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Deanne Waller
Operator's Signature

10/21/03
Date

2003 SENATE NATURAL RESOURCES

SB 2278

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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2278

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-30-03

Tape Number	Side A	Side B	Meter #
1	X		2.5 - 28.2
Committee Clerk Signature <i>Jane Jamer</i>			

Minutes:

Senator Thomas Fischer, (2.5) Chairman, of the Senate Natural Resources Committee opened the hearing on SB 2278. SB 2278 relates to maintenance of natural watercourses and debrisment of bridges and low water crossings.

All members of the Senate Natural Resources Committee were present.

Senator Tom Trenbeath of District 10 testified in support of SB 2278. He has been the attorney for Pembina County Water Resource District and one problem they have to constantly deal with was the fact there was no funds to snag and clear rivers. Last session what appeared to be a simple bill was passed to set up funds to clear these snags. Unfortunately this bill was misinterpreted as it was not intended to be alternative method for water resource districts and counties to create defacto assessment drains, because to create assessment drain you have to have a vote by the effected people. He told of a situation of the misused funds. He felt SB 2278 was a good start but needed some additional language to more specifically define the intent of the bill.

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12/21/03
Date

Page 2
Senate Natural Resources Committee
Bill/Resolution Number SB 2278
Hearing Date 1-30-03

He submitted a suggested amendment that included language that would create the obligation on the part of the boards to have public meetings. This includes the fact that a quorum of the board needs to be present and the public notice be published. He stated that he would also like to see limits as to a one year limit of assessments. He also suggested some cleanup language in amendment and suggested adding to the amendment on Page 1, Line 8 delete "and maintaining" and insert "and " between snagging and clearing. With these changes the bill would reflect more closely the intent of the bill which is to in a fairly quick fashion pull together a comparative small amount of money to do the projects that need to be done.

Senator Fischer stated his concern about where do you define benefit between the top of the hill and the area directly effected by the debrisement project if watershed is not used.

Bill Hardy, Chairman of the Cavalier County Water Resource Board testified in support of SB 2278 (See attached testimony). He stated he has looked forward to using this bill in an emergency and believes some restrictions should be made on the bill and presented an amendment.

Chuck Damschen, landowner, Farmer LAND member and Cavilier County Water Resource Board testified in support to SB 2278 (See attached testimony). His suggested amendment #1 is about the same as Senator Trenbeath, but #2 states county commission or the water board from one county cannot tax a neighboring county.

Gary Thompson, Trail County Water Resource District, testified that he wanted to know if they would have to send letters to everyone in an assessment area if a hearing was needed.

Senator Fischer answered that public notice in the newspaper would probably take care it but it would be checked into.

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Senate Natural Resources Committee
Bill/Resolution Number SB 2278
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Ken Yantes of the North Dakota Township Officers Associations testified in support of SB 2278. He stated they appreciated the public interest meetings and being allowed to offer input at these meetings.

Lloyd Huber of the Morton County Resource Board testified in support of SB 2278. He stated they would like to have on Line 11 "within the watershed" left in the bill.

Senator Fischer asked for any opposing ands neutral testimony.

Senator Fischer closed the hearing on SB 2278.

Senator Fischer reopened the hearing on SB 2278.

Arden Haner testified on his own behalf. His concerns are interruption of the words in the legal system. He passed around to the committee pictures of what happened to prime farm land when a judge made a decision as to what is a watershed or what is a water course.

Senator Fischer closed the hearing on SB 2278.

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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2278

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 2-13-03 Discussion and action

Tape Number	Side A	Side B	Meter #
2	X		33.0 - 40.5
Committee Clerk Signature <i>Janet James</i>			

Minutes:

Senator Thomas Fischer opened discussion on SB 2278.

Senator Fischer explained the intent of the bill and the history of the amendment that he submitted.

Senator Joel Heitkamp made a motion to accept amendment 30671.0101.

Senator Michael Every second the motion.

Roll call vote #1 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp made a motion for a Do Pass as Amended of SB 2278.

Senator Every second the motion.

Roll call vote # 2 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Fischer will carry SB 2278.

Senator Fischer closed the discussion on SB 2278.

30671.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Fischer
January 30, 2003

JCF
2-13-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2278

Page 1, line 11, overstrike "within the"

Page 1, line 12, overstrike "watershed"

Page 1, after line 22, insert:

"c. All revenue from an assessment under this section must be exhausted before a subsequent assessment covering any portion of lands subject to a prior assessment may be levied."

Page 2, line 1, replace "the assessment must be" with "a public hearing must be held attended by a quorum of the board and a quorum of the board of county commissioners. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing."

