

FISCAL NOTE
Requested by Legislative Council
01/16/2017

Bill/Resolution No.: SB 2254

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(1,037,000)	\$(99,000)		
Expenditures						
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 2254 creates a sales tax exemption for sales of tampons and sanitary napkins.

- 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.*

If enacted, SB 2254 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$1.136 million in the 2017-19 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/20/2017

2017 SENATE FINANCE AND TAXATION

SB 2254

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2254
1/23/2017
Job #: 27223

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales of tampons and sanitary napkins; and to provide an effective date.

Minutes:

Attachment #1, #2

Chairman Cook: All Senators present. Opened the hearing on SB 2254.

Senator Luick, District 25: Came from constituents in my district, they brought it to my attention last session, and there was already one. Nothing in the calendar that has been introduced, so we want you to do this. I want to assure you that I don't have any specifics of the fiscal note on this. It's a negative 1 million. I'm going to leave it in your very capable hands to take this where to go. Carrier from his district, enough concern that they wished it to be adopted to the state of North Dakota. I know Minnesota already has it on the books.

Chairman Cook: Are you aware of how many other states have it?

Senator Luick: No I'm not.

Chairman Cook: There are 9 states that recently imposed it. It's something that is being introduced around the country.

Senator Luick: I'm sympathetic and understanding of the situation of this bill, however I'm concerned about where it could go from here. There are many people who have medical issues of all kinds. I don't know where it would stop, even though I'm introducing the bill, I do have those concerns. Even talking with Legislative Council they have concerns as well.

Chairman Cook: We will weigh those concerns right here at this table.

Senator Luick: I'm sure you will, I'm very confident in the committee.

Chairman Cook: Any questions. Further testimony and support of SB 2254. Testimony opposed to SB 2254.

Stephanie Dassinger, Deputy Director, North Dakota League of Cities: Presented testimony #1 in opposition of SB 2254. At the annual convention, the North Dakota League of Cities did pass a resolution to oppose any new sales tax exemptions.

Chairman Cook: I'm surprised that I heard this testimony, saying the word ambiguity because believe it or not in my world, that's exactly what I'm working on. I have a whole list of history about every definition that all 9 states have. This comes from my involvement on streamline sales tax and uniformity. We believe that if there is going to be a definition of feminine hygiene products it should be the same in all states. In the process of getting a white paper written on that issue, it's a very detailed subject. I'll say no more.

Stephanie Dassinger: You've done more research than I have Chairman Cook.

Vice Chairman Bekkedahl: The League of Cities to oppose sales tax exemption. All tax exemptions at the state level, or only those that impacted the local entities.

Stephanie Dassinger: Our resolution is for all new sales tax exemptions.

Chairman Cook: Any other questions? Further testimony opposed to SB 2254.

Renee Stromme, North Dakota Women's Network: Apologies for being late, I'll hand out testimony (#2) in support of SB 2254.

Chairman Cook: Any more testimony opposed, neutral to SB 2254. Tax Department you're being quiet.

Closed the hearing on SB 2254.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2254

1/23/2017

Job #: 27259

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales of tampons and sanitary napkins; and to provide an effective date.

Minutes:

Attachment #1

Chairman Cook: All Senators present, let's go to SB 2254.

(Attachment #1) Each of you should have a list of 9 states that have already passed such a sales tax exemption and then a list of the other states with proposed legislation and the definitions that should be used. Streamline's state local advisory council has a work group that is in the process of drafting a white paper to recommend what such language should say if the states decide it's in their best interest to exempt that product, with the interest that all states would use the same definition as we do in all other product categories so there is some uniformity in what is considered a feminine hygiene product is the same in one state as another. I would hope that until that common definition is derived, we don't make a definition on whether we should do it or not. Just kill the bill and wait for the common definition to have a debate on whether or not the state should do it.

Senator Dotzenrod: Is there a time line? A group that has been assigned a responsibility to work this out so they have a target, like July of 18, or if we just put this off is there an end date to this?

Chairman Cook: The way the SLAC (State Local Advisory Council), it's mostly tax and business geeks from around the country. They have a work group, few people who will report to SLAC. The next governing board meeting is May 2017 in Bismarck, North Dakota. Whether or not it's done at that time, we will have a common definition, if not in May, but by the fall meeting in September or October of 2017. Finalized in 2017.

Senator Dotzenrod: You're suggesting we kill the bill and wait until that happens. The basic proposition in the bill seems fairly reasonable, it's just a question of where we can't do something when we have unclear definitions.

Chairman Cook: I would hope if we do, do it, we do it right. And we can't do it right at this time.

Senator Unruh Moved a Do Not Pass.

Senator Meyer seconded.

Chairman Cook: Discussion?

Senator Dotzenrod: The committee that you referred too, is that part of the streamline sales tax? You really would think of these items as being subject to an online type of the market, I'm guessing is less than 10%.

Chairman Cook: I would say just the opposite.

