

2009 HOUSE FINANCE AND TAXATION

HB 1236

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB1236**

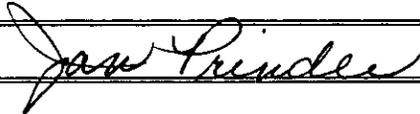
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: **January 19, 2009**

Recorder Job Number: 7179

Committee Clerk Signature



Minutes:

Chairman Belter opened the hearing of HB 1236.

Representative Froelich introduced the bill. The first thing you are going to say is this is another tax reduction. That is not necessarily true. Unlike a lot of other things when gasoline went to \$4.50 a gallon, the tax stayed the same on it. In 2007 you could buy a roll of barbed wire for \$31 a roll. At the 1st of December, wire was \$98 a roll. A steel post went from \$1.95 in 2007 to \$5.10. So, the sales tax has tripled on everything. Most other commodity prices haven't tripled in price. Steel products went through the roof. He read the testimony of **Francis "Buck" and Carol Maher, of the Maher Ranch, Menoken ND. (Attachment 1).**

James Schmidt, Menoken ND, spoke in support of the bill. In 2005 I cross fenced some pastures. I have a receipt for 300 fence posts. At that time they were \$2.98 per post. The barbed wire was \$41 per roll. On \$1500 worth of fencing equipment the tax was \$91. At today's prices that would be double. One thing the livestock industry has done in the last five years is cross fencing and utilizing the acres more. It's a better environmental program. This is all added expense. We are being taxed double because of the way inflation has affected us.

Julie Ellingson, representing the ND Stockman's Association, testified in favor of the bill.

You have heard from Representative Froelich and Mr. Schmidt. While the record snowfall is viewed in several parts of the state reminiscent of the drought last year, it is still considered a blessing for the moisture it will bring. At the same time those huge piles of snow are taking a toll on livestock operations. Besides the feed resources the winter has been gobbling up, the heavy snow is crushing many established fences. The worst of it will be seen come spring. Many fences will be left in disarray and need to be replaced or repaired to be useable. HB 1236 would help livestock producers help recoup some of those expenses associated with this problem.

Representative Schmidt: Does this include corral panels and fence panels.

. . . Someone from the tax department will clarify that.

Representative Wrangham. You mentioned the spring thaw. I don't see an emergency clause on the bill so it won't go in to effect until July. That may be something to include.

Sandy Clarke, ND Farm Bureau, testified in favor of the bill. You have heard plenty of testimony and we just want you to know that we stand in support of HB 1236.

Kenny Graner, resident of Morton County and a livestock producer, appeared in favor of the bill. Anything that can be done to help the Ag industry is going to be good. Ag helps the economy. Anything that helps to have Ag people expend money on main street ND is helpful.

Opposition:

Jerry Hjelmstad, ND League of Cities: Every time one of these bills passes, it lowers the pool of sales taxes. I ask that the Committee keep this in mind when preparing these bills and decide which is the most important.

Nuetral:

Blane Braunberger, ND Tax Department: The question if corral panels, etc., fall under this bill; we would say yes. We would consider anything that is not on a wheel base as qualifying. It would be a broad interpretation.

Representative Froelich: On the fiscal note, do you know how many fence posts they used as a basis.

Braunberger: We visited with other states and got some similar information from the State of Minnesota. What we used was a taxable amount of \$215 per year and took that times 33,000 farms in ND and then applied the 3% tax on that.

Representative Kelsch: If a machine shop such as Case IH or other manufacturer purchases steel, do they pay sales tax on the raw material or is an excise tax collected on the finished product?

Braunberger: They would pay no sales tax on the raw material. They then sell to a retailer who charges 3% on the product.

Chairman Belter closed the hearing of HB 1236.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1236

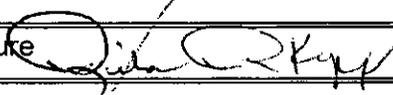
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7495

Committee Clerk Signature



Minutes:

Chairman Belter: Committee, I will entertain a motion on HB 1236.

Representative Grande: I move a "do not pass".

Representative Froseth: Second.

Chairman Belter: I have a "do not pass" motion from Representative Grande and a second from Representative Froseth. Any discussion?

Representative Froelich: Mr. Chairman, when the discussion was held, you asked the question about portable fencing. When the bill was drafted, I asked the same questions of Mr. Walstad and he said that the Tax Department would have to write some rules for that. That is why it is the way it is today. I wanted barbed wire (inaudible). I thought he was going to define it more, but that's the way it shall be. I guess I will have to support the bill.

Representative Pinkerton: We have a lot of exceptions for a lot of other agricultural items. Almost everything that goes in mechanical products are tax exemptions. In the livestock industry, the tax exemptions are easier to take. There is more cost than profit in farming and it seems like this is a fair bill to me.

Representative Froelich: Mr. Chairman, I guess the only argument I can make in favor of the bill is if the price of things had stayed at 10%, nobody would have argued, but things have

tripled. When the Tax Department did the fiscal note, and I don't know how they come up with the fiscal note, but I do know that if wire went from \$30 to \$90, that would create triple the tax from the same product. Not many other things in the state have tripled in price. I believe that the Tax Department is still going to take in the same amount of money, maybe more if you cut the tax in half. Do you follow me, Mr. Chairman? I believe the fiscal note is false because in all reality, they are going to take in more money.

