

# Senate Energy and Natural Resources Committee

*Max Taylor 271-1403*

**HB 123**, relative to yield taxes on property enrolled or registered for the purpose of generating carbon offset credits.

**Hearing Date:** May 6, 2025

**Time Opened:** 9:00 a.m.

**Time Closed:** 11:58 a.m.

**Members of the Committee Present:** Senators Avard, Pearl, McConkey, Watters and Rosenwald

**Members of the Committee Absent :** None

**Bill Analysis:** This bill extends yield taxes to property enrolled in or registered for the purpose of generating carbon offset credits.

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**Sponsors:**

Rep. A. Davis

Rep. Cole

Rep. Ouellet

Rep. Tierney

Rep. Michael Murphy

Rep. Durkin

Sen. Pearl

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**Who supports the bill:** Representative Arnold Davis (Coös County District 2), Senator David Rochefort (District 1), Dan McGuire (Granite State Taxpayers), Representative James Tierney (Coös County District 1), Representative Lori Korzen (Coös County District 7), Representative Timothy Horrigan (Strafford County District 10), Robert Théberge (Coös County Commissioner District 1), Raymond Gorman (Coös County Commissioner District 3), Mark Brady (Coös County Administrator), Joseph Kenney (New Hampshire Executive Council District 1), Bryan Gould (Legal Counsel for Coös County), Steve Halle (Milan Lumber), Charles Levesque (Resident of Antrim), Brodie Deshaies (New Hampshire Municipal Association), Kate Horgan (New Hampshire Association of Counties), Alan Ralf (NH AFL-CIO), Glenn Brackett, Kevin Cavanaugh

**Who opposes the bill:** Jason Stock (New Hampshire Timberland Owners Association), Richard Roy (New Hampshire Timberland Owners Association), William Ardinger (Aurora Sustainable Lands), Matt Leahy (New Hampshire Forest Society), Bob Berti (Green Acre Woodlands), Jeff Coombs (Chicora Forest Lands), Scott Rineer (Wagner Forest Management), Dan Hudnut (Wagner Forest Management), Meredith Hatfield (The Nature Conservancy), Mark Dabon (Weyerhaeuser), Thomas Hahn, Tom Chrisenton, Troy Simins,

**Who is neutral on the bill:** Representative Mike Ouellet (Coös County District 3), Jennifer Ramsey (New Hampshire Department of Revenue Administration),

**Summary of testimony presented in support:**

**Representative Arnold Davis**

**Coos County District 2, Prime Sponsor**

- Representative Davis introduced HB 123, emphasizing it is not a new tax but an extension of New Hampshire's existing timber yield tax, RSA 79, to include carbon sequestration.
- He explained the timber yield tax has existed since 1949, taxing timber standing at harvest, and argued carbon sequestration should be treated equally under existing law.
- He addressed concerns of double taxation, clarifying timber yields are taxed separately whenever harvested, and carbon sequestration projects should similarly face taxation upon each distinct yield.
- Representative Davis stressed that avoiding the timber tax through carbon projects shifts the burden to local property taxpayers, harming municipal revenue and New Hampshire's \$1.5 billion forestry industry.
- He noted carbon sequestration projects could negatively impact forest management, wildlife, recreation, fire safety, and water resources, and potentially transfer control of New Hampshire forests to out-of-state interests.
- Representative Davis stated the Department of Revenue Administration confirmed HB 123 is practical and enforceable.
- He highlighted bipartisan support, with the House Committee unanimously and recommended Ought To Pass.
- Representative Davis stated HB 123 would maintain fair taxation, protect local communities, and prevent exploitation by external interests.

**Senator David Rochefort**

**District 1**

- Senator Rochefort explained the timber tax was created 80 years ago to incentivize responsible forestry practices and prevent excessive timber cutting before assessments.
- He described the rise of the carbon credit industry as a modern workaround that allows out-of-state polluters, particularly from California, to offset emissions using North Country forests without paying timber taxes.

