: If they would clear the land or handle it in a destructive manner, they would be declassified. Those are at less than 1%.

Representative Trottier: What does this tax amount to?

Larry Kotchman: The land is subject to taxation at 50 cents per acre and no other taxes are due. It has been that way since 1991. A different formula should be considered. We talked about using 50% of the agricultural value for non-crop land. At 50% the lands in those eight counties would have the taxes increase about 100 to 150%.

Representative Trottier: Do Christmas trees qualify?

Larry Kotchman: They are not in this program. Most of the lands are native forest lands.

Representative M. Nelson: This started in 1991. Why would it be important to have a different tax rate on forest land?

Larry Kotchman: This originally was passed in 1967. In the Turtle Mountains and the Pembina Hills there was extensive clearing of forest lands for other uses. There were a lot of landowners who wanted to keep forest lands. It has been amended several times with the most recent in 1991. The idea is to provide a financial incentive for landowners to retain forest lands because of the public benefit.

Representative M. Nelson: Why is the cost of the tax break pushed over to local people? Don't benefits extend beyond the local area?

Larry Kotchman: Yes. But the way the law was set up was that it relates to local taxes.

Representative M. Nelson: When we went to soil type for classification, would landowners even be legally free to remove those trees? Are they paying cropland prices for things they can't farm?

Larry Kotchman: We are not aware of any program regulation that would prevent them from clearing lands right up to the river. There are other programs out there to provide financial incentives.

Representative Headland: This property was in 1991 set at 50 cents/acre?

Larry Kotchman: The law as amended in 1991 set the tax rate at 50 cents/acre. Any properties that had been enrolled or will be enrolled in the future are at 50 cents/acre.

Representative Headland: When every other piece of property increased, this one remained constant. This property along the Goose River was never enrolled in the program?

Larry Kotchman: No, it was never enrolled because the county never approved the application so the landowner never applied. That landowner couldn't apply without the county commission approving by resolution the application of this chapter for qualifying lands in their county.

Representative Trottier: Could the township assessor been of some help? They have the ability to lower the value.

Larry Kotchman: The local assessor and county tax directors could be of help. In Walsh County they have put forth their classifications using the soil productivity index. Then they identified additional things they felt were a priority to them. One of the priorities was to have woodlands retained along the Red River in Walsh County. The landowners that don't enroll in that program, they have set out a third category at a lower rate equivalent to 60 or 70 cents per acre.

Representative Fehr: Why is this land not part of the program? Is it because of the county?

Larry Kotchman: This landowner doesn't qualify for the forest stewardship tax law is because Steele County has not approved by resolution the application of this law.

Representative Fehr: We are being asked for the state to study something that is a local issue.

Larry Kotchman: It is an issue in Steele County and in Rolette County. Rolette County Commission was interested. I gave a figure of what the impact would be. It was about \$70,000 or \$80,000/year.

Representative Fehr: Does the state want to override the requirement that counties approve by resolution because of an interest in making this available state wide and at the same time doing some type of appeasement because there is a reduction of tax base?

Larry Kotchman: Yes, that sums up the issue. Where taxes have risen dramatically, the counties are dealing on a case by case basis. We don't advocate the state making a decision. It is the county commission's decision.

(25:32)

Representative Fehr: If somebody has forested land that they are receiving economic benefit, does that move them out of the program.

Larry Kotchman: No, it did not.

Chairman Dennis Johnson: Has this landowner with the 80 acres gone to the commission?

Larry Kotchman: I am not certain of the status of the request. He has gone to the county commission and filed a tax abatement request.

Representative Trottier: Is the 50 cents/acre set by the state?

Larry Kotchman: Yes, by the state law in Chapter 57-57.

Representative Trottier: If this study would come up with \$2-4/acre, it could help the counties.

Larry Kotchman: There may be some unintended consequences for the 658 other landowners that have 42,000 acres enrolled in the program. If we could make this rate so it isn't a set 50 cents/acre, it would change with the times. This 50% of the value of agricultural non-crop lands in the county has some merit because once it is determined it changes as times go on.

Representative M. Nelson: A few years ago we had the forest legacy program. Did we have forest legacy easements in the state?

Larry Kotchman: No.

