

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2240

2005 SENATE FINANCE AND TAXATION

SB 2240

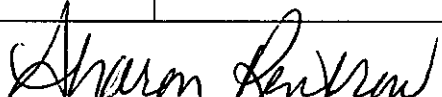
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2240

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 25, 2005

Tape Number	Side A	Side B	Meter #
# 1	X		0.5 - 23.6
Committee Clerk Signature 			

Minutes: All committee members present.

**SEN. URLACHER:** called the committee to order and opened the hearing on SB 2240.

**SEN. COOK:** appeared as prime sponsor and offered an amendment stating this is basically a result of our most recent tax interim committee and with concerns found in the study. I think the intent of the study was just to make all the members of the tax committee aware of how that program work and any fiscal effect it had on the state or on local government. The intent is to bring uniformity in the way assessments are flagged across the state. The problem here is that tax assessments are not being done the same throughout the state.

**MARCY DICKERSON:** of the Tax Dept. Appeared in support with written testimony stating this provides that an applicant for the farm residence exemption and each individual whose income is considered in determining eligibility must sign an authorization for the tax commissioner to examine the returns of those individuals and disclose to the assessor whether or not the claimant does or does not qualify for the exemption.

**SEN. COOK:** The way I understand it is that if somebody is going to apply for this exemption then they shall sign the affidavit and the only way they would get it is if they sign the affidavit which would then send it to the tax commissioners office just to verify yes or no whether or not they qualify.

**MARCY:** That was my question, it does say that they all would have to sign the statement, but wasn't clear to me whether all of those would have to be examined or in advance they signed that if we need to examine, we can.

**SEN. COOK:** Is your roll the State Supervisor, so in a way, they answer to you to a certain degree. Do you feel that this is a problem out there as far as the difficulty across the state?

**MARCY:** I don't know if you'd say answer to me, but I do have certain supervisory capabilities over the county directors. I feel its a big problem.

**SEN. COOK:** Some counties they just come in and say they qualify and they get it?

**MARCY:** Yes

**SEN. EVERY:** concerns with needing additional space and with that, the fiscal note will me more

**MARCY:** Depending on the time frame, whether it was during income tax season, that would be the time to do it, and that most likely would require additional space.

**SEN. COOK:** How did you come up with the number of 25, 000 in annual returns, is that what you estimate?

**MARCY:** that's a rough estimate based on the number of agricultural parcels (farm residences and other rural residences) that we have out there, the estimate that we got from the counties, I assume that a lot of them but all of them would be applying for this.

**SEN. URLACHER:** There are 30,000 farms estimated in the State?

**MARCY:** not sure, some live in town now.

**ERIC AASMUNDSTAD:** President of the North Dakota Farm Bureau appeared in partial support with written testimony stating they have a problem with on page 4, lines 5 through 14, subdivision b.

**SEN. COOK:** what are your comments on qualifying very year.

**ERIC:** our members say that that section of the law has worked and worked for all these years, if we can fix some of the inequities if you will or some of the other problems that we seem to be experienced with the laws currently written, that maybe that's not quite as big an issue as tightening up where it really needs to be by people year in and year out don't qualify for the exemption that they are currently getting.

**SEN. COOK:** That's the reason for this 3 years petition is to address the cycles of good years and bad years. What if we were to leave that in there but just addressed the 1 year window for the off farm income of over \$40,000. As far as the requirement of the 50% of your income come from the farm, that would apply to the 3 years condition, the requirement that you lose the exemption if one of the spouses makes more than \$40,000 off the farm, that would apply to a 1 year exemption

**ERIC:** I feel that's something we need to sit down and talk about.

**RICHARD SCHLOSSER:** Vice-president of the North Dakota Farm Bureau appeared in support with conditions. Two things why we're in support, 1) the consistency of verification, consistency and uniformity is good. 2) It leaves in place the intent of that original farm exemption, that it be provided for those who are actively engaged in farming and ranching. That speaks directly to our

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2240

Hearing Date January 25, 2005

policy what our members believe that that exemption be left in place for. We do have some concerns on page 4, section b, look back period again of what is the statute of limitations and how far back does that go, is it going to create a financial burden to that person which we may go back and look back at 5 years, 10 yrs or whatever it may be adding penalties and interest to that. What the consequences of that may be.

NO OPPOSITION. Hearing closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2240

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 31, 2005

Tape Number	Side A	Side B	Meter #
#1	X		8.6 - 14.6
Committee Clerk Signature <i>Sharon Krugrow</i>			

Minutes:

**SEN. COOK:** presented some amendments for SB 2240 and explained them to the committee.

One of the concerns as you recall was that the way the bill was drafted that they could go back many years and try to probably collected back taxes if somebody was claiming an exemption and they had not qualified for it. That wasn't the intent of this bill. The other question by Marcy Dickerson and that was that she was not sure if this was going to require the tax commissioner to review everyone, so the amendment makes it clear that every claim must be examined by the tax commissioner and then that reflects the fiscal note of \$178,000, is what they feel it could cost the office to do that. They have the ability to randomly check maybe 50% or 30%, so those who are applying for it do not know whether theirs is going to be checked or not, that would reduce the fiscal note.