- Senator Rochefort emphasized this practice shifts the financial burden to New Hampshire towns, which then raise property taxes to pay for essential services like schools, plow trucks, salt, and fire equipment.
- He stated that HB 123 closes a loophole in the current law, ensuring that carbon sequestration yields are taxed the same as traditional timber harvests, preserving local revenue and supporting working forest communities.
- Senator Watters asked if HB 123 should apply to small landowners with under 1,000 acres.
  - Senator Rochefort stated the bill is silent on land size but clarified that large-scale landowners, such as those with over 100,000 acres, are the primary concern. He stated smaller landowners are unlikely to be adversely affected.
- Senator Watters followed up, asking whether exempting smaller landowners would meaningfully impact the bill's effectiveness.
  - Senator Rochefort reiterated that small landowners would not significantly impact the carbon credit market or timber revenue loss. He added that if the committee believes exemptions are needed, they can make the appropriate amendments.
- Senator Rosenwald asked if there was an estimate of how much revenue the bill would generate.
  - Senator Rochefort deferred the question to following speakers that would be able to provide a more detailed financial breakdown.

## **Dan McGuire**

### **Granite State Taxpayers**

- Mr. McGuire testified on behalf of Granite State Taxpayers, explaining that although it's unusual for a taxpayer group to support a tax, they back this bill for both historical and practical reasons.
- He explained that the original timber tax, created as a constitutional alternative to property tax, was designed to encourage sustainable forestry by taxing timber only when harvested, reducing incentives for premature or excessive cutting,
- Mr. McGuire argued HB 123 addresses a failure to enforce RSA 79:5, which requires that if timber is not harvested, property owners should pay standard property tax, but this provision has become impractical to implement due to valuation challenges.
- He emphasized that not taxing carbon sequestration creates an imbalance by incentivizing carbon credit projects over productive forestry, which harms industries such as logging, sawmills, and forest product manufacturing.

- Mr. McGuire stated HB 123 restores fairness by applying the timber yield tax to both harvested and non-harvested timber, preventing policy bias against productivity and local economic activity.
- Senator Avard asked whether the Department of Revenue Administration (DRA) has declared the existing RSA 79:5 provision unworkable.
  - Mr. McGuire confirmed that, based on information from the bill sponsor, DRA found RSA 79:5 too difficult to implement due to the complexity and cost of annually valuing uncut forests, unlike the simpler process of measuring cut timber.

**Raymond Gorman (Coös County Commissioner District 3) & Robert Théberge (Coös County Commissioner District 1)**

- Commissioner Gorman emphasized the importance of timber tax revenue for Coös County’s unincorporated towns, particularly for funding dispatch, emergency services, and other local needs.
- Commissioner Gorman explained that reduced timber cutting due to participation in carbon credit programs has led to revenue losses that impact town budgets, increase reliance on property taxes, and threaten forest-related infrastructure and recreation.
- He expressed concern that carbon-first forestry practices discourage wildlife openings, limit sustainable harvesting, and negatively affect families and businesses tied to the timber industry.
- Commissioner Théberge stated that companies such as Milan Lumber have had to reduce operations due to limited access to timber from large tracts enrolled in carbon programs. Additionally, he noted Berlin’s economic reliance on the timber and biomass industries.
- Both commissioners highlighted that carbon credit deals are largely driven by out-of-state companies, particularly from California, and warned the trend is reducing local economic opportunity while setting a dangerous precedent.
- Senator Avard asked if selective cutting was still occurring on the 146,000-acre parcel enrolled in carbon credits.
  - Commissioner Gorman responded that while some selective cutting may still occur, it is constrained by carbon contract requirements to preserve canopy biomass, which limits traditional forest management.
- Senator Avard asked how long this trend had been occurring.

- Commissioner Gorman estimated the trend has been ongoing for about eight years, with additional testimony to provide clearer data.
  - Commissioner Théberge confirmed this and noted that the bill's national significance is a concern for carbon market participants.
- Senator Watters asked whether HB 123 could unintentionally push private landowners to sell to out-of-state developers if tax incentives were lost.
  - Commissioner Gorman stated this could be a concern, but noted that lands under conservation easement, like those in the Connecticut Headwaters project, are protected from logging or development.
- Senator Rosenwald asked for clarification whether the intent of HB 123 was to increase local revenues or to promote more tree cutting.
  - Commissioner Gorman responded that the goal is to maintain current revenue levels and sustainable forest management, not necessarily to increase revenues. He noted that forest owners manage land for a variety of purposes, including wildlife and high-value timber, and emphasized the importance of preserving existing yield tax revenues to support towns.
- Senator Rosenwald asked whether closing the loophole addressed by HB 123 would increase revenues for local towns.
  - Commissioner Gorman stated the primary concern is avoiding further revenue loss, and ensuring regular, responsible forest management so forests are harvested every 10-20 years, rather than left unmanaged for decades.
  - Commissioner Théberge added that participation in carbon credit programs is a choice made by landowners, and the bill does not force them into or out of such programs.
  - Commissioner Théberge stated the issue has been ongoing for over eight years and primarily involves companies from California. He emphasized that the bill stems from the specific situation in Pittsburgh, New Hampshire, where reduced harvesting had ripple effects.