Page 2, remove lines 2 and 3

Renumber accordingly

Page No. 1

30671.0101

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10/21/03
Date

Date: 2-13-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 227P

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to accept Amends 31671.0.01

Motion Made By Heitkamp Seconded By Eng

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor					

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

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

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Operator's Signature Deanna Waller

10/21/03
Date

Date: 2-13-02
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2278

Senate	Senate Natural Resources	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amendment

Motion Made By Hutson Seconded By Evans

[illegible]

Total (Yes) 6 No 0

Absent _____

Floor Assignment Fischer

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

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Operator's signature

Date _____

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 7:10 p.m.

Module No: SR-28-2672
Carrier: Fischer
Insert LC: 30671.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2278: Natural Resources Committee (Sen. Fischer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2278 was placed on the Sixth order on the calendar.

Page 1, line 11, overstrike "within the"

Page 1, line 12, overstrike "watershed"

Page 1, after line 22, insert:

"c. All revenue from an assessment under this section must be exhausted before a subsequent assessment covering any portion of lands subject to a prior assessment may be levied."

Page 2, line 1, replace "the assessment must be" with "a public hearing must be held attended by a quorum of the board and a quorum of the board of county commissioners. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing."

Page 2, remove lines 2 and 3

Renumber accordingly

2003 HOUSE NATURAL RESOURCES

SB 2278

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Deanna Wallerth
Operator's Signature

12/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2278

House Natural Resources Committee

☐ Conference Committee

Hearing Date March 14, 2003

Tape Number	Side A	Side B	Meter #
1	xx		518-1278
1		xx	207-330
Committee Clerk Signature <i>Elin Mym</i>			

Minutes:

Chair Nelson called the hearing relating to maintenance of natural watercourses and debrisement of bridges and low water crossings to order.

Sen. Fischer: Introduced SB 2278. We removed within the water shed and replacing it with the work benefiting. The concern was that some areas were using the entire watershed as the assessment district. It can include the entire watershed. The other concern was that the money was being held from this kind of assessment from year to year. That applies to a regular assessment district. But this assessment district would carry over to create a larger district. So a revenue must be spent before another assessment can be made. This is a tightening up of a piece of legislation for last session. I hope you support it.

Chair Nelson: I have heard some concern from a board member from Cavalier County over the public notice portion of the bill. It was his concern that needs to take place. It seems to me that it is in the bill.

Page 2

House Natural Resources Committee

Bill/Resolution Number 2278

Hearing Date March 14, 2003

Sen. Fischer: It is in there now. It was not when we introduced the bill. Last session it was not in the bill.

Rep. Keiser: I understand what you are trying to do by taking the watershed language out. Does that create a new argument on the opposite end of the argument? Some land out side of the watershed that can be made to benefit, therefore an assessment can be made against them.

Sen. Fischer: I think it would be very difficult to prove that an entity outside of the watershed benefited. In most areas the area benefited would be within the watershed. There is always the opportunity for misuse. I think we have tightened it up rather than loosen it up. It does have that connotation that benefited areas can reach up the hill further. That is why that was put there earlier. But the clearing and debrisment of bridges, it is a tighter area then the entire watershed.

Ken Yates: ND Township Officers Association. (See Attached Testimony)

Chair Nelson: On the situation that arose in cavalier county. Was it you understanding that it was due to the interpretation of the law passed last session too liberally?

Ken Yates: I am not aware of the situation.

Chair Nelson closed the hearing.

Rep. Keiser: I support the intention of the bill. However, I think these amendments will lead to an unintended consequence. Therefore I will vote against it.

Rep. Clark moved a Do Pass on SB 2278. Seconded by Rep. Klein.

Motion carried by a vote of 9-4-1. **Chair Nelson** will carry.

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12/21/03
Date

Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 7.278

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Clark Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	✓				
Vice-Chairman Todd Porter	✓				
Rep. Byron Clark	✓				
Rep. Duane DeKrey	A				
Rep. David Drovdal	A				
Rep. Lyle Hanson	✓				
Rep. Bob Hunsakor	✓				
Rep. Dennis Johnson	✓				
Rep. George Keiser		✓			
Rep. Scott Kelsh	A				
Rep. Frank Klein	✓				
Rep. Mike Norland	✓				
Rep. Darrell Nottestad	✓				
Rep. Dorvan Solberg	A				

Total (Yes) 9 No 1

Absent 4

Floor Assignment Nelson

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

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Operator's Signature

10/21/03
Date

REPORT OF STANDING COMMITTEE (410)
March 14, 2003 10:35 a.m.

