2011 SENATE FINANCE AND TAXATION

SB 2252

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2252
January 26, 2011
13434

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A bill to attempt to allow renters of residential property to receive the benefits of property tax reform.

Minutes: One attached testimony

Chairman Senator Cook opened the hearing on SB 2252 relating to an income tax credit for renters of residential property.

Senator C. Nelson, District #21, introduced SB 2252. Written testimony A

Senator Cook asked if you have four college students living in an apartment only one can claim the tax credit.

Senator Nelson answered that only one per unit could claim it.

Senator Cook asked if she didn't think this would be difficult for the tax department to make sure only one person per rental was claiming the tax credit.

Senator Nelson replied that they have the authority to set the rules.

Senator Dotzenrod asked if her motivation for this bill had anything to do with the state wide effort to have a property tax reduction that applies to all classes of property. Or is this independent from that.

Senator Nelson said she had been working on this rental property tax reform for six years.

Senator Oehlke asked a question on the use of the word dwelling in line 17, page 1.

Senator Nelson said the intent is that each unit within an apartment house would qualify.

Senator Cook asked for opposing testimony.

Rocky Gordon, North Dakota Apartment Association, said that they were not opposed to their tenants getting a tax reduction. He said that there have been three bills introduced this session. HB 1035 attempts to do the same thing but has a real complicated process of how you arrive at the credit. The second bill, HB 1394 says that the landlord had to calculate what his savings and taxes were and write a check to the tenant at the end of each year and then there is this bill, SB 2252. He said on the surface this is the least complicated of the bills. They do have concerns how it will work. He talked about expenses and how they have gone up. He gave snow removal and labor as an example. He stated that their rents had gone up but had they not received the tax relief they would have gone up more. They do believe the tenants have received a pass through on the tax savings for apartment owners. They also opposed this bill because there will be some administrative burden for landlords.

Claus Lembke, North Dakota Association of Realtors testified against SB 2252. He said they oppose this bill in principal because the market does take care of the true rental rate.

Senator Cook asked the Tax Department how they would proceed with this.

Nathan Bergman with the ND Tax Department said that the bill would give them the authority to ask for various items as they saw fit to assure that those claiming the credit were the ones responsible to get the credit.

Senator Cook asked how they would audit or assure that more than one person in the unit wasn't getting the credit.

Mr. Bergman replied that they would probably do something similar to what they did with the 2007, 2008 property tax credits.

Senator Cook remembered that as an administrative nightmare for the tax department. He asked if a person lived six months in one apartment and then six months in another apartment, could they get the credit on both.

Mr. Bergman replied that this was his understanding.

Senator Dotzenrod asked if this was being done in other states.

Mr. Bergman said he had not done any research in this but he would if the committee would like him to.

Donnita Wald, ND Tax Department said that Minnesota does give a credit.

Discussion followed on Minnesota.

Senator Cook said that North Dakota has a single homestead credit for low income people and we also allow them to take that credit on their rent.

Senator Cook closed the hearing on SB 2252.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2252
2/1/2011
Job Number 13776

☐ Conference Committee

A. Bitthiller

Explanation or reason for introduction of bill/resolution:

A bill to attempt to allow renters of residential property to receive the benefits of property tax reform.

Minutes: Committee Work

Chairman Cook opened discussion on SB 2252.

Chairman Cook – This is the income tax credit for rent. Committee your wishes?

Senator Hogue – I was going to offer an amendment to this bill that would specifically tie it to the property tax relief that we are providing to the school districts. I think the intent of the prime sponsor and my intent as a co-sponsor is to say as long as the state is providing property tax relief to property owners through a buy down of the school districts mill levy we should do something for the people that don't own real property, so my intent would be to limit this, give it a sunset, but not with a specific date, it would be the date we stopped providing that buy down. To me that would be an improvement to the bill and I would hope that those that are opposed to this bill would agree that would be an improvement to the bill.

Senator Triplett – As another co-sponsor of the bill I would welcome such an amendment. My hope is that the property tax buy down for educational purposes is going to be made permanent by this legislature at some point but I understand we are not quite there yet in terms of the long-term commitment so I don't have an issue with tying them together. I think Senator Hogue is right, that was the intent of the primary sponsor.