## **Mark Brady**

### **Coös County Administrator**

- Mr. Brady emphasized that Coös County is agnostic on the practice of carbon sequestration but strongly supports closing the tax loophole to ensure fairness and preserve local tax revenue.
- He stated that failing to apply the timber yield tax to carbon projects creates a significant financial incentive, estimated at a minimum of 10%, to choose carbon

credits over timber harvesting, which directly impacts county and municipal budgets.

- Mr. Brady explained Coös County administers 23 of the state’s 25 unincorporated places and operates a \$50 million budget that includes two nursing homes, a corrections facility, and a sheriff’s department, all of which rely heavily on timber tax contributions from towns such as Pittsburg and Clarksville.
- He emphasized that property owners can do what they want with their land within the law but should be required to “pay their fair share” and not shift the burden onto taxpayers in Coös and other affected communities across New Hampshire.
- Mr. Brady submitted California’s Air Resources Board scoping plan into the record to illustrate the broader national implications and stated that New Hampshire is currently unprepared to manage the long-term impacts of carbon-first forest management.
- He noted that Coös County has conducted a detailed legal and financial analysis of the Connecticut Lakes Headwaters easement, showing a steady decline in timber cutting and associated tax revenues since the land registered with California’s carbon market in 2013.
- Mr. Brady highlighted a reduction in reported timber yield from \$40,000 per year in the early 2000s to below \$20,000 in recent years, and emphasized that while some cutting may still occur, it is significantly reduced, impacting the county’s financial stability.
- He emphasized the need to take broader action to address carbon-related forest management policy statewide, warning that the current system is unsustainable and inequitable for rural communities.

## **Joseph Kenney**

### **New Hampshire Executive Council District 1**

- Mr. Kenney described HB 123 as a necessary measure to ensure fairness in taxation to protect New Hampshire’s forest economy, particularly in rural communities such as Pittsburg, Clarksville, and Stewartstown.
- Mr. Kenney emphasized that HB 123 is not a new tax, but a new application of the existing timber yield tax to carbon credit projects, which currently generate income without being subject to the same taxation as traditional timber harvesting.
- He expressed concern that the carbon offset industry, which is largely unregulated in New Hampshire, is an existential threat to the timber industry

and forest health due to reduced harvesting, loss of local revenue, and long-term contracts that limit forest management.

- Mr. Kenney highlighted the progress made through HB 1697, which created a public registry for carbon-enrolled lands and initiated a study on lost revenue. He stated HB 123 is the next step toward restoring balance between landowner rights and local community needs.
- He warned that federal contracts are increasingly including carbon offset provisions and argue that New Hampshire must assert local control over whether and how these programs are implemented.
- He emphasized that further moratoriums are unnecessary, and that the state must address the carbon offset issue now to preserve local industry, forest health, and New Hampshire's sovereignty over land use policy.
- Senator Avard asked whether biomass facilities are being affected by changes in the timber industry and access to wood.
  - Mr. Kenney responded that southern biomass plants like Pine Tree in Tamworth still have adequate supply, but northern facilities in Bethlehem and Whitefield are struggling to access enough wood chips. He stated that reduced harvesting, driven in part by carbon programs, has a direct and negative impact on biomass energy production in the state.

## **Bryan Gould**

### **Legal Counsel for Coös County**

- Mr. Gould stated he approached this issue strictly from a legal perspective rather than a forestry background and emphasized that the bill is consistent with long-standing New Hampshire law and constitutional provisions.
- Mr. Gould argued that the 1942 constitutional amendment permitting the timber tax also allows for broader taxation mechanisms, including taxation of standing timber and income derived from timber, if done in support of forest conservation.
- He explained that RSA 79:5 already allows for taxation of unharvested timber under the general property tax system if a landowner chooses not to cut, and that this statute has been on the books for decades.
- He disagreed with DRA's interpretation that RSA 79:5 is unenforceable, noting that New Hampshire law permits valuation of property based on income streams, as is done for income-generating assets such as parking garages.
- Mr. Gould stated HB 123 simply provides a modern application of an existing legal framework by using income from carbon credits as a valuation basis to assess property tax and ensure towns and counties are not financially harmed by changing land uses.

