

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2185

2001 SENATE FINANCE AND TAXATION

SB 2185

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2185

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 1/22/01

Tape Number	Side A	Side B	Meter #
1	x		38.2-end
1		x	0-19
2	x		42.1-50.3
Committee Clerk Signature <i>Lynelle M. Kraft</i>			

Minutes:

Senator Urlacher: Opened the hearing on SB 2185, relating to payments in lieu of taxes on farmland or ranch land acquired by nonprofit organizations for conservation purposes.

Senator Steve Tomac: Testified in support. Bill requires nonprofit groups pay in lieu of taxes. Constitutional questions involved. Through meter number 45.7.

Senator Christmann and Senator Tomac discuss caps.

Bill Pfeifer: ND Chapter of the Wildlife Society, testified in support of the bill. Written testimony attached.

Senator Urlacher: As of now, it's voluntary to pay taxes on that land?

Bill Pfeifer: Yes.

John Walstad: Legislative Council, addressed the constitutionality. Meter number .8-2.3.

Senator Stenehjem: What if a nonprofit group comes up at a future date and wants their taxes back?

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Senate Finance and Taxation Committee

Bill/Resolution Number 2185

Hearing Date 1/22/01

John Walstad: I doubt they would ask for it back.

Senator Stenchjem: What if we pass this bill and, in 20 years, one of these groups comes back and wants to test the constitutionality and want their money back? Would whoever levied these taxes have to pay them back?

John Walstad: Not 20 years worth. They could maybe go back a few years.

Senator Urlacher: The cap is in place now?

John Walstad: Yes. Explains the cap meter number.

Keith Trego: Executive Director of ND Wetlands Trust, explains previous bills and caps. Meter number 6-7.1.

Wade Williams: ND Assoc. of Counties, testifies in support. Written testimony attached.

Mike Donahue: United Sportsman of ND, in support.

Brian Kramer: ND Farm Bureau, in support.

Mark Sitz: ND Farmers Union, in support.

Julie Ellingson: ND Stockman's Assoc., in support.

Ken Yantes: ND Township Officers, in support.

Senator Christmann: How do you figure the productivity of the land?

John Walstad: These lands will be assessed & valued like any other land. You could look at surrounding properties and how they are assessed.

Keith Trego: Clarifies some questions.

Senator Nichols: What would happen if an organization would change the operation of the land, would that change the value?

Keith Trego: I don't know.

Senator Urlacher: Closed the hearing. Action delayed.

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Senate Finance and Taxation Committee

Bill/Resolution Number 2185

Hearing Date 1/22/01

Discussion held later on constitutionality. Meter number 42.1-50.3.

COMMITTEE ACTION:

Motion made by Senator Stenehjem for a DO PASS, Seconded by Senator Wardner.

Vote was 6 yeas, 0 nays, 0 absent or not voting. Bill carrier was Senator Wardner.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2185

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

Date: 1/22/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Stenehjem Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
January 22, 2001 4:12 p.m.

Module No: SR-10-1407
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2185: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the Eleventh order on the calendar.

2001 HOUSE FINANCE AND TAXATION

SB 2185

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2185

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
1	X		5,684
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN, Opened the hearing, and read the fiscal note.

SEN. STEVE TOMAC, DIST. 31, Introduced the bill stating this bill was a product of the interium committee involving ranchers, wildlife society, etc. It is the product of an ad hoc committee. One of the items we addressed during the interim was, how do we create better working relationships between wildlife groups and landowner groups. One of the concerns that always comes up is, there is some ambiguity in the constitution that says non profit groups don't have to pay property taxes. There is always the concern that the nature conservancy, those groups acquire titles to farm and ranch land, and aren't paying their taxes. In fact, the nature conservancy has paid in lieu of taxes. All this bill does is, it requires them to pay, in lieu of, property tax. It has the blessings of the conservation groups, and all the property tax payers. You should also be aware of SCR 4045 which is the constitutional amendment that these same sponsors of this bill, are bringing forward. This will allow the legislature to determine which non

profit groups will pay property taxes. Every non profit group, isn't necessarily, a charitable group.

BILL PFEIFER, NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY, Testified

in support of the bill. Also submitted a handout relating to the North Dakota Wetlands Trust, American Federation of Wildlife, National Audubon Society, The Nature Conservancy showing non profit property and taxes and acreage owned by the different entities. Ducks Unlimited do not own any land, therefore, they are not included in the handout.