Representative Weiler: I am going to support the "do not pass". Certainly there are a lot of things that have gone up in value, some more than others, but I think we need to watch what we do in this committee and watch what we pass out of here.

Chairman Belter: I am going to support the "do not pass" also. My reasoning is that I treat fencing as a structure similar to putting up a building. If you put up a farm building, a grain bin, grain handling equipment, that is all taxed at 5%. If you put up a new shed on your ranch and you buy the lumber to put a fence around that, you pay 5% on that. Then we come along and put up two classes of fencing. If we pass this, then probably all fencing would not be taxed. I just see that we are muddying the waters here. From an agricultural perspective, we have enough problems with muddying the waters and I just don't think that is defensible.

Representative Froelich: I'm not going to burn my candle at both ends.

Representative Froseth: I campaigned last year and all people said was "Do something about property taxes." If we can't do anything about property taxes, why should we be worrying about all these other tax exemptions and credits? I asked the Tax Department for a list of tax exemptions and credits and they sent this down (**Attachment 1**). Under income tax we have 32 credits or reductions and we have 26 credits. Under corporate taxes, we have 30 credits, we have 62 total sales and use credits, we have 37 property credits of various kinds for a total of 187 tax credits and exemptions we give in our tax laws. How much money would that

bring in to the state's general funds so we could reduce the cost across the board of a lot of things that cost people big money?

Representative Froelich: We do that in the oil industry; it seems like everything we do there is a credit for something. I guess I would not agree with Representative Froseth that we shouldn't do this. If somebody came along and wanted to do away with all tax credits, I probably might stand on that one.

Chairman Belter: I never realized it before but businesses who rent property in a Renaissance Zone do not have to pay income tax. I did not realize that.

Representative Grande: If I rent an apartment in the Renaissance Zone, I don't have to pay my income tax?

Representative Weiler: It has to be a business, but any income derived from that business, you do not have to pay ND state income tax on for five years.

Representative Drovdal: So if you have a bank making millions of dollars with a \$6 million building there, it is free?

Representative Weiler: You have to qualify for the Renaissance Zone Project; and in order to do that, you have to buy an existing building, make all kinds of improvements. They took advantage of the system.

(inaudible).

Chairman Belter: We have a "do not pass" motion on 1236.

A roll call vote was taken. **9 yeas, 2 nays, and 2 absent/not voting (Schmidt and Winrich).**

Representative Headland will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: HB 1236

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$258,000)	(\$22,000)		
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1236 allows fencing used for agricultural purposes to be subject to a 3% gross receipts tax.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB 1236 exempts fencing materials used for agricultural purposes from the 5% sales tax, and imposes the 3% gross receipts tax. This is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$280,000 in the 2009-2011 biennium.

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.*

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/15/2009

Date: January 21, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1236

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Grande Seconded By Froseth

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

Total (Yes) 9 No 2

Absent 2 (Schmidt + Winrich)

Floor Assignment Headland

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

REPORT OF STANDING COMMITTEE (410)
January 21, 2009 8:20 p.m.

Module No: HR-12-0688
Carrier: Headland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1236: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (9 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1236 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1236

January 19, 2008
Testimony # 1

Representative Mr Froelich, Mr Kempenich and Senator Erbele & members:

In regard to House Bill No ¹²³⁰ ~~1234~~, we would like to make a few comments.

We have been ranching in the Menoken area since 1961, and never regretted being in the ranching business. There is always a challenge, but that makes it interesting.

But the challenges are getting more difficult to stay on a ranch. We just want to be able to continue and give our son a chance to stay and ranch also.

It may seem like a little thing, but it begins to add up, like the tax on fencing. For example today to fence a section of land, it would take 64 rolls of barbed wire and 1280 steel posts. At today's quote from Farm & Home wire was \$72.99, but they do not have any and cannot say what the price will be, Runnings is \$74.99 and steel posts are \$4.99, in 2007 barbed wire was \$44.00. Which indicates close to double the cost in one season. Then you have corner post and clips etc. So this would be about \$12,000.00 to do a section of land and @6% tax in Bismarck that would be \$720.00 in sales tax. Most ranchers have more then a section of land to keep fences fixed or replaced. There is a lot of CRP coming out, and most of that needs fencing if a rancher wants to graze, also with the heavy snow and flooding, there will be a lot of fence to fix.

Our expenses for fuel, feed, haying just keep mounting, like twine was \$16.00 in 2007 and \$32.00 in 2008, double in cost and no quote for this year and cattle prices are lower then last year.

This results in double sales tax we are paying for our supplies since the 2007 season. All we ask is that you consider adding the amendment to add fencing for an exemption to the sales tax.

In closing, we regret that we are unable to attend this hearing for medical reasons and thank you for your time.

Francis "Buck" and Carol Maher
Maher Ranch Menoken ND 673-3161