- He emphasized that New Hampshire’s lack of home rule means municipalities are dependent on the state to provide tools to maintain revenue when policy shifts, like the promotion of carbon sequestration, affect local tax bases.
- Senator Avard asked if Gould had reviewed the proposed amendment of HB 123.
  - Mr. Gould confirmed that he had review the amendment.

## **Steve Halle**

### **Milan Lumber**

- Mr. Halle explained that Milan Lumber owns five sawmills, four in Canada and one in Milan, NH, all of which rely heavily on wood from lands previously harvested more actively before Aurora’s 2022 acquisition of the Connecticut Lakes Headwaters property.
- He stated that since their acquisition, Milan Lumber experienced a significant drop in fiber supply, forcing a six-week production curtailment in the first year and reducing staff hours to 40 per week. He explained that that only recently have operations returned to 45 hours.
- Mr. Halle explained Milan Lumber purchases \$55-\$60 million in saw logs annually, which Halle noted generates substantial economic activity for local communities through employment, trucking, and small business spending. He stated these benefits are not seen with carbon credit revenue.
- He emphasized that while others cite tariffs as a challenge, exchange rates and cheap electricity in Canada have helped level the playing field in their operations.
- Mr. Halle argued carbon credits should be treated like other forest products, arguing that the lack of transparency in their value puts businesses like his at a disadvantage and forces them to import 15-20 million board feet of logs from other states, including New York and Maine, to make up the deficit.
- He urged the committee to support equal regulatory treatment so that forest-based businesses can compete on a level playing field.

## **Charles Levesque**

### **Resident of Antrim**

- Mr. Levesque explained he is a licensed forester with 46 years of experience. He stated he supported HB 123 as amended and opposed a study commission, arguing the current amendment resolves the DRA’s concerns and makes the bill administrable.

- He clarified that HB 123 is not a new, double, income, or sales tax, but would function similarly to the existing timber yield tax, using value ranges established by the DRA rather than taxing income from carbon credit sales.
- Mr. Levesque emphasized the bill is intended to close a loophole that incentivizes landowners to sell carbon credits rather than harvest timber and shared an anecdote from a landowner who described the current system as “a great loophole” to avoid paying timber taxes.
- He also shared that at least one sawmill owner told him they would support the bill if it levels the playing field between timber harvesting and carbon credit sales.
- Mr. Levesque urged the committee to review and hold a hearing on the amended version of HB 123, which he stated the DRA can implement, rather than launching a study commission.
- Senator Watters asked if Mr. Levesque agreed that RSA 79:5 is currently unworkable.
  - Mr. Levesque confirmed he believed it is not workable and that HB 123 was introduced specifically to fix this problem in a more effective way.
- Senator Watters speculated whether income from carbon credits taxed under the BPT could be redirected to municipalities in lieu of allowing local taxation of carbon credits.
  - Mr. Levesque responded that such a change would also need to apply to timber income to maintain consistency, since timber is taxed under RSA 79 in lieu of property tax but still subject to BPT.

## **Brodie Deshaies**

### **New Hampshire Municipal Association**

- Mr. Deshaies stated the New Hampshire Municipal Association (NHMA) represents the state’s 234 municipalities. He stated that towns will lose revenue if all yields from timber, including carbon credit revenue, are not taxed equally.
- He explained that municipal reliance on timber tax revenues varies widely, 1% to 15% in most towns, but up to 50% in some in unincorporated areas in Coös County.
- Mr. Deshaies argued that HB 123 treats carbon credits as a yield from timber, similar to harvesting, and would ensure municipalities are not penalized as more land is enrolled in carbon offset programs.
- He noted RSA 79:5 is unworkable and outdated, created under a now-defunct “general property tax” system. He said assessors lack training and tools to value standing timber, and there is no system to track obligations across ownership changes or over time.

- He stated NHMA supports repealing RSA 79:5 to eliminate confusion and prevent potential double taxation or litigation from local attempts to apply it.
- Mr. Deshaies provided historical context, citing similar state action in the 1950s when RSA 79 was first implemented. Rather than reestablishing a state fund to offset lost municipal revenue, he argued the simpler, fairer solution is to treat carbon credits as taxable yield under RSA 79.
- He emphasized this would level the playing field for forest-rich rural municipalities and industries dependent on timber harvesting.