REP. HERBEL Commented on the weed problem.

BILL PFEIFER They will do what they can, so far they have been quite the leaders.

REP. BRANDENBURG Related to productivity factor of the land, asked for his comments.

BILL PFEIFER He stated, this land remains in productivity. Related to the Cross Ranch. A combination of the Cross Ranch and the ranch up to Turtle Lake, have just a little over one thousand cow/calf units. These lands are leased to leasees, and in the case of the Brown Ranch, there is a tenant. These lands do remain productive. As far as hunting, they also remain open to hunting, however, they do hold off some areas, such as the Bison Pasture, up at the Cross Ranch. The Nature Conservancy bought the Cross Ranch, it was about ten thousand acres. There were acres in there that they didn't want, that wasn't part of what they were after. They sold off thirty five hundred acres of that. They donated, for one dollar, the Cross Ranch public area along the Missouri River. As a result, that has boosted the economic income in Washburn, Mandan and anywhere else people are coming to in this area. Can you imagine what sort of attraction this will be in the up coming years of the Lewis and Clark Expedition that will be taking place. That is the only public place, that I know of, where you can stand on the shore where Lewis and Clark

did, and you can kick a stone in the water, or whatever you wish to do. The purchase was originally from a non profit organization.

REP. HERBEL Wetlands Trust has the authority to turn this property over to Game & Fish, if they choose to do so? And, if they do that, who pays the taxes?

BILL PFEIFER It is guaranteed by Game & Fish and by Wetlands Trust. No matter where it goes, it will be paid. There is a payment in lieu of taxes, which counts for a certain percentage that is paid by the government and the Game & Fish pays the balance, so it equals to the full tax.

BRIAN KRAMER, NORTH DAKOTA FARM BUREAU, Testified in support of the bill. It takes away one of the issues of non profit land acquisition that our organization had.

MIKE DONAHUE, NORTH DAKOTA WILDLIFE FEDERATION AND UNITED SPORTSMEN OF NORTH DAKOTA, Testified in support of the bill.

KEN YANTES, NORTH DAKOTA TOWNSHIP ASSOCIATION, Testified in support of the bill. He stated he has been involved for years and has always heard the same thing, oppose it they don't pay their taxes. I think I have information now, if this bill passes, I can go back and say, this is food for consideration.

CHUCK KRUEGER, SUPERVISOR OF ASSESSMENTS, STATE TAX DEPARTMENT, Appeared to answer any questions.

REP. BRANDENBURG, In the productivity factor, when land goes into one of the wildlife groups, the value of that land would be higher in its production, then land that is in a non productive status, is that true?

CHUCK KRUEGER In the valuation of agricultural land, the value is based on its ability to produce a crop or used for production of hay or livestock. The ownership is not a criteria to

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House Finance and Taxation Committee

Bill/Resolution Number SB 2185

Hearing Date March 5, 2001

determine the value of the property. It wouldn't matter whether the wildlife group was the owner or if the property was owned by a private individual. The valuation should not change.

REP. LLOYD referred to BILL PFEIFER Related to the chart in his written testimony.

Asked about the tax value which doubled in the chart.

BILL PFEIFER Explained his chart.

MARK JOHNSON, NORTH DAKOTA ASSOCIATION OF COUNTIES, Submitted written testimony in support of the bill.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-6-01, TAPE #2, SIDE A, METER #4266

REP. KELSH Made a motion for a **DO PASS**.

REP. CLARK Second the motion. **MOTION CARRIED**

14 YES 0 NO 1 ABSENT

REP. WINRICH Was given the floor assignment.

Date: 3-6-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 58 2185

House FINANCE & TAXATION Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kelsh Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	A	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Winnich

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2001 4:05 p.m.

Module No: HR-38-4958
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2185: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2185 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2185



GARY J. NELSON
State Senator
Chairman

JOHN D. OLSRUD
Director

JAY E. BURINGRUD
Assistant Director

JIM W. SMITH
Legislative Budget
Analyst & Auditor

JOHN WALSTAD
Code Revisor

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY: 1-800-366-6888

March 29, 2000

Honorable Steve Tomac
State Senator
2498 59th Street
St. Anthony, ND 58566-9640

Dear Senator Tomac:

We are enclosing two copies of the bill you requested us to draft relating to payments in lieu of taxes on farmland or ranchland acquired by nonprofit organizations for conservation purposes under the corporate farming law. If you need any additional copies of this bill or desire changes in it, please let us know.