Vice Chairman Miller explained his current situation living in an apartment building he owns so he doesn't pay rent. However, with this bill he could start paying himself rent and double dip. He thinks this is the wrong approach and moved a Do Not Pass.

There was no second.

Senator Hogue – Moved his amendments.

Seconded by **Senator Triplett**.

Chairman Cook closed discussion on SB 2252.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2252
2/1/2011
13810

☐ Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

A bill to attempt to allow renters of residential property to receive the benefits of property tax reform.

Minutes: Committee Work

Chairman Cook – Committee we have before us SB 2252.

Senator Hogue – I did email John Walstad and asked him about a sunset clause, and whether the best approach would be, so long as the state is buying down the school mill levy or date certain, and he felt strongly that it should be a date certain as opposed to my original suggestion. So, that is what he has provided to me in amendment 0712.01001. That is the amendment that I will move.

Chairman Cook – We have before us SB 2252 as amended.

Senator Triplett – I will move a Do Pass as Amended.

Seconded by **Senator Hogue**.

Chairman Cook – We have before us SB 2252 Do Pass as Amended.

Senator Dotzenrod – North Dakota's property system has 4 classes of property. We have residential, commercial, agricultural, and then the centrally assessed properties of pipelines and railroads and so on. Of the first 3, residential, commercial, and agricultural, they all have renters. All 3 of those categories have renters. This is restricted to residential, and I'm not sure why, necessarily, except it's sort of conceptionally maybe sort of like the homestead credit or something. It looks like what we are doing with this class of property, residential property; we are going to give some of those properties essentially, the benefit of the property tax reduction twice. It will go in some properties, to the owner and the person living in the building, and other pieces of property will only get it once. We are making a choice here in this bill, it appears to me, to say that certain classes of property, we are going to provide a property tax style of reduction, twice. I'm a little uncomfortable with that because it seems like the things that motivated us to do this for the renters is what we did to the education mills that were taken off in a property tax reduction that's prompted

this. It isn't as clear as what we had when we just reduced property to people who owned property.

Senator Triplett – There is a distinction to be made between residential renters vs the other 2 classes of property, the commercial and agricultural because I think there is generally more of an arm's length transaction between those business kinds of transactions where a person could negotiate more vigorously where as in apartment rentals it's usually, you just take what's offered, there is not much negotiation that goes on in terms of the cost piece of an apartment rental. The other point is, at least with what's going on in western North Dakota now, the market is really driving rents, and people are pushing their rents up to what the market can bear and there is no indication that the property tax relief what we have given to the owners of real property is flowing down to the renters so I think at least in a substantial part of our state right now it's very likely that we are not giving something away twice. They only way that people who rent are going to get any property tax equivalent relief is for us to do it separately like this.

Vice Chairman Miller – I understand there is an appreciation here for people and trying to help them out but if part of what we are trying to address is rental costs and what's going on with the oil industry, I don't see how this is really make that big of a difference.

Senator Dotzenrod – When Mr. Gordon talked to us I thought he made a pretty good case and presented some numbers to us that showed what the affect of the property tax relief that we've offered starting 2 years ago has been to tap off the increases that might otherwise taken place. He showed us that if you compared snow removal costs, how those have gone up, which I believe, it makes sense to me, I saw the numbers, they appear to be pretty legitimate from what I know and comparing that to the per unit benefit of the property tax reduction, it appears he's probably right. I understand what is going on in the oil country. To me, that's a phenomena that's really a bubble effect, a competitive bidding affect, a supply and demand affect, it really doesn't have much to do with the property tax.

Chairman Cook – We have a motion before us for a Do Pass as Amended. Ask the clerk to take the roll. (3-4-0)

Chairman Cook – That motion fails.

Vice Chairman Miller – I will move a Do Not Pass as Amended on SB 2252.

Seconded by **Senator Burckhard**.

Chairman Cook – Ask the clerk t o take the roll. (4-3-0)

Carried by **Chairman Cook**.