### **Summary of testimony presented in opposition:**

#### **Jason Stock**

##### **New Hampshire Timberland Owners Association**

- Mr. Stock stated the New Hampshire Timberland Owners Association (NHTOA) represents nearly 1,000 members across New Hampshire, including timberland owners, loggers, foresters, sawmills, and biomass plants.
- Mr. Stock argued HB 123 creates a new tax, despite claims that it is simply a new application of an old tax, because carbon credits are not currently taxed and would be taxed under this bill.
- He stated the bill results in double taxation, once on the carbon credit and again if the timber is later harvested and likened it to an income or sales tax on private contract, not a yield-based tax.
- Mr. Stock emphasized the complexity and ambiguity of carbon markets and noted agreement with the DRA that the bill is currently unenforceable due to unclear language about valuation, registries, and taxable events.
- He advocated instead for the creation of a study commission, stating the issue is not year ready for legislation, and that thoughtful collaboration is needed to develop a workable approach.
- He stated that only three NHTOA members are currently engaged in forest carbon contracts and that those involved are at different stages of receiving payments.
- Senator Pearl noted that he has been working collaboratively with stakeholders and his amendment would propose a study commission with a flexible moratorium.

- Mr. Stock expressed appreciation for Senator Pearl's efforts, but stated he has concerns about the moratorium, calling it a potential infringement on property rights and suggesting there may be constitutional issues.
- Senator McConkey asked how many NHTOA members participate in carbon credit programs.
  - Mr. Stock responded that three members are currently participating, and of those, one has received payment, one is awaiting payment, and one has just recently enrolled.
- Senator McConkey highlighted his own forest management practices and the importance of cutting as part of stewardship.
  - Mr. Stock agreed, emphasizing that managed forests contribute to wildlife habitat, wildfire mitigation, and responsible land use.
- Senator Watters asked for Mr. Stock's thoughts on language in the amendment allowing enforcement of RSA 79:5, notwithstanding RSA 79-A.
  - Mr. Stock responded that RSA 79:5 is currently unenforceable and problematic because it invites subjective judgement from local assessors about when a tree should be harvested. He warned this could penalize landowners for choosing long-term forest management over immediate cutting and called for strong legal guardrails if 79:5 is to be revived.

## **William Ardinger**

### **Aurora Sustainable Lands**

- Mr. Ardinger explained Aurora Sustainable Lands owns 146,000-acre Connecticut Lakes Headwaters property. He clarified Aurora is in full compliance with the 2003 conservation easement and committed to being a good neighbor to the three towns where the property is located.
- He stated that since 2013, over 340,000 cords of timber have been harvested from the property, and harvesting continues in compliance with California's carbon protocol, which requires good forestry practices and rewards harvested wood used in long-term products.
- Mr. Ardinger emphasized that the decline in timber harvesting predates carbon enrollment and mirrors national trends due to tariffs, market forces, and labor shortages, not carbon programs.
- He argued HB 123 creates double taxation by taxing revenue from carbon credits already subject to New Hampshire's Business Profits Tax (BPT) and warned that taxing the same income twice could be unconstitutional unless credits are provided.
- He clarified that Aurora has paid both BPT and real estate transfer tax and disputed claims that carbon credits escape taxation entirely.