(29:10)

Randy Kreil, Chief of the Wildlife Division of the North Dakota Game and Fish Dept.:

We are in support for this study resolution. One of the rarest habitats in the state is the native forests. Those native forests provide habitat for many wildlife species. We were contacted by three landowners in Rolette County who had land in our PLOTS (Private Land Open To Sportsmen) Program. It was all wooded property that they allowed access to hunting, bird watching, etc. They told us they can't maintain participation because the taxes went up due to soil types.

We went to a meeting in Rolla and you could tell that the Rolette County commission was torn. They knew what a valuable resource the forests were. The landowners were talking about tearing out the trees and the forests would be gone forever.

The Game and Fish Department has property that is forested. We don't participate in the program. We pay the full taxes as assessed by the county. We felt the program was meant for private owners.

This is a valuable resource. There are landowners out there that don't know what to do with their forests.

HB 1278 is the outdoor heritage bill and would be a perfect project. If a county is struggling about whether to pass a resolution to participate in this program because of the loss of

taxes, maybe a project could be funded through this outdoor heritage fund. A study would look at those ideas.

Opposition: none

Chairman Dennis Johnson: Closed the hearing

Representative Trottier: What could come out of this is some help for counties and not hurt the landowners.

Representative Rust: It would be nice to save natural forested land and the people that do that should get a break. But a 50 cents/acre tax that never goes up means someone else is paying the tax for the county. It needs to be looked at.

Chairman Dennis Johnson: The study would bring it out.

Representative Trottier: Moved Do Pass

Representative M. Nelson: Seconded the motion

Representative Fehr: Does it need a study or is it something that in two years someone should bring a bill with a hearing?

Chairman Dennis Johnson: A study would bring some of the counties that don't want to move the resolution to accept this opportunity. A bill at the state level drops the hammer on local decision making

Representative M. Nelson: This is the year our county went to the soil survey. We had that average 29% increase in agriculture valuation. It is not an easy solution because we don't have a lot of property tax in the county. Once you create a special category then there are others who say they have a slough and saline soil, etc. It is a problem for us. If the landowner takes out the forests along the river, it will cost us all. Someone can plant trees and it doesn't have the same impact to the state. It does warrant a look by the state. It came to a head by the land valuation.

Chairman Dennis Johnson: I don't know where the guidelines came from for 50 cents/acre. Our area has land devalued with the lake expanding.

A Roll Call vote was taken: Yes 12, No 0, Absent 1. (Rep. Haak)

Do Pass carries.

Representative Trottier will carry the bill.

Date: 3/21/13

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2279**

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Consent Calendar
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Trottier Seconded By Rep. Nelson

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|---------------------|-----|----|
| Chairman Dennis Johnson | X | | Rep. Joshua Boschee | X | |
| Vice Chairman John Wall | X | | Rep. Jessica Haak | AB | |
| Rep. Wesley Belter | X | | Rep. Marvin Nelson | X | |
| Rep. Alan Fehr | X | | | | |
| Rep. Craig Headland | X | | | | |
| Rep. Joe Heilman | X | | | | |
| Rep. Dwight Kiefert | X | | | | |
| Rep. Diane Larson | X | | | | |
| Rep. David Rust | X | | | | |
| Rep. Wayne Trottier | X | | | | |
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Total Yes 12 No 0

Absent 1

Floor Assignment Rep. Trottier

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

REPORT OF STANDING COMMITTEE

SB 2279, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2279 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2279

**63rd LEGISLATIVE ASSEMBLY
Senate Finance and Taxation Committee
Senator Dwight Cook, Chairman**

Senate Bill 2279 - “Relating to the Forest Stewardship Tax”

10:30 a.m., Monday, February 18, 2013

Testimony Submitted by: Larry Kotchman, State Forester
North Dakota Forest Service

Purpose

The State Forester applauds and supports the beneficial intent of Senate Bill 2279 relating to the legislation to make the Forest Stewardship Tax program available statewide. However, there are questions about how the amendments would impact real estate taxes paid by the 658 landowners already enrolled in the program in eight counties. Information will be presented to Committee members highlighting potential benefits and impacts of the proposed amendments to sections 57-57-02 and 57-57-06 of the North Dakota Century Code on landowners enrolled in the Forest Stewardship Tax.