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: SB 2252

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

SB 2252 provides an individual income tax credit for renters of residential property.

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.*

SB 2252 provides an income tax credit equal to 3% of the annual rent paid by the taxpayer up to a maximum credit of $216 per dwelling to be shared among all taxpayer-occupants.

It is not known the total amount of income tax or rent paid by the state's estimated 105,000 renters. Assuming half of the renters have income tax liabilities and pay sufficient rent to utilize the maximum credit, the fiscal impact of SB 2252 could be approximately -$11.3 million per year, or -$22.6 million for the 2011-13 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:**	01/25/2011

11.0712.01001
Title.02000

Prepared by the Legislative Council staff for
Senator Hogue
February 1, 2011

2-2-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2252

Page 1, line 3, remove "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 23, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 1, line 23, after "for" insert "the first five"

Page 1, line 24, after "2010" insert ", and is thereafter ineffective"

Renumber accordingly

Date: 2-1-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2252

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Hogue Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 2-1-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2252

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman		X	Jim Dotzenrod	X	
Joe Miller – Vice Chairman		X	Connie Triplett	X	
Randy Burckhard		X			
David Hogue	X				
Dave Oehlke		X			

Total (Yes) 4 No 3

Absent 0

Floor Assignment _____

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

Date: 2-1-11
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2252

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod		X
Joe Miller – Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue		X			
Dave Oehlke	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2252: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2252 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 23, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 1, line 23, after "for" insert "the first five"

Page 1, line 24, after "2010" insert ", and is thereafter ineffective"

Renumber accordingly

2011 TESTIMONY

SB 2252

A

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Senator Carolyn Nelson
District 21
1 Second Street South #5-402
Fargo, ND 58103-1959
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COMMITTEES:
Judiciary
Government and Veterans Affairs

SB 2252 is an attempt to include 55% of the city of Fargo and approximately 40% of the state population in the benefits of property tax reform. In the past benefits have been afforded to those who qualify for homestead credits, businesses and home owners; the missing population is those residents who live in rental properties.

When my husband and I bought our first and only house, there was a realtor and financial advisory that the market value of the house should not exceed 2.5 times the salary of the head of the household. If that were the rule today, a person would have to earn approximately $56,800 to be able to afford a house at the 2007 median market value of $142,000. A recently released report from Dickinson says that Dickinson has surpassed Fargo for the most expensive median value of homes - $169,663 as compared to Fargo at $162.035. Is the average salary in ND $65,000? According to an OMB fact sheet, only 7% of the states classified workers can afford a house of average value; 6,327 state employees or 93% cannot afford a house without outside money being spent,

So, where do these folks live? In Fargo, the mayor's office reported to me yesterday that 55% of the residents of Fargo live in rental housing. Only 45% of the population lives in homes they own!

We owned a house for 36 years and upon advice of our children we downsized in 2004 and moved into an apartment. Our rent has gone up $10 per month each year we have lived there. Until last year, the reason included "taxes"; this year the emphasis was on maintenance and utility costs but no mention of the break the landlord got on his property taxes.

Careful budgeting suggests that a person only spend 30% of his/her wages on housing. Fair Market Rent (FMR) for a 2 bedroom apartment in Burleigh County is $536, monthly payment on a house would be $1,216. But a cashier in Burleigh County makes $1,406; 30% is $439, that's $97 short. A retiree on Social Security has available funds of $1,087, 30% is $326 for housing; even if there is dual income, the amount is $1,848 and 30% is $554, just enough to eek by. In Fargo, they would be $26 short as FMR is $580 there. (Amounts based on ND Realtors (2007), Job Service (2007) and HUD (2007))

SB 2252 is my third attempt to respond to my constituents – this is a credit against income tax liability. It's an easy calculation. The landlord provides a receipt for total rent paid during the calendar year. The taxpayer calculates 3% of the first $7,200. That amount is credited against the tax owed. My intent is that this is not a refundable tax; it is a credit against the liability. The maximum credit would be $216. If multiple people live in a rental unit, only one person can claim the credit. The tax is effective starting this taxable year.