- Mr. Ardinger stated HB 123, as passed by the House, is unadministrable due to its vague language and valuation challenges, echoing concerns raised by the DRA.
- He noted that Aurora voluntarily committed to stabilizing local tax revenues by paying towns if timber tax revenue falls below the five-year average. One payment has already been made and a second is being calculated.
- Mr. Ardinger supported a study commission as the best path forward, stating the policy is complex and underdeveloped, and that the bill's language was never vetted in a House committee prior to being adopted on the floor.
- Senator Watters asked if harvesting was being withheld due to market uncertainty.
  - Mr. Ardinger stated Aurora is continuing to harvest but acknowledged uncertainty about tariffs and markets is a serious concern and could reduce harvesting.
- Senator Rosenwald asked whether taxing carbon credits without a credit mechanism violates constitutional protections against double taxation.
  - Mr. Ardinger said it could, noting carbon credits sales are already taxed via BPT and that a second tax without a credit could be unconstitutional, unlike the Medicaid Enhancement tax, which has historically included offsets.
- Senator Rosenwald asked if HB 123 imposes a tax on a standing tree while the timber tax is on a cut tree.
  - Mr. Ardinger confirmed that the timber tax is on harvested trees, while HB 123 would tax the income from standing trees under carbon contracts.
- Senator Rosenwald asked If RSA 79:5 taxation could jeopardize current use status.
  - Mr. Ardinger stated if RSA 79:5 triggers loss of current use status, it could significantly impact landowners across New Hampshire.
- Senator McConkey asked when Aurora began offering the voluntary stabilization payments.
  - Mr. Ardinger explained the first payment was made for the tax year ending April 1, 2024, and a second is being calculated. He stated the commitment is ongoing and not contractually binding but publicly stated.
- Senator Rosenwald asked if Aurora's payments were similar to state actions in Hampstead when a private hospital went off the tax rolls.
  - Mr. Ardinger agreed and said Aurora's stabilization payments are based on the same principle of maintaining local revenue.

## **New Hampshire Forest Society**

- Mr. Leahy stated the Forest Society recognizes and understands the financial concerns raised by municipalities and county governments due to the impacts of forest carbon deals.
- He stated the organization agrees that the legislature should explore ways to help communities address lost revenue.
- Mr. Leahy expressed support for a study commission to conduct a thorough analysis of the issue and identify alternative solutions.
- He questioned whether HB 123, as written, is the appropriate vehicle for addressing the issue, especially given the technical concerns raised by the DRA.
- He emphasized that the complexity of the issue warrants further study before implementing legislation.

## **Bob Berti**

### **Green Acre Woodlands**

- Mr. Bert stated he is in opposition to HB 123 and highlighted his 60 years of forestry experience and 31 years as a selectman.
- He stated that while he understands concerns about forest carbon deals, he believes the bill is misdirected and fails to distinguish between northern and southern New Hampshire landowner circumstances.
- Mr. Berti explained that Green Acre Woodlands owns over 17,000 acres in New Hampshire and enrolled in a carbon program four years ago but has yet to receive income from it despite investing significant internal and external costs.
- He noted the forest products industry is struggling due to labor shortages and broader market issues, not carbon credits. He cited the closure of three mills in the last six months and declining sawmills across New England.
- He emphasized that carbon credits have not impacted southern New Hampshire towns' revenues, explaining Rumney receives about \$20,000 annually in yield tax, which is only 0.3% of the town's \$4.2 million budget.
- Mr. Berti asserted that calling this proposal a "yield tax" is misleading, describing it instead as an income tax on unrealized timber value, particularly penalizing landowners for standing trees that aren't harvested.
- He criticized the proposal for targeting landowners participating in a program that is complex, underutilized, and uncertain in its benefits, and encouraged the committee to pause and study the issue more thoroughly before acting.
- Senator Watters asked whether Mr. Berti gas paid BPT on carbon income.

- Mr. Berti stated that Green Acre Woodlands has not received any carbon credit income yet, and therefore has not paid BPT, but they likely would once revenue is realized.

## **Jeff Coombs**

### **Chicora Forest Lands**

- Mr. Coombs explained he is the owner of Chicora Forest Lands and Ossipee Mountain Land Company, stating that his companies manage 12,000 acres in Tamworth and run a firewood operation producing 10,000 cords annually, relying on their own land for 28% of supply.
- He explained his land is harvested annually under a forest management plan and that he has consistently paid yield taxes to five towns for many years. He also runs a maple syrup operation to support the land's productivity.
- Mr. Coombs described entering a voluntary carbon credit program five years ago after a costly process totaling over \$250,000 in inventory and verification. He only recently received income, most of which went to covering those costs. He clarified this program differed from the California compliance program.
- He emphasized that in 2021, the same year he received credits, he also harvested and paid yield taxes, highlighting his concern about double taxation if HB 123 were enacted. He added that any revenue would also be taxed under the business profits tax or business enterprise tax, making it a potential triple tax burden.
- Mr. Coombs stated he sought and received approval from the state for participation in the carbon program on land under forest legacy easement, with no objections raised.
- He stated he strongly opposed HB 123 as written, arguing that he is already paying his "fair share" and that carbon credits are simply an additional income stream to help keep his family business and open space viable.
- He stated he supported the idea of a study commission to better understand the nuances of different carbon, programs, landowner practices, and regional variations.
- Senator McConkey asked whether Mr. Coombs supported HB 123 or just the amended version calling for a study commission.
  - Mr. Coombs responded that he opposes the bill as introduced but supports a study commission to explore fair and effective solutions.
- Senator McConkey noted Mr. Coombs' land provides valuable recreational connectivity for snowmobilers and asked whether that access would remain open under the proposed amendment.