**SEN. URLACHER:** they shall but with a minimum of 50%?

**SEN. COOK:** Shall randomly, we shall proceed with getting a new amendment drafted.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2240

Hearing Date January 31, 2005

**SEN. TOLLEFSON:** Correction will be 50% of those applicants will be randomly checked?

Yes

The committee will wait for more amendments.



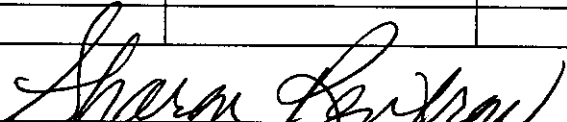
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2240**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **February 3, 2005**

Tape Number	Side A	Side B	Meter #
# 1	X		0.1 - 8.8
Committee Clerk Signature 			

Minutes:

**SEN. COOK:** made a motion **TO MOVE AMENDMENTS 50215.0201 & 50215.0202** and read through them as how they should read. What happens now is that everyone files for an exemption, they basically sign an affidavit saying they are qualified, that affidavit goes to the Tax Commission and it must be there by February 1st. The Tax Commission shall randomly review 50% of them which will cut the fiscal note in half and then within 30 days after receiving them, it is the Tax Commissioners job to only notify the local tax equalization officer if an individual does not qualify. If the assessor gets no notification, they get the exemption.

**SEN. URLACHER:** so when they file they will have an instruction sheet as to under what criteria they qualify.

**SEN. TOLLEFSON:** the random selection keeps them in line.

**SEN. BERCIER;** what kind of process are they going to use to determine the random selection.

**SEN. COOK:** the bill is silent to that.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2240

Hearing Date February 3, 2005

**SEN. WARDNER;** the Farm Bureau concerns are all met with old section B which is now section c?

**SEN. COOK:** yes, they were concerned with the words delinquent property taxes and we addressed.

**VOICE VOTE:** 6-0-0          Amendments pass

**SEN. COOK:** made a **MOTION FOR DO PASS AS AMENDED AND REFER TO APPROPRIATIONS**, seconded by Sen. Tollefson.

**SEN. COOK:** commented and wanted to say thanks to all of those that had their fingers in this to help find a solution.

**ROLL CALL VOTE:** 6-0-0          Sen. Cook will carry the bill.

**FISCAL NOTE**  
Requested by Legislative Council  
02/08/2005

Amendment to: SB 2240

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$150,000			
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed SB 2240 provides that an applicant for the farm residence exemption must sign an authorization enabling the tax commissioner to examine the applicant's income tax returns and to disclose to the county assessor whether the applicant qualifies for the exemption. The tax commissioner must review at least 50% of the applicants to determine if the income eligibility criteria is met.

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

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

The amount of any additional property revenue that may be derived from any disallowed farm residence exemptions cannot be determined.

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

There would be an increase in administrative costs for the tax department in order to review 50% of the applicants, estimated to total \$150,000 for the 2005-07 biennium.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/10/2005

# FISCAL NOTE

Requested by Legislative Council  
01/19/2005

Bill/Resolution No.: SB 2240

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$178,000			
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2240 provides that an applicant for the farm residence exemption must sign an authorization enabling the tax commissioner to examine the applicant's income tax returns and to disclose to the county assessor whether the applicant qualifies for the exemption.

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

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

The amount of any additional property revenue that may be derived from any disallowed farm residence exemptions cannot be determined.

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

There would be some costs to the tax department to administer the provisions of SB 2240. It is unclear if the tax commissioner must examine the returns for all applicants for the farm residence exemption or only those whose status the assessor questions, and for whom the assessor requests examination. If all applicants' returns need to be examined by June 1 of each year, the administrative costs are estimated to be \$178,000 per biennium if no outside rental space is required, or \$240,000 per biennium if rental of outside office space is necessary. These costs are based on the assumption that 25,000 returns will need to be examined each year.

If the intent of SB 2240 is for the tax commissioner to examine returns only when requested by the county, the cost would be less, depending on how many requests were received.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/24/2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2240

Page 4, line 2, after the first "the" insert "income tax" and replace "and" with "for only those taxable years for which income is a qualifying factor under this subsection. The authorization must also include permission for the tax commissioner to"

Page 4, line 4, after the underscored period insert "Every claim of exemption under this subsection must be forwarded to the tax commissioner for examination of relevant income tax return information."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2240

Page 3, line 23, after "shall" insert "file a claim for the exemption before February first and"

Page 4, after line 4, insert:

"(b) The assessor shall forward to the tax commissioner a copy of every claim of exemption and supporting affidavits filed under this subdivision. The tax commissioner shall provide for random review of at least fifty percent of claims of exemption to verify income eligibility. The tax commissioner shall notify the assessor of any claim of exemption for which the tax commissioner finds the claimant is ineligible. If the tax commissioner has not notified the assessor that a claimant is ineligible within thirty days after the tax commissioner has received a copy of the claim of exemption, the claimant is deemed eligible for the exemption."