The language suggested by the North Dakota Wetlands Trust, which you provided with the request, was altered in the bill. The suggestion was that the nonprofit organization must pay "full assessed property taxes," and this language has been changed to reflect the fact that these organizations are not obligated to pay property taxes but would be required to make payments calculated in the same manner as property taxes. An effective date clause has been included in the bill to make clear it would not retroactively impose tax consequences.

Please understand there may be constitutional issues that may be raised upon consideration of this bill draft. It appears the two most significant constitutional issues could arise under the due process clause of the United States Constitution and the provision of the Constitution of North Dakota providing that property used exclusively for charitable or other public purposes is exempt from taxation.

The due process clause of the 14th Amendment to the United States Constitution protects the right to acquire, possess, and use property. It appears from existing legal authority that:

1. Corporations are entitled to protection of the due process clause in their property rights.
2. The constitutional right of property is not absolute and is subject to restraint under the exercise of the police power of a state.
3. In reviewing exercise of the police power, courts will not substitute their judgments for that of the legislature unless it clearly appears that the actions of the legislature have no just foundation in reason or necessity.
4. The legislature may not exercise the police power to arbitrarily interfere with private property or impose unusual or unnecessary regulations on it.

The Constitution of North Dakota Article X, Section 5, provides in part that property used exclusively for "charitable or other public purposes" shall be exempt from taxation. The North Dakota Supreme Court and the North Dakota Attorney General have not had occasion to determine whether property owned by a nonprofit corporation for conservation or preservation purposes constitutes a charitable or public purpose under this constitutional provision. However, if it were to be determined the constitutional exemption applies to such property, the argument could be made that requiring payments like property taxes as a condition of ownership of property by such organizations is a violation of the due process clause of the United States Constitution and the Constitution of North Dakota Article X, Section 5.

It is also important to remember that an Act of the North Dakota Legislative Assembly is presumed to be valid, and any doubt as to its constitutionality must be resolved in favor of its validity. The North Dakota Supreme Court has said this presumption is conclusive unless the statute is clearly shown to contravene some provision of the state or federal constitutions (*Menz v. Coyle*, 117 N.W.2d 290 (1962)). The Constitution of North Dakota Article VI, Section 4, provides that at least four of the five justices of the Supreme Court must concur that a statute is unconstitutional before the court may declare it to be unconstitutional.

When the time arrives to seek your permission to prefile this bill, we will send you a final copy, revised if necessary, along with the prefiling permission form.

Sincerely,

John D. Olsrud
JDO

John D. Olsrud

Director

JDO/JFB

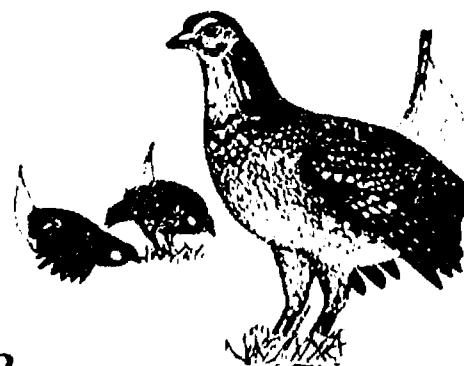
Encs.



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF BILL PFEIFER
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
PRESENTED TO THE SENATE FINANCE & TAXATION COMMITTEE
ON SB 2185, JANUARY 22, 2001**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I'm Bill Pfeifer speaking on behalf of the North Dakota Chapter of The Wildlife Society, an organization of approximately 300 professional natural resource managers, scientists, and educators. The Wildlife Society supports SB 2185, a Bill that requires nonprofit CONSERVATION groups to make payments in-lieu of property taxes. The intent of this testimony is to correct misinformation.

Presently, nonprofit conservation groups that hold fee title to lands in North Dakota are not required to pay property taxes. However, these groups do, on their own accord, pay full property taxes based on the yearly tax statement from the county treasurer - they do not pay a reduced amount. In fact, we are not aware of any circumstance where a non profit conservation group has ever failed to pay full property taxes on lands they own.

Despite this good record, when public hearings are held or Legislative discussions occur on the merits of land acquisition by non profit conservation group, doubt is cast by those in opposition. It is often implied that even though these non profit conservation groups have a flawless record of paying property taxes they will not always do so. SB 2185 is designed to end that speculation and resolve the issue once and for all.

