MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2063

2001 SENATE FINANCE AND TAXATION

SB 2063

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2063

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 1/16/01

Tape Number	Side A	Side B	Meter #
1	x		34.2-end
		x	0-15.1
1/17/01 - 2	x		16.5-31.2
1/22/01 - 2	x		9.6-35.5
1/24/01 - 1	x		45.2-end
		x	0-4

Committee Clerk Signature Lynelle P. Kraft

Minutes:

Senator Urlacher: Opened the hearing on SB 2063, relating to confidentiality of sales and use tax information.

Daniel Rouse: Legal Counsel for the State Tax Department, testified in favor of the bill. Written testimony attached.

Senator Urlacher: Would one city be able to request information for another city?

Daniel Rouse: No.

Senator Stenehjem: What kind of information are they asking for?

Daniel Rouse: Explains examples. Meter number 41.5-43.7.

Senator Stenehjem: So if a city asks something about revenue, you can't tell them?

Daniel Rouse: Exactly.

Senator Stenehjem: Is there any reason that we as legislators may want to look at the same information for budgeting purposes on our end, that maybe should have been included in this? Or is that too broad? Is there some reason that a legislator might want some of that information so that he can make an informed decisions on tax initials that might come before him?

Daniel Rouse: I think that might be a bit excessive.

Senator Nichols: Do any cities or counties collect their own? Or do you collect for them?

Gary Anderson: Director of Sales & Special Taxes for State Tax Dept., answers for Rouse. We currently collect all of the taxes that are administered that are imposed by the cities in ND for sales taxes. The exception would be the city lodging tax.

Senator Nichols: This would enable cities or counties to come to you for more detailed information if they have a problem?

Daniel Rouse: Yes.

Senator Christmann: The cities and counties can get to the bottom of the different types of taxes coming out of their community or county, am I correct?

Daniel Rouse: You're correct. The problem is, you as a city commissioner or auditor may be in a smaller city or county with a more limited number of tax payers, if there's an aberration of that individual tax payer, you're going to see it on your bottom line.

Gary Anderson: Mistakes may happen on tax forms and as a result a city might ask what happened here. It's hard to explain what actually happened. Meter number 52.

Senator Kroeplin: With the open meeting laws, how can that be kept confidential information at the city council meeting?

Gary Anderson: The city will have to verify a particular transaction or discuss with us a particular aberration that occurred in detail. A member of that group could visit with us and

obtain an explanation. They would not be able to discuss in a public meeting the specifics of a situation.

Senator Christmann: In the smaller communities if you tell somebody one thing, you might as well be giving someone's specific tax forms out, because they're probably the only business such as that in the whole community. If you explain to the auditor or commissioner, how does that comfort the rest of them, if that person can't tell them?

Daniel Rouse: That's the limitation that we're working with in this statute, that there is a limit, for the privacy interests of that taxpayer who submits their returns and reports.

Senator Stenehjem: If one city or county commissioner found out that information, every other commissioner could do the very same thing. Or even if it's one commissioner in confidence that can talk to another commissioner, they just couldn't bring it up at the public meeting. If the cities are truly concerned about this, they can just stop entering into the contract with the tax dept. Over all this information that's submitted and require it to be submitted to the city auditor.

Daniel Rouse: Yes and yes.

Connie Sprynczynatyk: ND League of Cities, Doesn't think it will be a problem to disclose the information. The cities have an excellent working relationship with the Tax Dept. But there is this little barrier that disallows any further information. Explains Bismarck City Commission through meter number 9.2

Senator Kroeplin: It has been working reasonably well the way it is. The city has to have a certain amount of trust in the tax dept. In the confidentiality portion of it and open meetings, can you even do this?

Connie Sprynczynatyk: It is possible for a problem, but officials understand private business is private business. People don't want to violate the open meetings open records laws. They would not do that purposefully.

Rick Clayburgh: State Tax Commissioner, testified in support. We take confidentiality very seriously. Explains example of problem and why this bill would help through meter number 15.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held 1/17/01. Meter number 16.5-31.2.

Discussion held 1/22/01. Meter number 9.6-35.5.

Gary Anderson: Reappeared to clarify some things.

Senator Urlacher: Would it be workable to designate one or two people to tell the information?

Gary Anderson: Yes.

Senator Kroeplin: Does it happen very often?

Gary Anderson: We don't get a huge number of requests.

Senator Stenehjem: Would they have to come in to look at the information?

Gary Anderson: We're not sure how we're going to facilitate it.