Page 4, line 5, replace "(b)" with "(c)"

Page 4, remove lines 10 through 14

Renumber accordingly

Date: 2-3-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. *SB 2240***

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments 50215.0201 & 50215.0202

Motion Made By Cook Seconded By Wardner

[illegible]

Total	(Yes)	No
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Absent

### Floor Assignment

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



Date: 2-3-05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2240**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended & Refer to Approps

Motion Made By Cook Seconded By Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Cook

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

**REPORT OF STANDING COMMITTEE**

SB 2240: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2240 was placed on the Sixth order on the calendar.

Page 3, line 23, after "shall" insert "file a claim for the exemption before February first and"

Page 4, line 2, after the first "the" insert "income tax" and replace "and" with "for only those taxable years for which income is a qualifying factor under this subsection. The authorization must also include permission for the tax commissioner to"

Page 4, line 4, after the underscored period insert "Every claim of exemption under this subsection must be forwarded to the tax commissioner for examination of relevant income tax return information."

(b) The assessor shall forward to the tax commissioner a copy of every claim of exemption and supporting affidavits filed under this subdivision. The tax commissioner shall provide for random review of at least fifty percent of claims of exemption to verify income eligibility. The tax commissioner shall notify the assessor of any claim of exemption for which the tax commissioner finds the claimant is ineligible. If the tax commissioner has not notified the assessor that a claimant is ineligible within thirty days after the tax commissioner has received a copy of the claim of exemption, the claimant is deemed eligible for the exemption."

Page 4, line 5, replace "(b)" with "(c)"

Page 4, line 9, remove the underscored period

Page 4, remove lines 10 through 13

Page 4, line 14, remove "years"

Renumber accordingly

2005 SENATE APPROPRIATIONS

SB 2240

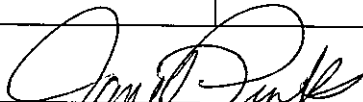
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2240

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1		b	3,821
Committee Clerk Signature 			

Minutes:

**Chairman Holmberg** called the hearing to order on SB 2240.

**Senator Dwight Cook** testified on behalf of SB 2240 which deals with the farm residence exemption. He discussed the method of getting the exemption and indicated this had been worked on with the Farm Bureau.

Questions were raised about the fiscal note, the required effort on behalf of the tax department, whether the farmers union people worked on this bill, whether people are getting farm exemptions when they live off the farm, whether this is uniform with the tax equalization in different counties, how people qualify for exemptions.

**Sandy Clark, North Dakota Farm Bureau** presented testimony with comments about the cost of paperwork in the counties and that prior to the session they did not agree to this, but did agree to the affidavit process. She indicated they feel very strongly about maintaining the farmstead

exemption. Every county has to verify the county tax sent to the state and state board of equalization which can handle appeals.

Discussion continued as to the additional cost to the counties, and the risk of appeals with the current exemption because a rich banker is able to get exemptions.

**Marcie Dickerson, State Supervisor of Assessments, State Tax Department** testified on SB 2240 fiscal note, indicating there are about 25,000 returns with exemptions. Many counties don't even know how many exemptions there are. The fiscal note was drafted with the idea of looking at one year's income for each of those individuals. As to the new fiscal note, it is not exactly cut in half because there are basic costs that don't change which results in not cutting this in half.

Additional discussion included personal scenarios relating to tax assessments, personal property tax days, and construction of large homes and tax exempt status..

**Chairman Holmberg** closed the hearing on SB 2240.

Date 2-10-05  
Roll Call Vote #: 4

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2240

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do PASS

Motion Made By M Seconded By G

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER		✓
VICE CHAIRMAN BOWMAN	✓		SENATOR LINDAAS	✓	
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN	✓	
SENATOR ANDRIST	✓		SENATOR ROBINSON	✓	
SENATOR CHRISTMANN		✓	SEN. TALLACKSON	✓	
SENATOR FISCHER	✓				
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER		✓			
SENATOR THANE	✓				

Total (Yes) 12 No 3

Absent 0

Floor Assignment FIN

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

REPORT OF STANDING COMMITTEE (410)  
February 10, 2005 3:25 p.m.

Module No: SR-27-2474  
Carrier: Cook  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2240, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)  
recommends **DO PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2240 was placed on the Eleventh order on the calendar.

2005 HOUSE FINANCE AND TAXATION

SB 2240



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2240**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 1, 2005**

Tape Number	Side A	Side B	Meter #
<b>1</b>	<b>X</b>		<b>33.3</b>
Committee Clerk Signature <i>Garnie Stein</i>			

Minutes:

**REP. WES BELTER, CHAIRMAN** Called the committee hearing to order.

**SEN. DWIGHT COOK, DIST. 34, MANDAN** Introduced the bill. He stated there are four bills coming up that are the same subject, they are all issues raised at the Finance & Tax Interium Committee meeting, which studied the farm residents' exemptions. Three of the bills before you this morning deal with the farm resident exemption. SB 2243, deals with the entire property assessment process. Commented about exemptions in general. Property tax exemptions just shift property tax from one taxpayer to another. He stated if we are going to have a cookie jar, then we need to control who gets their hands in the cookie jar. Commented on assessments in general. Referred to SB 2243, stating that the supervisor of special assessments at the state level should supervise the local level. He stated property assessments are not being done uniformly. Presented amendments to the committee members regarding page 4, line 8. All the new language would be deleted. The new language in the amendment would be inserted instead. The intent is

to have them sign the affidavit, every county will have a complete list of who gets an exemption, then we will see how SB 2243 works in with the audit, the tax commissioner's representative, who is out there inspecting the property assessment, to check those names on the list and make sure they qualify. It is a much simpler bill right now.