- Mr. Coombs said he believes public and motorized access would remain open as it currently is, referencing a memorandum from Jason Stock affirming that trails would not be closed during the study commission period.

## **Scott Rineer**

### **Wagner Forest Management**

- Mr. Rineer stated he is a licensed forester for over 25 years and regional manager at Wagner Forest Management and described HB 123 as an income tax on landowners.
- He cited various revenue streams commonly used by landowners, such as maple sugaring, recreation leases, Christmas tree farms, cellular towers, and conservation easements, none of which are taxed in the same manner as proposed under HB 123.
- Mr. Rineer stated he also serves as a Selectmen in Errol, NH, giving him additional insight into municipal challenges. He raised concern about the administrative burden HB 123 would place on local assessors, especially in rural towns that are already struggling to secure assessing services.
- He emphasized that carbon credit agreements are complex and relatively new, and that assessing and taxing them will create confusion without clear guidance from the DRA.
- Mr. Rineer stated he supports a two-year study commission to examine the issue thoroughly but stated he does not support a moratorium, which he believes infringes on private property rights.
- Senator Rosenwald asked Mr. Rineer if he supports both the moratorium and not blocking landowners from entering carbon credit contracts.
  - Mr. Rineer clarified that he does not support a moratorium, only a study commission and protecting landowner contractual rights.

## **Dan Hudnut**

### **Wagner Forest Management**

- Mr. Hudnut stated he is the President of Wagner Forest Management and argued HB 123 was developed in response to a single project and reflects a limited understanding of the broader carbon credit market.
- He emphasized that Wagner pays more yield tax than any other landowner in the state, particularly supporting the budgets of unorganized towns in Coös County and wants to harvest more wood but is constrained by market

disruptions, like the mill explosion in Jay, Maine and limited contractor availability.

- Mr. Hudnut explained that California’s carbon credit registry is now closed to forest projects outside of California, so new Hampshire landowners are only using voluntary carbon markets, which are privately negotiated contracts and not influenced by California law.
- He raised constitutional concerns, citing the full language of the 1942 amendment that permits taxation only when it “encourages the conservation of forest resources”, a standard he argued HB 123 does not meet.
- Mr. Hudnut warned about unequal treatment of landowner revenue streams, noting that revenue from maple syrup operations is not taxed, but under HB 123, carbon revenue would be, despite both relying on forested land.
- He endorsed the memorandum of understanding (MOU) proposed by the New Hampshire Timberland Owners Association, which commits landowners to transparency and local coordination before entering carbon agreements that may reduce harvesting.

### **Thomas Hahn**

- Mr. Hahn explained that he has been a consulting forester in New Hampshire since 1985 and manages 50,000 acres of forest land.
- He argued that HB 123, as passed by the House, is premature and incompatible with standard definitions of a timber yield tax.
- Mr. Hahn emphasized that a yield tax traditionally applies only to harvested timber, and that carbon offset credits do not meet this definition.
- He noted that many landowners in carbon programs continue harvesting timber, and that municipal yield tax revenues are unlikely to decline significantly because of enrollment in such programs.
- He pointed out that many landowners currently enrolled in New Hampshire’s carbon registry are long-term, in-state forest owners with a history of sustainable management, not out-of-state entities.
- Mr. Hahn explained that due to the low financial return on traditional timber harvesting, approximately 1%, landowners often pursue alternative income sources such as conservation easements, solar leases, and carbon credits to sustain their land.
- He raised concerns that a 10% carbon yield tax would be disproportionate, especially given that the real estate transfer tax and average municipal property tax rates are both around 1.5%, suggesting that carbon sales may be more appropriately taxed similarly.

- Mr. Hahn stated he supported creating a study commission, and argued the issue is complex and warrant further examination.