Dan Rouse: Reappeared to explain more. Demonstrates on the board.

Senator Kroeplin: If they don't contract with you, what confidentiality standards are the held to?

Dan Rouse: None that I'm aware of.

Gary Anderson: Explains further. Meter number 22.3-23.2.

Senator Stenehjem: Expresses concern of how far the information goes.

Discussion continues. Put on hold for amendment.

AMENDMENT ACTION:

Motion made by Senator Kroeplin, Seconded by Senator Stenehjem, to amend. Voice Vote taken. All in favor, motion carried.

Discussion held 1/24/01. Meter number 45.2-end, tape 1 side B, 0-4, tape 2 side A.

Rick Clayburgh: Reappeared to propose amendments and answer questions.

AMENDMENT ACTION:

Motion made by Senator Kroeplin, Seconded by Senator Nichols, to move amendment numbered 18078.0100. Voice Vote taken. All in favor, amendment adopted.

COMMITTEE ACTION: 1/24/01

Motion made for a DO PASS AS AMENDED by Senator Wardner, Seconded by Senator Kroeplin. Vote was 6 yeas, 0 nays, 0 absent or not voting. Bill carrier was Senator Kroeplin.

18078.0100
Title.

Prepared by the Office of State Tax Commissioner
January 24, 2000

PROPOSED AMENDMENTS TO SENATE BILL NO. 2063

Page 2, line 16, after "available" insert "for inspection at the office of the commissioner in Bismarck"

Page 2, line 16, replace "a" with "no more than two"

Page 2, line 16, replace "member" with "members"

Page 2, line 21, replace "obtained" with "acquired"

Renumber accordingly

Date: 1/22/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2063

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Amend (voice vote)

Motion Made By Kroeplin Seconded By Stenehjem

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 1/24/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2063

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Voice Vote amendment adopted

Motion Made By Kroeplin Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 1/24/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLJTION NO. 2063

Senate Finance and Taxation Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Wardner Seconded By Kroeplin

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Kroeplin

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

REPORT OF STANDING COMMITTEE

SB 2063: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2063 was placed on the Sixth order on the calendar.

Page 2, line 16, after "available" insert "for inspection at the commissioner's office", replace "a" with "no more than two", and replace "member" with "members"

Page 2, line 21, replace "obtained" with "acquired"

Renumber accordingly

Date: 3/12/01
Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1063

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Concur

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

2001 HOUSE FINANCE AND TAXATION

SB 2063

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2063

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 7, 2001

Tape Number	Side A	Side B	Meter #
1		X	1,860
Committee Clerk Signature	Janice Stein		

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Testified in support of the bill. This bill is being introduced at the request of the Tax Department. Under current law, if something comes up in a city, if there has been an audit or regarding a taxpayer, we have no legal authority to explain to the city, what the issue is. We run into a few instances throughout the year, that are minimal dollar amounts where a taxpayer, for example, from Forman, would be filling out their sales tax return, and looking at the small print because you have to put eighty four jurisdictions on the thing, would cross the line and put the business in Fargo, or a business in Fargo might put it in Forman. It is just dollar changes, we have no right to tell a city what caused that transaction. It has not been a big deal until this last biennium, when a city in North Dakota, had a taxpayer who was over paying a tax that should have not been collected or remitted to the city, it was actually outside of that jurisdiction of the city. That taxpayer,

illegally, filed for a refund of the dollars that were paid. It was about twenty thousand dollars, which is a significant amount of dollars to a small community. We had no authority or legal right to explain to that city council what was occurring, and why it occurred. They thought the tax department had made the mistake and all we were doing was hiding behind confidentiality. There were some very hard feelings about the issue. We ended up resolving it, by going in and allowing two members of the city, the city auditor and city attorney, to come to Bismarck and look through the records. They were notified of the restriction of that confidential information. We put SB 2063 in to be able to talk with our customers as we deal with the administration. It allows us to have an open dialogue with our clients as we deal with this.

There was a lot of concern in the Senate, basically, from smaller communities on some of these issues. I think it is a little too restrictive. I would support the change if you want to open it up a little.

REP. CARLSON Asked what he would recommend.

RICK CLAYBURGH I don't know why we couldn't provide that same review if we went out to that city. We have auditors all around the state, they could go out and possibly provide that information to the local level. Instead of requiring an individual to come to Bismarck.

Mr. Clayburgh asked Gary Anderson if he had a problem with the suggestion.

GARY ANDERSON Said, not at all. He said they could go through the confidentiality portion of it out in the field, have them sign the necessary documents regarding confidentiality.