**REP. BELTER** Who makes the random selection the tax commissioner, or the county assessor?

**SEN. COOK** Under SB 2243, it would be the individual from the tax commissioner's office.

**REP. CONRAD** Did your committee consider any other way of handling this, then having the auditor going in and audit the assessor's office to see whether there were problems, it seems like this is a big change for a small problem?

**SEN. COOK** Are you referring to the state auditor?

**REP. CONRAD** Yes

**SEN. COOK** Gave a short history of the interium committee meeting and the discussion of how the law was being followed. When we looked at the responsibilities of the state supervisor of assessments, it fit right in. When you look at SB 2243, the two fit together and you will get a better idea of how they can work.

**REP. CONRAD** Stated she was from Ward County, and they have a nice neat package, rural counties don't have as many instances, it sounds like, I hope we aren't building another whole bureauacracy.

**SEN. COOK** The way assessments are being done across the state, there is such a variance there, and the fact is, it is not done in a uniform way, we have to give them a way to do it.

**REP. HEADLAND** The townships that have assessors, it is a pretty difficult situation for township officers to hire an assessor in the first place, then to put these extra duties on them, I don't know if we will be able to hire an assessor in the future.

**SEN. COOK** Townships are represented here at this meeting, I am sure they will testify on this bill. I honestly believe this will be a welcome tool for them. This is simply a form given to them by the tax commissioner's office to have the individual sign. To me, it simplifies the process.

**REP. FROELICH** How many townships are in Morton County?

**SEN. COOK** There is one.

**MARCY DICKERSON, STATE SUPERVISOR OF ASSESSMENTS & DIRECTOR OF PROPERTY TAX DIVISION, STATE TAX DEPARTMENT** Testified in support of the bill. See written testimony.

**REP. BELTER** You stated the property tax division supports this bill, is that an official position of the tax department?

**MARCY DICKERSON** I guess it is. We had a meeting with Sen. Cook and some other people just the other day, and the deputy was part of that meeting and expressed public support.

**REP. IVERSON** You talked about February 1, would not be possible to notify everyone, what would be a good day?

**MARCY DICKERSON** Actually, because of the timing of when the equalization meetings take place, and the timing of when income tax returns are required to be filed, there is nothing that will work, unless, we skip the most recent year and look at the last four years. The township boards of equalization by which they have to make up their mind if these people will get exemptions or not, those take place on the second week in April, and since income tax returns

don't even have to be filed until April 15, there is no way that the tax department would be able to get an application or authorization from an applicant by February 1 or within 30 days notify anybody whether their income tax return showed that they qualify, because we probably won't even have that income tax return. You really need to read this in conjunction with SB 2243, that does provide for random audits after the fact. If SB 2240 and SB 2243 both pass, if we do random audits, and find someone who is not entitled to the exemption, the existing law provides for the county auditor to put property on the tax roll as omitted property, that should have been assessed.

**REP. FROELICH** Can you give me a number that comes through your office in a year or biennium, when we are seeing this problem?

**MARCY DICKERSON** I can't give you an exact number, we don't get actual complaints in writing, but we have lots of conversations with tax directors, also, we get calls from people, usually an issue where they have land in two different counties, and have a house in one county and being treated one way, and their friend has a house in another county and is being treated differently, there is a lot of consternation out there, not so much about the fact that there is or is not opportunities for an exemption, but the way the whole process has not been administered equally. There are certain counties who are doing a much more thorough job of trying to administer this law appropriately and with care.

**REP. FROELICH** Is this more in eastern North Dakota or western North Dakota?

**MARCY DICKERSON** I would say, more comments from eastern and central North Dakota rather than western.

**REP. WEILER** Asked why the fiscal note had the \$100,000 impact.

**MARCY DICKERSON** Initially, it was considerably higher than that. At the present time, with these amendments, I don't think a fiscal note is required. The random audit proposed in this amendment, would be included in the audit of SB 2243, which has its own fiscal note, which has been reduced. We will do whatever we can up to the expense of the appropriation. I don't think SB 2240 needs any appropriation or fiscal note at all, with this amendment.

**REP. WEILER** Has the tax department asked for additional funding if these bills are passed?

**MARCY DICKERSON** There is an appropriation of \$200,000 on SB 2243.

**REP. BELTER** You will absorb this \$200,000 within the tax department?

**MARCY DICKERSON** I understand with an appropriation in the bill, that would be additional funding, maybe I misunderstand that.