Background

Forest resources in North Dakota include upland forests and riparian (streamside) forests. In total, these resources encompass 772,400 acres or 1.73 percent of the total land area of North Dakota. Forest resources provide important public benefits, including clean air and water; soil protection; additional food and cover for wildlife; support a tremendous amount of biodiversity; and enhance outdoor recreation experiences. The majority of forest lands, 68 percent, are privately owned. Unlike agricultural lands, forests provide little if any annual income to their owners in North Dakota.

North Dakota’s forest resources face tremendous threats, including flooding; drought; invasive insects and diseases (such as emerald ash borer); a lack of species diversity; and deterioration associated with old age. Over maturity and limited natural regeneration; conversion to non-forest uses; wildfire; and limited wood utilization opportunities threaten forests in the Turtle Mountains, Pembina Gorge, Devils Lake hills, Killdeer Mountains and the Badlands.

Enacted in 1991, the Forest Stewardship Tax Law (Chapter 57-57), provides a financial incentive to owners to manage and conserve this limited forest resource. The State Forester is responsible for determining whether property qualifies for taxation under this Law. My objective today is to provide information to your committee members regarding how best to protect forest lands.

Senate Bill 2279 would amend sections 57-57-02 and 57-57-06 of the North Dakota Century Code. Although I applaud and support the beneficial intent of the legislation to make the program available statewide, I have questions about how the amendments would impact real estate taxes paid by 658 landowners already enrolled in the program in Benson, Cavalier,

SB 2279 – Testimony by Larry Kotchman, State Forester, Page 2

Grand Forks, Nelson, Pembina, Ramsey, Walsh and Wells Counties. By resolution, the County Commissioners in these eight counties have approved the application of this chapter to all qualifying forestlands within these counties. There are 42,140 acres enrolled in the program. The law currently provides for landowners enrolled to pay a tax rate of fifty cents per acre in lieu of all ad valorem taxes.

Section 57-57-02 would be amended to allow this chapter to apply to any forested property in a county in which the County Commission has approved an application from a landowner. It removes the requirement for County Commission approval by resolution of this chapter to all qualifying lands within the county. Section 57-57-06 would also be amended to change the “fifty cents per acre” language to “fifty percent of the county average agricultural value per acre for non-cropland.” Although these changes would have a very positive benefit for new landowners desiring to apply for the program, the new formula may have unintended consequences for the 658 landowners who are already enrolled in the program. When we applied this amended rate language to typical enrollments in participating counties, the calculations indicate the taxes paid by these enrolled landowners would increase by 100 to 150 percent per acre. I know enrolled landowners would appreciate efforts to maintain the \$0.50 per acre provisions. Understandably, others may desire to adjust this rate to account for a reasonable inflationary increase or to address valuation issues.

I welcome the opportunity to strengthen the intended benefits of Senate Bill 2279 for all of North Dakota’s forestland owners. The State Forester’s office is very supportive of language and programs that would provide incentives to landowners to maintain forest lands. Dedicated landowners who wish to manage and conserve their forest resources to provide important public benefits, such as clean air, clean water, wildlife habitat and recreational opportunities, deserve our full support.

Chairman Cook, thank you for the opportunity to address the Senate Finance and Taxation Committee.

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13.0710.01001
Title.

Prepared by the Legislative Council staff for
Senator Triplett
February 19, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2279

Page 1, line 7, after "the" insert "board of"

Page 1, line 8, overstrike "commission" and insert immediately thereafter "commissioners"

Page 1, line 8, overstrike "to"

Page 1, line 8, replace "that" with "either for all qualifying forested property within the county or for individual tracts of forested"

Page 1, line 9, remove the overstrike over "~~within the county. The~~"

Page 1, line 9, after "The" insert "board of county commissioners may approve application of this chapter on its own motion or"

Page 1, line 15, overstrike the comma and insert immediately thereafter a period

Page 1, line 16, replace "to" with "To"

Page 1, line 16, replace the first "the" with "an individual tract of"

Page 1, line 17, after the first "the" insert "board of"

Page 1, line 17, overstrike "commission" and insert immediately thereafter "commissioners"

Page 1, line 20, after "the" insert "board of"

Page 1, line 20, overstrike "commission" and insert immediately thereafter "commissioners"

Page 1, line 20, remove the overstrike over "~~within the~~"

Page 1, line 21, remove the overstrike over "~~county~~"

Page 1, line 21, after "~~county~~" insert "or"

Page 1, line 21, after the first "the" insert "individual"

Page 1, line 21, after the first "the" insert "board of"

Page 1, line 21, overstrike "commission" and insert immediately thereafter "commissioners"

Page 2, after line 6, insert:

"Decisions and determinations under this chapter may be appealed through the informal equalization process and the formal abatement process."