Senator Dotzenrod: Really?

Senator Unruh: I would like to confirm that.

Chairman Cook: Take the roll on a Do Not Pass for Senate Bill 2254.

Roll Call Vote was Taken: 6 yeas, 0 nays, 0 absent.

Senator Meyer will carry the bill. (0:05:15 Ended)

Job continues with general discussion of bills still in committee and if any can be worked on. (0:06:00 - end of recording)

Date: 1-23-17
 Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2254**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Unruh Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	<u>X</u>		Senator Jim Dotzenrod	<u>X</u>	
Vice Chair Brad Bekkedahl	<u>X</u>				
Senator Lonnie J. Laffen	<u>X</u>				
Senator Scott Meyer	<u>X</u>				
Senator Jessica Unruh	<u>X</u>				

Total (Yes) 6 No 0
 Absent 0
 Floor Assignment Meyer

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

REPORT OF STANDING COMMITTEE

SB 2254: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2254

1/23/2017

SB 2254

Testimony # 1

pg 1

January 23, 2017

Senate Finance and Taxation
SB 2254

Chairman Cook and members of the committee, for the record I am Stephanie Dassinger, Deputy Director of the North Dakota League of Cities. I also serve as the staff attorney for the League.

I appear before you today to express the League's opposition to Senate Bill 2254. As a female, I think tampons and sanitary napkins is a bit ambiguous as to what it covers. If the committee wishes to get into more of the specifics about feminine hygiene products, I'd be happy to do so but off the top of my head I can think of two products that may or may not be exempt from sales tax under this bill.

Due to the ambiguity that exists in the bill, the North Dakota League of Cities urges to committee to vote DO NOT PASS on SB 2254.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

1/23/2017

SB 2254

Testimony #2

Pg 1



Senate Finance and Tax Committee
Senate Bill 2254
January 23, 2017

Good morning Chairman Cook and members of the Senate Finance and Tax committee. I am Renee Stromme representing the North Dakota Women's Network (NDWN). We are a statewide advocacy organization working to improve the lives of women. We stand in support of SB 2254.

Far too often women face economic discrimination—from pay inequity to higher costs for such items as soap and dry cleaning. In this particular instance, a tax on menstrual supplies is specifically a tax on women's reproductive systems. There are few products more medically necessary for most women through their lives than those that help them manage their menstruation.

Senate Bill 2254 removes the tax on tampons and sanitary napkins. This is a step in the right direction, although we believe that the bill should be extended to all feminine hygiene supplies, including but not limited to tampons and sanitary napkins, as well as items like menstrual cups. Affordability of menstrual supplies is vital for women and removing the tax would bring the items on par with other medical supplies.

Senate Bill 2254 can help address one of many iniquitous economic burdens imposed on women. North Dakota Women's Network supports Senate Bill 2254, but urges the Senate to broaden the bill to include all forms of women's feminine hygiene supplies.

1/23/2017

SB 2254

Attachment #1

pg 1

Feminine Hygiene Product Exemptions Already Passed and Proposals Considered

Currently in Law

State Name	Type of Exemption	Reference	1	Language Provided
Connecticut	Feminine hygiene products and diapers	<u>SB502 - 12-412(122) and (123)</u>		(122) Sales of feminine hygiene products. (123) Sales of disposable or reusable diapers.
Illinois	Feminine Hygiene Products	<u>SB2726</u>		Beginning January 1, 2017, menstrual pads, tampons, and menstrual cups
Maryland	Feminine Hygiene Products	Medicine and Medical Equipment Guide		Sanitary napkins and tampons.
Massachusetts	Feminine Hygiene Products	<u>Sales and Use Tax Guide</u>		Sanitary napkins and belts and tampons.
Minnesota	Feminine hygiene products.	<u>297A.67, Subd. 17.</u>		"Sanitary napkins, tampons, or similar items used for feminine hygiene are exempt." Explanation from Fact Sheet 117E - Health Product Exemptions: Feminine hygiene products. An exemption is provided for feminine hygiene products such as tampons, sanitary napkins and panty liners. However, feminine sprays and cleansing products, such as douches and wipes, are taxable. Yeast infection medications are usually exempt because they qualify for the over-the-counter drug exemption. (Subd. 17.Feminine hygiene products. Sanitary napkins, tampons, or similar items used for feminine hygiene are exempt.)
New Jersey	Feminine hygiene products.	<u>Technical Bulletin – TB - 63R</u>		An exemption is provided for feminine hygiene products such as tampons, sanitary napkins and panty liners.
New York	Feminine hygiene products	<u>Section 1115(3-a) (AB 7555)</u>		Feminine hygiene products, including, but not limited to, sanitary napkins, tampons and panty liners.
Pennsylvania	Feminine Hygiene Products and Diapers	<u>Pennsylvania Code 9.2</u>		(4) <i>Household paper goods and soaps.</i> Household supplies purchased for residential consumption, including soaps, detergents, cleaning and polishing preparations, paper goods, household wrapping supplies and items of a similar nature are taxable with the exception of disposable diapers, incontinence products, toilet paper, sanitary napkins, tampons or similar items used for feminine hygiene.