**REP. DROVDAL** That \$200,000 appropriation, but we have to match that 50% audit.

**MARCY DICKERSON** That 50% is out of it now, that came out when the money came out.

**ERIC AASMUNDSTAD, PRESIDENT NORTH DAKOTA FARM BUREAU** Testified in support of the bill. See attached written testimony.

Related to Sen. Cook's amendments and gave suggestions to amend further. The changes we are proposing make it simpler than Sen. Cook's amendments. Referred to Page 4 of the bill, Line 8. We were one of the groups who met at the interium committee meeting discussing this and other bills. North Dakota Farm Bureau supports the idea, if you have exemptions coming, then you should have no problem with proving that you do, or having someone else verify that you do. The idea of sending everyone of these to the tax department, does not make sense to us. The assessors, the county tax directors can make a determination whether or not there is a disputed claim or claim in question. These people should be able to do their job.

**JOHN BOLLINGBERG, RETIRED FARMER** Testified in support of the bill. We think the tax director and auditor are doing a fine job and we don't need to inundate the state tax department with all kinds of information from our county insinuating that we aren't doing the job. I would speak in support of the amendments Mr. Aasmundstad just offered, and leave the prime responsibility to the county. It is a local tax. I trust the people who are doing it in my county.

**REP. BELTER** In your personal experience in your county, you have not had a problem with the administration of the taxes?

**JOHN BOLLINGBERG** I am not saying that there aren't exceptions, I would contend those exceptions will continue no matter where you are. I would say they are isolated exceptions where they are not being administrated properly at the local level.

**ARVID WINKLER, REPRESENTING MYSELF AS A TOWNSHIP ASSESSOR**

Testified in opposition of the bill. Gave some background as to why he had such emotions about the bill. Gave information as to market analyses realtors were giving on vacant properties out in the country. He stated what bothered him about the bill is that this has to be filed by February 1. The assessing process is supposed to start on February 1, he stated he wanted the form back by February 1. If you are going to fill out this form, I would suggest that you put the years in which they are considering filling out this form, because, you can almost get into a point of entrapment, they fill out this form in November, and the tax department doesn't get around to doing something until May, you can have another year of tax information in Bismarck, that the person was not considering in November. My suggestion is, you live with being a year behind.

**DAVID MUNSCH, MORTON COUNTY** Testified in opposition. I believe there is already a law for township assessors, and when there is no township assessors, the county commissioner is

supposed to do it. I approached the county about some inequities, and they said you are okay. I asked for an explanation, and I didn't get it. I ended up going to the state, now they are reassessing the whole county. They have hired someone to do this. They have let some of this slip for twenty years. I do not object to paying taxes. They do not go by law, the application is the problem. I am waiting for Morton County to see what they get done, after they get reassessing. If it doesn't come out then, then I am going to work on going to court on it. I think from reading the law that I read. When I moved out there five years ago, I moved a trailer house in, and in order to move that trailer house in, you have to get a permit to move it. I had a letter before I got the trailer house moved on there that I was going to be reassessed. If they want to audit someone, they can do it, they already got the law. You are trying to tweak something, that all it is, is people getting off their butt and doing their job.

**KEN YANTES, REPRESENTING THE NORTH DAKOTA TOWNSHIP OFFICER'S ASSOCIATION**

Testified in opposition of the bill. I did not see the amendments, but I want you to know that what I heard today, I think the Farm Bureau has introduced amendments which would restrict the number of applicants that could be submitted. I think that is a firm idea. Stated he was one of the fellows who met with Sen. Cook and Marcy Dickerson, he felt there wasn't that much expense involved as stated in the fiscal note.

With no further testimony, the committee hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2240**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 9, 2005**

Tape Number	Side A	Side B	Meter #
<b>2</b>	<b>X</b>		<b>44.4</b>
Committee Clerk Signature <i>Jannie Stein</i>			

Minutes:

**COMMITTEE ACTION**

**REP. BELTER** Reviewed the bill for committee members, stating it had a \$150,000 cost to the Tax Department to administer it.

**REP. GRANDE** Made a motion to adopt amendment # 50215.0302.

**REP. DROVDAL** Second the motion.

**REP. GRANDE** Explained the amendment.

**RICK CLAYBURGH** Appeared to answer questions.

**REP. DROVDAL** Explained the amendment. The information the people have to fill out asking for exemption has to be spent to the State Tax Commissioner, what are the current practices and what is your current involvement in this?

**RICK CLAYBURGH** Explained involvement. He stated it is a local determination occurring by the assessor going out to look at the property, or by application in some counties. It goes by



the income of both spouses, made at the local level. Unless, the local taxpayer doesn't agree with the determination, they can go to the township board, or the county board of equalization. If they don't agree with the determination at those two levels, they will come to the state board of equalization, and at that time, they will go out and make a recommendation to the state board.