Non profit conservation groups recognize and appreciate the fact that paying full property taxes is one of the many obligations they incur as part of being a good

neighbor in the communities and political subdivisions where they own land. They welcome the opportunity to contribute and suggest that by passage of SB 2185 you will contribute to the clarification of this important issue. Passage of SB 2185 will contribute to both accuracy and efficiency. In the future, when there is discussion of a land acquisition proposal by a non profit conservation group, the tax issue can be set aside and discussion can center on the more important merits of the proposed acquisition.

The Wildlife Society encourages a unanimous DO PASS of SB 2185.

Nonprofit Property and Taxes

ND WETLANDS TRUST Property and Taxes

Tract	Year Acquired	Acres	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
McDonald Tract Grueneich Tract	1991 1994	480 320 800			\$921 — —	\$1,570 — —	\$1,487 — —						
Kenner Tract Home Tract	1989 1995	480 <u>153.44</u> 633.44	\$1,523 — —	\$1,550 — —	\$2,880 — —	2,838 — —	\$3,709 — —	\$3,695 — —	\$5,020	\$4,853	\$5,082	\$5,198	\$5,132

AMERICAN FEDERATION OF WILDLIFE Property and Taxes

[illegible]

NATIONAL AUDUBON SOCIETY Property and Taxes

Tract	Year Acquired	Acres	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Alkali Lake Sanctuary	1975	1,727.67	1991-1998 On File at the Stutsman Co. Treasurer's Office, Jamestown, ND									
											\$8,287	\$9,174

THE NATURE CONSERVANCY Property and Taxes

Preserve and Location	Year Acquired	Acres	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Cross Ranch, Oliver Co.	1982	4,953	\$6,045	\$6,511	\$6,835	\$7,753	\$6,996	\$7,640	\$8,179	\$8,241	\$8,731	\$8,996
Williams Preserve, McLean Co.	1986	1,794	\$887	\$1,033	\$1,054	\$1,175	\$1,355	\$1,334	\$1,448	\$1,442	\$1,426	\$1,583
Sheridan Preserve, Sheridan Co.	1984	1,440	\$1,711	\$1,870	\$1,887	\$1,900	\$1,909	\$2,040	\$2,142	\$2,345	\$2,394	\$2,513
Davis Ranch ¹ , Sheridan Co.*	1997	8,629									\$18,096	\$17,269
Pigeon Point ² , Ransom Co.	1994	572					\$2,166	\$2,286	\$2,449	\$2,884	\$2,925	\$1,556
Brown Ranch	2000	1,531										

*TNC purchased the Davis Ranch in calendar year 1997. The 1997 property taxes totaling \$15,816 were paid by the Davis Family and TNC per the sales agreement.

¹Approximately 3,051 acres of Davis cropland is under contract to be sold.

²289 acres of excess cropland at Pigeon Point were sold in 1999.

COZIT

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**TESTIMONY TO THE
SENATE FINANCE & TAXATION COMMITTEE**

**Prepared January 22, 2001 by the
North Dakota Association of Counties
Wade Williams, NDACo Government Affairs**

Concerning Senate Bill 2185

Chairman Urlacher and members of the committee, I am here on behalf of North Dakota's counties to express our support for Senate Bill 2185. We believe it provides equity to those school districts; counties, fire districts and townships that are and will be affected by these purchases.

The question is: Should organizations who purchase land for conservation purposes be required to make full property tax payments, and is it constitutional? I do not believe that the framers of our constitution when they exempted charitable organization had any idea that that exemption would include charitable organizations that purchase land for conservation uses. To my knowledge all of the groups who have purchased land to date have agreed to pay the property taxes but are not required to do so. I also understand that their payment in lieu of is frozen at the amount of taxes paid at the time of the purchase.

Political subdivisions provide services for the benefit of those owning, leasing and living on all land in the state. Currently, taxes or "payments-in-lieu" of taxes, are paid on land owned or leased by the State Game and Fish Department; the North Dakota National Guard; land acquired by the State Land Board after January 1, 1980; as well as, Federal Grasslands; Fish and Wildlife Land; and other Federal property. If there is no requirement to pay the full amount of tax, local government could possibly and most likely will be providing services such as plowing and maintaining of the roads, fire protection and weed control, just to name a few, with the cost of these services being paid by neighboring landowners with increased property taxes on their land.