Page 2, line 13, replace "fifty" with "thirty"

Renumber accordingly

13.0710.01002
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 22, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2279

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - FORESTRY

STEWARDSHIP TAX. During the 2013-14 interim, the legislative management shall consider studying the benefits and implications on tax policy of the forestry stewardship tax. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Interesting question he poses. Is he doing the right thing?

Ray

#1
2279

From: John Lee [<mailto:johnlee@gra.midco.net>]

Sent: Saturday, December 29, 2012 9:52 AM

To: Holmberg, Ray E.

Cc: Bob Deutsch work; Bob Deutsch; Roger and Angie Hoffman; Roger and Angie Hoffman

Subject: John Lee - Taxes on wooded land increased over 300% in 2012

Dear Ray,

My name is John Lee and I live at 698 Evergreen Drive in Grand Forks. I own some wooded land by the Goose River near Hatton with my brother-in-law and we are struggling to get a fair tax rate on this 85 acre wooded land. My brother in- Law and I have owned the land for 6 years and we use it for recreation with our families and for hunting. This 85 acre parcel of the land has the Goose river running through it and is covered with 60-80 foot oak and basswood trees that have been there since the beginning of time. In the past I think the land was taxed based on its assessed value with some modifiers for the fact it was not tillable land for agricultural production. I was shocked to get the tax bill this year when I saw the taxes had increased by over 300% (see attachment).

When we received an estimate of what our taxes on this parcel were going to be this summer, it got our attention very quickly. Roger and I contacted the county commissioners and Roger attended a meeting at the court house in Finley to see how the taxes could have gone up over 300% in one year. The county commissioners told Roger that the change was because the state required all acreage to be assessed based on its agricultural value which is a soil productivity index. Apparently the soil under the trees is some of the most soil in North Dakota, except it has 100 year old trees on it, a river runs through it and nobody in their right mind would want to cut down these old trees and try to farm this land.

The county commission said we had to talk with our township board, because they were supposed to come up with a modifier by October for land like this. This modifier was supposed to adjust the taxes on land like ours that is covered with trees and has no agricultural productivity possible. We talked to Tom Erickson, who is on the township board and he said that each township was supposed to get a volunteer to be on a soils committee that would come up with the modifier to reduce the taxes on land like this to an acceptable level, considering it has no capability to produce crops unless we chop down the trees!

At that point we didn't do anything, because the township board was going to come up with a modifier in October and we assumed our taxes would then be cut to a reasonable amount.

Boy were we wrong!! We recently received our tax statement for 2012 (see attachment). As you can see, the taxes on this parcel went up over 300% from 2011. We again went and talked to a county commissioner and to a township board member. We were told that the modifier was going to be in place next year and that next year our taxes would be lower. We found out that the modifier the township came

up with for next year will be a 40% reduction in the taxable value of this parcel. Even with a reduction of 40% of the value for tax calculation purposes, our taxes will then be 200% higher next year, after being 300% higher this year. This is a crazy situation we are dealing with!

After doing everything we could do to get the taxes lowered to a reasonable amount, based on the fact there can never be crops grown where the trees are, we started the process for an abatement of the taxes. We have filed the abatement form at the court house in finely and will be following through on this process (see attachment).

I am assuming we are not the only ones caught in the middle of the tax assessment structure change required by the state so that taxes are based on the productivity of the soil. While I do think it is a good idea to tax the land based on it productivity (I am a Soil Scientist with AGVISE Laboratories), there has to be some common sense used to make exceptions for situations where the soil productivity does not matter as in our case with trees covering the land.

With the legislature being in session this year, I am hoping you can help to bring some common sense to this situation and help us get some action on reducing the taxes on land that is wooded and not productive for crop production.

Thank you very much for considering this matter.