**REP. DROVDAL** Would this create a considerable amount of work if this amendment were passed

**RICK CLAYBURGH** Based on just thirty seconds into this room, there would be more than we receive now.

**REP. CONRAD** Reviewed Marcy Dickerson's testimony,  
The motion to adopt the amendments was defeated.

**REP. BRANDENBURG** Made a motion for a **DO NOT PASS**.

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

**14 YES      0 NO      0 ABSENT**

**REP. BRANDENBURG** Was given the floor assignment.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2240**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 15, 2005**

Tape Number	Side A	Side B	Meter #
<b>1</b>	<b>X</b>		<b>32</b>
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

**COMMITTEE ACTION**

**REP. GRANDE** Discussed some issues of concern regarding this bill. She wanted to discuss the amendments which were brought forth by the North Dakota Farm Bureau. She related to page 2 of the handout submitted by the Farm Bureau.

**REP. DROVDAL** Stated, if there is a dispute on an assessment now, in current law, there is a process where it goes to the state already, so the amendments wouldn't do any good.

**ERIC AASMUNDSTAD NORTH DAKOTA FARM BUREAU** Commented in regard to what Rep. Drovdal said, that it is somewhat right. He explained what he thinks is happening. A taxpayer can go to the state and get his concerns considered today. The intent of the bill was that there are cases which are clearly contestable, so the assessor can ask the tax department, by income level, if that person qualifies or not. Currently, the state tax department cannot share that

information. This bill would allow the tax department to make that determination based on their tax returns whether or not they qualify.

**REP. BELTER** Stated he wouldn't take a motion for reconsideration on this at this time. He stated he could envision that a county tax assessor will say, this looks like it could be a problem, and then send it to the tax department for verification, pretty soon half of them will be sent in, and the fiscal note is \$150,000 to the tax department. I don't think the amendments will change it.

Date: 3-9-05  
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2240

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Rep. Brandenburg

Seconded By

Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Brandenburg

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

**REPORT OF STANDING COMMITTEE (410)**  
March 9, 2005 4:55 p.m.

**Module No: HR-43-4570**  
**Carrier: Brandenburg**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2240, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)**  
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2240 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2240

**SENATE FINANCE AND TAXATION COMMITTEE**

January 25, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

SENATE BILL 2240

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed at State Supervisor of Assessments and Director of the Property Tax Division by the Tax Commissioner.

Senate Bill 2240 provides that an applicant for the farm residence exemption and each individual whose income is considered in determining eligibility must sign an authorization for the tax commissioner to examine the returns of those individuals and disclose to the assessor whether or not the claimant does or does not qualify for the exemption.

Senate Bill 2240 does not state whether the tax commissioner is to examine returns for all applicants for exemption, or only for those whose status the assessor questions and for whom the assessor requests examination.

To estimate the cost of examination of returns for all farm residence exemption applicants, we assumed 25,000 annual returns. For the initial year, three years' returns (75,000) would have to be examined, but the cost analysis is based on only 25,000 returns for the most recent tax year.

Total cost for the 2005-2007 biennium for completing the examinations by June 1 of each year (before county boards of equalization meet) is estimated at \$177,760 if no outside office space is needed, or \$240,000 if rental of outside office space is necessary. If it were possible to utilize a 6-month turn-around process (September 15–March 15), the estimated biennial cost would be \$159,000. The difference between the two analyses is due to being able to utilize

existing office space and work stations that are available for temporary staff when not in the prime processing season. Temporary staff used for Individual Income Tax could be hired longer to assist with this project when more time is available to turn around the reviews to the counties.

If the intent of Senate Bill 2240 is for the tax commissioner to examine returns only when requested by the assessor or county, the cost would be less, depending on how many requests were received.

This concludes my prepared testimony. I will be glad to try to answer any questions.



## Fiscal Estimate to Audit for Farm Resident Property Tax Exemption

Yearly volume of returns = 25,000

Line = June 1 to Counties Reset to May 15 to complete and certify applicants before sending to counties

### Steps to Implement:

- Obtain applicant data from counties
- Set up Access Data Base of 25,000 applicants
- Establish applicant criteria to review and maintain
- Build data for past 3 years (Initially looking at 75,000 returns in data base)
- Set up recall feature to run reports to check returns filed for assigning reviews to staff
- Designate work stations for temp staff complete with computer, calculator, desk, chair

Estimated volume to complete = 75 per day or 9.375/hr

# of man hours to review 25,000 returns = 2,667 hours

Hiring temporary staff @ \$12.00/hr for 2,667 hours = \$32,000

Time period to conduct review and certify = 3 min to 9 max months (Most recent tax year only)

### 3-Month Turnaround Process Cost Analysis:

3 months = 63 working days = 504 hours = 5.29 temp staff  
 Need 6 computers & workstations March - May (would need to create new stations)  
 Estimated cost to do 25,000 within 3 months (March - May)

Wages for 25,000 returns	\$32,000
Computers	\$4,800
Workstations	\$6,000
Chairs	\$2,400
Mainframe Program	\$5,000
Software lic. (\$300/computer/yr)	\$1,800
Access Program Develop	\$2,000
Additional cost for prior two year reviews (this would be done over 6 mo. June -Nov)	\$64,000 (2,667 hr x 2 x \$12/hr)
Employee benefits for 9 months	\$24,000
<b>Total Cost for First Year Implementation</b>	<b>\$142,000</b>