Feminine Hygiene Product Exemptions Already Enacted & Proposals Considered

Proposals Only

12/31/17

SB 225-4

Amendment #1

pg 2

State Name	Type of Exemption	Reference	Column1	Language Provided	Column2
Federal Proposal	Feminine Hygiene Products	HR 3117		"(2) FEMININE HYGIENE PRODUCTS DEFINED.—For purposes of paragraph (1), the term 'feminine hygiene products' means tampons, pads, liners, cups, sponges, douches, wipes, sprays, & similar products used by women with respect to menstruation or other genital-tract secretions."	
California	Feminine Hygiene Products	AB1561		(a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, & the storage, use, or other consumption in this state of, tampons, sanitary napkins, menstrual sponges, & menstrual cups.	
District of Columbia	Feminine Hygiene Products & Diapers	Bill 21-696	Amend Sec 47-2005	"(38)(A) Sales of feminine hygiene products; "(B) For the purposes of this paragraph, the term "feminine hygiene product" means a sanitary napkin, sanitary towel, tampon, menstrual cup, or sanitary pad. "(39)(A) Sales of diapers; "(B) For the purposes of this paragraph, the term "diaper" means an absorbent incontinence product that is washable or disposable & worn by a person, regardless of age or sex, who cannot control bladder or bowel movements "	
Michigan	Feminine Hygiene Products	HB 5234		AS USED IN THIS SUBDIVISION, "FEMININE HYGIENE PRODUCTS" MEANS TAMPONS, SANITARY NAPKINS, & OTHER SIMILAR TANGIBLE PERSONAL PROPERTY.	
Michigan	Feminine Hygiene Products & Incontinence Products	HB5879		(O) THE SALE OF INCONTINENCE PRODUCTS & FEMININE HYGIENE PRODUCTS. AS USED IN THIS SUBDIVISION: (i) "FEMININE HYGIENE PRODUCTS" MEANS TAMPONS, SANITARY NAPKINS, & OTHER SIMILAR TANGIBLE PERSONAL PROPERTY. (ii) "INCONTINENCE PRODUCTS" MEANS ADULT DIAPERS, WATERPROOF PANTS, PROTECTIVE UNDERWEAR, INCONTINENCE PADS, & OTHER SIMILAR TANGIBLE PERSONAL PROPERTY	
Mississippi	Feminine Hygiene Products	SB 2053		(uu) Sales of feminine hygiene products, including, but not limited to, sanitary napkins & tampons.	
Ohio	Feminine Hygiene Products & Disposable Baby Diapers	HB 484	Create 5739.02(b)(54) & (55)	(55) Sales of tampons, panty liners, menstrual cups, sanitary napkins, & other similar tangible personal property the principal purpose of which is feminine hygiene in connection with the menstrual cycle.	
Rhode Island	Feminine Hygiene Products	H7714	Create 44-18-30(65)	(65) Feminine hygiene products. From the sale & from the storage, use, or other consumption of tampons, panty liners, menstrual cups, sanitary napkins, & other similar products the principal use of which is feminine hygiene in connection with the menstrual cycle.	
Tennessee	Feminine Hygiene Products & Baby Diapers	HB 2059 & SB 2285	Amend 6-6-102	"Diaper" means any absorbent garment to be worn by infants & children who are not toilet-trained or individuals who are incapable of, or have difficulty, controlling their bladder or bowel movements; () "Feminine hygiene product": (A) Means any product to be used by women with respect to menstruation or other genital-tract secretions; & (B) Includes tampons, pads, liners, cups, & douches;	Reduced rate on these items
Texas	Feminine Hygiene Products	HB 219		"Feminine hygiene product" means tampons, panty liners, menstrual cups, sanitary napkins, & other similar tangible personal property sold for the principal purpose of feminine hygiene in connection with the menstrual cycle.	Enacted 12/6/16, In 30 day Congressional review period
Utah	Feminine Hygiene Products & Incontinence Products	HB202		(i) the following items, if the items are advertised for incontinence care: (A) adult or youth disposable diapers; (B) underwear; (C) pants; (D) pads or liners; or (E) underpads; (ii) tampons; (iii) sanitary napkins; or (iv) disposable diapers for infants & toddlers;	
Virginia	Feminine Hygiene Products	HB 952		20. Tampons & sanitary napkins.	
Washington	Feminine Hygiene Products	HB 2987		(2) "Feminine hygiene products" means sanitary napkins, tampons, 22 menstrual cups, or any other similar product sold at retail designed 23 specifically to catch menstrual flow either internally or externally.	

Wisconsin Feminine Hygiene Products [2015 AB 949](#) 77.54 (63) The sales of & the storage, use, or other consumption of feminine hygiene products.