John Lee
698 Evergreen Drive
Grand Forks ND 58201
Home 775-7920
Cell 701-739-0521

**63rd LEGISLATIVE ASSEMBLY
House Agriculture Committee
Representative Dennis Johnson, Chair**

**Senate Bill 2279 - “Provide for a Legislative Management Study of the Forestry
Stewardship Tax”**

9:00 a.m., Thursday, March 21, 2013

Testimony Submitted by: Larry Kotchman, State Forester
North Dakota Forest Service

Purpose

The State Forester supports the intent of Engrossed Senate Bill 2279 to provide for a legislative management study of the forestry stewardship tax. The original intent of SB 2279 was to make the Forestry Stewardship Tax program available statewide. However, there were questions about how amendments to sections 57-57-02 and 57-57-06 of the North Dakota Century Code would have impacted real estate taxes paid by the 658 landowners already enrolled in the program in eight counties. Information will be presented to Committee members highlighting potential benefits of a legislative management study of the forestry stewardship tax.

Background

Enacted in 1991, the Forest Stewardship Tax Law (Chapter 57-57), provides a financial incentive to owners to manage and conserve this limited forest resource. This chapter applies in any county in which the county commission has approved by resolution the application of this chapter to all qualifying property within the county. The State Forester is responsible for determining whether property qualifies for taxation under this Law. The State Forester examines the land and reports to the county commission whether the landowner is eligible for forest stewardship tax benefits. My objective today is to provide information to your committee members regarding how the program is administered to protect forest lands.

Forest resources in North Dakota include upland forests and riparian (streamside) forests. In total, these resources encompass 772,400 acres or 1.73 percent of the total land area of North Dakota. Forest resources provide important public benefits, including clean air and water; soil protection; additional food and cover for wildlife; support a tremendous amount of biodiversity; and enhance outdoor recreation experiences. The majority of forest lands, 68 percent, are privately owned. Unlike agricultural lands, forests provide little if any annual income to their owners in North Dakota.

North Dakota’s forest resources face tremendous threats, including flooding; drought; invasive insects and diseases (such as emerald ash borer); a lack of species diversity; and deterioration associated with old age. Over maturity and limited natural regeneration; conversion to non-forest uses; wildfire; and limited wood utilization opportunities threaten forests in the Turtle Mountains, Pembina Gorge, Devils Lake hills, Killdeer Mountains and the Badlands.

SB 2279 – Testimony by Larry Kotchman, State Forester, Page 2

As introduced, Senate Bill 2279 would have amended sections 57-57-02 and 57-57-06 of the North Dakota Century Code. The purpose for the legislation was to address concerns raised by landowners in Steele and Rolette Counties about increasing property taxes on forest lands. Although I applauded and supported the beneficial intent of the legislation to make the program available statewide, I had questions about how the amendments would impact real estate taxes paid by 658 landowners already enrolled in the program in Benson, Cavalier, Grand Forks, Nelson, Pembina, Ramsey, Walsh and Wells Counties. By resolution, the County Commissioners in these eight counties have approved the application of this chapter to all qualifying forestlands within these counties. There are 42,140 acres enrolled in the program. The law currently provides for landowners enrolled to pay a tax rate of fifty cents per acre in lieu of all ad valorem taxes.

Section 57-57-02 would have been amended to allow this chapter to apply to any forested property in a county in which the county commission has approved an application from a landowner. It removed the requirement for county commission approval by resolution of this chapter to all qualifying lands within the county. Section 57-57-06 would also have been amended to change the “fifty cents per acre” language to “fifty percent of the county average agricultural value per acre for non-cropland.” Although these changes would have had a very positive benefit for new landowners desiring to apply for the program, the new formula may have had unintended consequences for the 658 landowners who are already enrolled in the program. When we applied this amended rate language to typical enrollments in participating counties, the calculations indicate the taxes paid by these enrolled landowners would increase by 100 to 150 percent per acre. I know enrolled landowners would appreciate efforts to maintain the \$0.50 per acre provisions. Understandably, others may desire to adjust this rate to account for a reasonable inflationary increase or to address valuation issues.

We welcome the opportunity to strengthen the intended benefits the Forest Stewardship Tax Law for all of North Dakota’s forestland owners. The State Forester’s office is very supportive of a legislative management study to examine the need and opportunity for incentives to landowners to maintain forest lands. Dedicated landowners who wish to manage and conserve their forest resources to provide important public benefits, such as clean air, clean water, wildlife habitat and recreational opportunities, deserve our full support.

Chairman Johnson, thank you for the opportunity to address the House Agriculture Committee.

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Contact information:

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