### Ongoing costs in subsequent years:

Wages	\$32,000
Mainframe Access	\$1,000
Software lic	\$1,800
Computer upgrades (20% of cost)	\$960
<b>2nd Year Cost</b>	<b>\$35,760</b>

FY05-07 biennium est. cost \$177,760

If rental of outside office necessary\* \$240,000

\* Currently there is no room in the Department available for 6 additional staff  
 The time of year this review is being conducted would conflict with tax processing  
 and Legislative sessions in the complex, so outside office space may need to be  
 obtained as well as network connections and phone lines. This can be costly  
 if we must maintain this space year round for 3-4 months of use. Est. \$2,500/mo.

### 6-month Turnaround Process Cost Analysis (Sept 15 - March 15): 6 months = 126 days = 1,008 hours = 2.64 staff for 2,667 hours

Wages for 25,000 returns	\$32,000
Mainframe Program	\$5,000
Access Program development	\$2,000
Additional cost for prior two year reviews (this would be done other 6 mo.)	\$64,000 (hire 3 addl staff)
Employee benefits for 12 months for 3	\$23,000
<b>Total cost 1st year implementation</b>	<b>\$126,000</b>

### Ongoing costs in subsequent years:

Wages	\$32,000
Employee benefits for 9 months	
Mainframe Access	\$1,000
<b>2nd Year Cost</b>	<b>\$33,000</b>

FY05-07 biennium est. cost \$159,000 \*\*

\*\* Difference between two analyses is due to being able to  
 utilize existing office space and work stations that are  
 available for temporary staff when not in the prime processing  
 season. Temporary staff used for Individual Income Tax  
 could be hired longer to assist with this project when more  
 time is available to turn around the reviews to the counties.

Fiscal Effect: \$160,000 - \$240,000 cost for FY2005-2007 biennium

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**North Dakota Farm Bureau**[www.ndfb.org](http://www.ndfb.org)

**Testimony of North Dakota Farm Bureau  
Senate Bill 2240  
Senate Finance and Tax Committee  
January 25, 2005  
Eric Aasmundstad, President**

Good Morning Mr. Chairman. My name is Eric Aasmundstad. I'm here representing the 27,500 member families of North Dakota Farm Bureau in partial support of Senate Bill 2240.

Currently under NDCC section 57-02-08, subsection 15, subdivision 4, an assessor may require the claimant of the exemption to provide a written statement, in which eligibility for the exemption is verified by the claimant. North Dakota Farm Bureau believes verifying exemption eligibility is a fair expectation.

Under SB 2240 the claimant of the exemption is required to sign an affidavit (as could now be required) provided by the Tax Commissioner claiming entitlement to the exemption, and allowing the Commissioner to disclose to the assessor if the claimant does or does not qualify for the exemption. Currently the Commissioner cannot say if they do or do not qualify because of privacy laws. The Commissioner does not have to give detailed information about the claimant, just simply if they do or do not qualify for the exemption according to the law. North Dakota Farm Bureau is supportive of this provision in the bill.

The part of this bill we are troubled by is on page four lines five through fourteen. Subdivision b says: *A claimant who received an exemption under this subdivision to which the claimant was not entitled is subject to payment of taxes and penalties and interest on delinquent property taxes as provided by current law from the time the taxes should have been paid until they are paid.*

We believe this part of the bill to be too far reaching, and also incorrectly stating the issue the bill addresses. The issue of qualifying for the farm residence exemption and collecting taxes owed for an exemption claimed and not entitled, should not be confused with collection of delinquent taxes. We believe these to be entirely different issues with radically different consequences. We do not believe anyone intended to prescribe the sale of a farm over the farm residence exemption. On the other hand farms can be sold on the courthouse steps for non-payment of delinquent taxes. It seems to me apples and oranges are being compared with this language. Should penalty and interest apply, of course, but the response should be measured.

Furthermore we believe this section of the bill should speak to the "look-back" period. As the bill is written it provides for an infinite "look-back". In 1973 Senate Bill 2318 introduced several new concepts such as income limitations, activities limitations, and retirement considerations. The residence exemption was to apply only to a residence situated on a farm and occupied by a farmer according to the statement of intent. That was thirty-two years ago. North Dakota Farm Bureau believes that the "look-back" period should start with the effective date of this bill in Section 2, and be limited in some fashion after that. In other words we should start fresh with this new law, and grant clemency if you will, before this effective date. Thirty-two years is a long time, and could conceivably cost somebody the farm in the event of a "look-back" that far reaching.

Subdivision c addresses intentional misstatement of eligibility. How is intentional derived and what are the parameters for making such a determination? We do not have an issue with penalizing wrongdoing, and think two years of ineligibility is justified. We just want the criteria used to be measurable and consistent in these decisions.

Mr. Chairman, I would ask the committee to give this bill a "Do Pass" if our concerns can be addressed properly, we are confident that they can be with some conversation.