Module No: HR-46-4780
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2278, as engrossed: Natural Resources Committee (Rep. Nelson, Chairman)
recommends **DO PASS** (9 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). Engrossed
SB 2278 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-46-4780

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10/21/03
Date

2003 TESTIMONY

SB 2278

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10/21/03
Date

SB # 2278

Greeting: Chairman, committee members

Introduction: Farmer, landowner, member of LAND, Cav. Co. WRB, other orgs.

Opposed the original legislation that would be amended by today's bill

I now recognize a legitimate need exists for that legislation, but still have several concerns

One of those concerns is addressed in this bill, therefore I

Support SB 2278 on the following conditions:

A. Amendment #1

a. Page 1, line 11: strike "within the"

b. Page 1, line 12: strike "watershed"

i. Reason for amendment

1. Current language could be interpreted to allow any land within the benefiting watershed to be assessed, even if that land does not benefit.
2. There was an attempt to assess land 29 miles from a proposed project
3. Not all land within a particular watershed will benefit from ever, project

B. Amendment #2

a. Page 2, after line 3: add "3. Nothing in this section allows a water resource board or board of county commissioners to make assessments or take any action outside of its geographical boundaries unless the affected water resource board and board of county commissioners of the affected county has completed the same steps and the activity undertaken is a joint project."

i. Reason for amendment

1. Greatly reduces the chance of misinterpretation
2. It's cheaper to specifically address this through legislation than for counties to have to settle it in court.
3. Aware of a case where a water resource board was entertaining the idea of crossing county lines with assessment under the existing provision

With the addition of these amendments I would recommend a "do pass" for SB 2278.

Thank you for hearing my thoughts and concerns.

At this time I would attempt to answer any questions you might have.

Thank you
Chuck Damschen

30671.0100

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2278

Introduced by

Senators Fischer, Heltkamp, Urlacher

Representatives Hanson, Koppelman, Nelson

- 1 A BILL for an Act to amend and reenact section 61-16.1-09.1 of the North Dakota Century
2 Code, relating to maintenance of natural watercourses and debrisment of bridges and low water
3 crossings.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 61-16.1-09.1 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **61-16.1-09.1. Watercourses, bridges, and low water crossings.**

8 1. A water resource board may undertake the snagging, clearing, and maintaining of
9 natural watercourses and the debrisment of bridges and low water crossings. The
10 board may finance the project in whole or in part with funds raised through the
11 collection of a special assessment levied against the land and ~~properties~~ within the
12 watershed benefited by the project. All provisions of this chapter apply to
13 assessments levied under this section except:

14 1. a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on
15 agricultural lands and may not exceed fifty cents annually for each five
16 hundred dollars of taxable valuation of nonagricultural property; and

17 2. b. If the assessment is for a project costing less than one hundred thousand
18 dollars, no action is required for the establishment of the assessment district
19 or the assessments except the board must approve the project and
20 assessment by a vote of two-thirds of the members and the board of county
21 commissioners of the county must approve and levy the assessments to be
22 made by a vote of two-thirds of its members.

Fifty-eighth
Legislative Assembly

- 1
2. ~~Before an assessment may be levied under this section, the assessment must be~~
- 2 ~~(discussed at a public meeting attended by a quorum of the board and a quorum of~~
- 3 ~~the board of county commissioners.)~~

The County Commission in said County must publish a public notice in County Paper of a hearing to be held for all tax payers that an assessment is to be placed on the benefit area.

I think a 1 year cap be placed on the use of this Bill not used year after year for 5 to 10 years.

It was meant to use in an emergency not as a drain clean out Bill.

Then use existing water law on the book to have a vote on the project whether or not to place an assessment levy on the taxpayers of the benefit area.

Bill Hardy
Chairman
Cavalier County Water Resource Board

Page No. 2

30671.0100

Operator's signature

10/21/03
Date

Testimony on SB2278 House Natural Resources Committee
prepared by Ken Yantes NDTOA

Mr. Chairman and Committee Members,

My name is Ken Yantes, I represent 6300 locally elected officers from over 1100 dues paying organized townships in our state, The North Dakota Township Officers.

I have come here today to support SB2278 which will increase grassroots input at public meetings. We feel that to have quorums of the County Commissioners and Water Resource Board Members in attendance will create a higher degree of interest to attend and to enter into dialogue with the county officials. We feel that local input is very important to help inform our county officials of the problems that are experienced close to home by the grassroots residents.

This a good bill, Please vote for SB2278.