## **Meredith Hatfield**

### **The Nature Conservancy**

- Ms. Hatfield described the Family Forest Carbon Program, a 20-year voluntary program offered in partnership with the American Forest Foundation. It is available to New Hampshire landowners with over 30 acres and supports compatible uses such as harvesting, aiming to engage landowners who are not currently actively managing their forests.
- Ms. Hatfield noted that most landowners currently listed in the state's forest carbon registry are long-term New Hampshire residents or conservation-focused nonprofits.
- She expressed appreciation for Senator Pearl's efforts to draft a more workable amendment but said she had not yet reviewed the full text.
- She stated The Nature Conservancy supports the creation of a study commission, as it did last year, to further evaluate taxation, equity, and policy implications of forest carbon programs.
- Ms. Hatfield suggested the commission explore broader revenue redistribution strategies to support North Country communities, referencing past ideas raised by Senators Watters and Rosenwald, such as reallocating rooms and meals tax revenue.

## **Mark Dabon**

### **Weyerhaeuser**

- Mr. Dabon stated the bill would effectively impose a new, double tax on landowners who sell carbon credits.
- He explained Weyerhaeuser owns approximately 24,000 acres in Coös County, managed to Sustainable Forestry Initiative and Forest Legacy easement standards, with a focus on sustainable harvesting and conservation.
- Mr. Dabon explained that under HB 123, landowners would be taxed on carbon credits generated from tree growth and then taxed again when those same trees are eventually harvested and sold, which he characterized as duplicate taxation.
- He noted that Weyerhaeuser has enrolled 50,000 acres in Maine into a forest carbon project that allows for continued harvesting while still promoting long-term ecological benefits.

- Mr. Dabon disagreed that carbon programs reduce timber tax revenue for municipalities, asserting that carbon programs actually promote the growth of higher-value timber, which can result in increased timber tax revenue when harvested.

**Neutral Information Presented:**

**Jennifer Ramsey**

**New Hampshire Department of Revenue Administration (DRA)**

- Ms. Ramsey explained that RSA 79:5, which was originally intended to allow taxation of unharvested timber, has never been used due to vague and outdated language that makes it difficult for local assessors to apply.
- She noted three major legal ambiguities in RSA 79:5, such as how to define “unreasonable deprivation of revenue,” how to assess tree maturity, and how to align the statute with today’s current use system instead of the original general property tax model.
- Ms. Ramsey stated that while HB 123 attempts to address this gap, the DRA believes the bill, as currently written, is not implementable due to technical challenges in defining taxable events and how to value carbon offset credits.
- She outlined four specific concerns with the bill’s language in Lines 17-20.
  - She stated it is unclear which registry would qualify as enrollment, whether it refers to a local registry, the California Air Resources Board, or another system.
  - She explained the definition of “carbon offset credits” is difficult to interpret, especially in distinguishing between tonnage of gas and tradable certificate-based credits.
  - She stated the bill lacks clarity on when the taxable event occurs, which could raise confusion between the issuance and sale of credits.
  - She stated there is no guidance on who would be responsible for estimating the net value or how to value credits, particularly in cases where they have not yet been sold.
- Ms. Ramsey added that the DRA has no data source for how many credits have been issued or sold in the in NH and therefore cannot estimate how much revenue HB 123 would generate, though it could potentially raise some local tax revenue.

- She emphasized that the DRA takes no position whether carbon credits should be taxed, but urged the committee to provide clearer statutory guidance if it intends to move forward.
- Senator Avard asked Ms. Ramsey’s concerns were raised during House hearings.
  - Ms. Ramsey stated the DRA had provided comments on an earlier version of the bill in the House, and has since been working collaboratively with the bill sponsors on a potential amendment to resolve their concerns.

## **Representative Mike Ouellet**

### **Coös County District 3**

- Representative Ouellet argued that standing timber is part of real estate and should be subject to property assessment and taxation under RSA 78:3.
- He quoted the statute to clarify that the yield tax applies at 10% of stumpage value at the time of sale, reinforcing the bill’s alignment with current law.
- Representative Ouellet noted that the proposed amendment to HB 123 includes an exemption for properties under 500 acres, protecting small landowners and farmers from the carbon yield tax.
- He criticized opponents of the bill for “confusing and complicating” the issue and stated the DRA’s attorney confirmed the bill is workable.
- Representative Ouellet stated the town of Pittsburg has lost over \$4 million in yield tax revenue over the past decade, calling it “reprehensible” and asking lawmakers to “see the forest through the trees.”

MT

Date Hearing Report completed: May 9, 2025