Thank you, I would entertain any questions.

## HOUSE FINANCE AND TAXATION COMMITTEE

March 1, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

### SENATE BILL 2240

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed as State Supervisor of Assessments and Director of the Property Tax Division by the Tax Commissioner.

Senate Bill 2240 requires every applicant for the farm residence exemption to file a claim for exemption by February 1, and to provide an affidavit to the assessor which includes an authorization for the Tax Commissioner to examine income tax returns of all individuals whose income is considered in determining eligibility for the exemption. The authorization must include permission for the Tax Commissioner to disclose to the assessor whether the applicant does or does not qualify for the exemption.

The Property Tax Division supports this bill. However, certain provisions included in the First Engrossment will be impossible to implement. The application deadline of February 1 is not a problem. However, it will not be possible for the Tax Commissioner to notify the assessor of a claimant's ineligibility within 30 days after receipt of the claim of exemption, because the required returns will not be available for examination. Many taxpayers will not file their most recent year's income tax returns until close to April 15, or even later if they apply for an extension.

The proposed amendments remove the unworkable language and provide the Tax Department with information necessary to include farm residence exemptions in the random

property tax audits required by Senate Bill 2243. The potential for an audit will likely promote integrity in claimants' applications for the farm residence exemption.

This concludes my prepared testimony. I will be happy to try to answer any questions.



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## **North Dakota Farm Bureau**

[www.ndfb.org](http://www.ndfb.org)

**Testimony of North Dakota Farm Bureau  
Senate Bill 2240  
House Finance and Tax Committee  
March 1, 2005  
Eric Aasmundstad, President**

Good Morning Mr. Chairman. My name is Eric Aasmundstad. I'm here representing the 27,500 member families of North Dakota Farm Bureau in support of Senate Bill 2240.

Currently under NDCC section 57-02-08, subsection 15, subdivision 4, an assessor may require the claimant of the exemption to provide a written statement, in which eligibility for the exemption is verified by the claimant. North Dakota Farm Bureau believes verifying exemption eligibility is a fair expectation.

Under SB 2240 the claimant of the exemption is required to sign an affidavit (as could now be required) provided by the Tax Commissioner claiming entitlement to the exemption, and allowing the Commissioner to disclose to the assessor if the claimant does or does not qualify for the exemption. Currently the Commissioner cannot say if they do or do not qualify because of privacy laws. The Commissioner does not have to give detailed information about the claimant, just simply if they do or do not qualify for the exemption according to the law. North Dakota Farm Bureau is supportive of this provision in the bill.

Mr. Chairman, I would ask the committee to give this bill a "Do Pass", and would respectfully request the Committee give serious consideration to the changes we are proposing.

Thank you, I would entertain any questions.

**Proposed Amendments to Senate Bill 2240**

**Page 4**

**Line 8 Remove-** Every claim of exemption  
**Replace with-** Claims of exemption in question by the assessor or county tax director

**Line 9 Remove-** must  
**Replace with-** may

**Line 12 Remove-** every  
**Replace with-** the  
**Insert after exemption-** in question

**Line 13 Remove-** The tax commissioner shall provide for

**Line 14 Remove-** all of line 14

**Line 15 Remove-** income eligibility

**Line 16 Remove-** of any  
**Replace with-** of the eligibility status of the  
**Insert after exemption-** in question within thirty days  
**Remove-** for which the tax commissioner finds

**Remove lines 17-20**

**Line 17 Insert-** Only the claims of exemption in question may be forwarded to the tax commissioner.

**Renumber accordingly**

1           individual whose income is considered in determining eligibility  
2           for the exemption under this subdivision, for the tax  
3           commissioner to examine the income tax returns of those  
4           individuals for only those taxable years for which income is a  
5           qualifying factor under this subsection. The authorization must  
6           also include permission for the tax commissioner to disclose to  
7           the assessor whether the claimant does or does not qualify for  
8           the exemption under this subsection. Claims of exemption in question  
by the assessor or county tax director

9           under this subsection may be forwarded to the tax commissioner  
10          for examination of relevant income tax return information.

11          (b) The assessor shall forward to the tax commissioner a copy of  
12          the claim of exemption in question and supporting affidavits filed under  
13          this subdivision.

14  
15          The tax commissioner shall notify the assessor  
16          of the eligibility status of the claim of exemption in question within thirty  
days.

17          Only claims of exemption in question may be forwarded to the tax  
commissioner.

18

19

20

21          (c) A claimant who received an exemption under this subdivision to  
22          which the claimant was not entitled is subject to payment of taxes  
23          and penalties and interest on delinquent property taxes as  
24          provided by law from the time the taxes should have been paid  
25          until they are paid.

26          (5) (3) In addition to any of the provisions of this subsection or any other  
27          provision of law, a residence situated on agricultural land is not exempt  
28          for the year if it is occupied by an individual engaged in farming who  
29          had nonfarm income, including that of a spouse if married, of more than  
30          forty thousand dollars during each of the three preceding calendar