An October, 1990 Attorney General's opinion on whether the state should pay in-lieu of taxes on grant lands may address the constitutional question. The opinion stated that if the in-lieu of tax funds is used for services beneficial to the State Grant Lands, it is indeed Constitutional.

Mr. Chairman and members of the committee, this bill requires full payment of property taxes and could possibly provide property tax relief to landowners in those counties where there already is ownership of land that this bill is trying to address. I urge a "DO PASS" recommendation on Senate Bill 2185.

**Testimony To The
HOUSE FINANCE & TAXATION COMMITTEE
Prepared January 22, 2001 by the
North Dakota Association of Counties
Mark Johnson, NDACo Executive Director**

CONCERNING SENATE BILL 2185

Chairman Carlson and members of the committee, I am here on behalf of North Dakota's counties to express our support for Senate Bill 2185. We believe it provides equity to the property tax payers in those school districts, counties, fire districts, and townships that are, and will be, affected by land purchases of non-profit conservation groups.

The question this bill addresses is: Should corporations that purchase land for conservation purposes be required to make full property tax payments? County officials do not believe that the framers of our Constitution, when they exempted charitable organizations, had any idea that this exemption would include non-profit corporations that purchase land for conservation uses.

It is my understanding that such groups, which have purchased land in recent years, have all agreed to make payments in lieu of property taxes. They are however, not required to do so. County officials are concerned that changes in the funding patterns and resources of these non-profit corporations could at some time cause them to reconsider this voluntary payment.

Political subdivisions provide services for the benefit of those owning, leasing, and living on all land in the state. With no requirement to pay taxes on these conservation lands, local governments may end up providing such services as plowing and maintaining roads, fire protection, and weed control, just to name a few, through a shift in the property tax burden to the remaining tax payers in the district.

We are aware of the Constitutional Amendment proposed in SCR4045, to clarify what a charity is and is not, and we have supported that resolution as well.

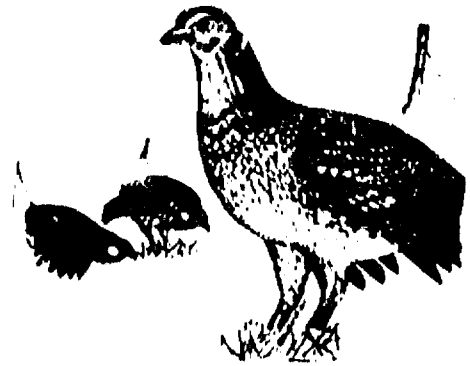
Mr. Chairman and members of the committee, I urge a "DO PASS" recommendation on Senate Bill 2185.



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF BILL PFEIFER
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
PRESENTED TO THE HOUSE FINANCE & TAXATION COMMITTEE
ON SB 2185, MARCH 5, 2001**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I'm Bill Pfeifer speaking on behalf of the North Dakota Chapter of The Wildlife Society, an organization of approximately 300 professional natural resource managers, scientists, and educators. The Wildlife Society supports SB 2185, a Bill that requires nonprofit CONSERVATION groups to make payments in-lieu of property taxes. The intent of this testimony is to correct misinformation.

Presently, nonprofit conservation groups that hold fee title to lands in North Dakota are not required to pay property taxes. However, these groups do, on their own accord, pay full property taxes based on the yearly tax statement from the county treasurer - they do not pay a reduced amount. In fact, we are not aware of any circumstance where a nonprofit conservation group has ever failed to pay full property taxes on lands they own.

Despite this good record, when public hearings are held or Legislative discussions occur on the merits of land acquisition by a nonprofit conservation group, doubt is cast by those in opposition. It is often implied that even though these nonprofit conservation groups have a flawless record of paying property taxes they will not always do so. SB 2185 is designed to end that speculation and resolve the issue once and for all.

Nonprofit conservation groups recognize and appreciate the fact that paying full property taxes is one of the many obligations they incur as part of being a good

neighbor in the communities and political subdivisions where they own land. They welcome the opportunity to contribute and suggest that by passage of SB 2185 you will contribute to the accuracy and clarification of this important issue. In the future, when there is discussion of a land acquisition proposal by a nonprofit conservation group, the tax issue can be set aside and discussion can center on the more important merits of the proposed acquisition.

The Wildlife Society encourages a unanimous DO PASS of SB 2185.