REP. WINRICH Asked whether the tax department could bring an amendment for the recommendation regarding the confidentiality portion of the bill.

RICK CLAYBURGH Stated they did have amendments to propose regarding the statutes.

DAN ROUSE, LEGAL COUNCIL, STATE TAX COMMISSIONER'S OFFICE. Presented amendments prepared by the tax office. The amendment pertains to the statute which provides the levy powers of home rule counties. By its nature, it presently restricts the contents of tax collection in other agreements that those counties can enter into with the tax commissioner. This requires a minor adjustment which is contained in this amendment. This amendment recognizes the reality that each home rule county may have its own slight variations on the types and amounts of taxes that they elect to levy, just as the cities presently have. We have also added an emergency clause to the overall bill. This will continue to allow us to enter into tax collection and administration agreements with the various home rule counties, while recognizing not everyone will have the same taxing scheme in place.

He stated they would prepare additional amendments related to the location, in other words, they can meet where they want to meet.

REP. LLOYD You have no more than two, is there a special reason why there isn't three or more?

RICK CLAYBURGH The rationale for two is that was our example with the case that we had. We basically, codified our action, on how we addressed that issue.

REP. WINRICH When Mr. Clayburgh was testifying, he said that local jurisdictions could administer these sales taxes on their own, rather than going through the tax commissioner's office, are there any jurisdictions that do?

RICK CLAYBURGH Not regarding sales tax. We have two jurisdictions that currently administer their restaurant and lodging tax, I believe Minot and Grand Forks, and Fargo. From the sales tax perspective, there is none at this point.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-7-01, TAPE #1, SIDE B, METER #3800

Committee members reviewed amendments which were submitted to them. Amendment #1 was where it was recommended that page 2, line 16, remove the words "for inspection at the commissioner's office"

REP. WINRICH Made a motion to adopt the above amendment #1.

REP. DROVDAL Second the motion. **MOTION CARRIED BY VOICE VOTE**

Amendment #18078.tax1 was reviewed which the tax department prepared and which brought into effect the home rule counties and the various ways they can collect the type of tax they have.

REP. CLARK Made a motion to adopt Amendment #188078.tax1.

REP. RENNERFELDT Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. CLARK Made a motion for a **DO PASS AS AMENDED.**

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

11 YES 1 NO 3 ABSENT

REP. GROSZ Was given the floor assignment.

Date: 3-7-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2063

House FINANCE & TAXATION Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep. Clark Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	A	
DROVDAL, DAVID,V-CHAIR		✓	RENNER, DENNIS	A	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	A				

Total (Yes) 11 No 1

Absent 3

Floor Assignment Rep. Grosz

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

REPORT OF STANDING COMMITTEE

SB 2063, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2063 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 2 of section 11-09.1-05 and"

Page 1, line 2, after "to" insert "sales and use tax levy powers of home rule counties and to", after "of" insert "city or county", and after "information" insert "; and to declare an emergency"

Page 1, after line 3, insert:

"**SECTION 1. AMENDMENT.** Subsection 2 of section 11-09.1-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations; provided, that all property in order to be subject to the assessment provisions of this subsection must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law ~~which~~that determines what property or acts are subject to, or exempt from, ad valorem ~~or sales and use~~ taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede ~~the provisions of~~ section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects."

Page 2, line 16, remove "for inspection at the commissioner's office"

Page 2, after line 26, insert:

"**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2001 TESTIMONY

SB 2063

Testimony before the Senate Finance and Taxation Committee
Senate Bill 2063

January 16, 2001

Prepared by Daniel L. Rouse, Special Assistant Attorney General, Legal Counsel to the North Dakota Office of State Tax Commissioner. Phone: (701) 328-2781
E-mail: drouse@state.nd.us

Mr. Chairman, Members of the Committee:

My name is Daniel Rouse. I am here today representing the North Dakota Office of State Tax Commissioner (Tax Commissioner) on Senate Bill 2063, which was introduced at the Tax Commissioner's request.

Senate Bill 2063 proposes to accomplish three things. First, it breaks up the body of this law into six (6) numbered subsections to make reference to it more "user friendly." Second, in proposed numbered subsections 1, 2, 3, and 4 of the body of this law, it removes unnecessary words. Finally, in proposed numbered subsection 5, new language is offered to correct a problem encountered by the Tax Commissioner.

Under Section 57-01-02.1 of the North Dakota Century Code, which is referenced in subsection 5, the Tax Commissioner is authorized to enter into tax collection agreements with home rule cities or counties. Currently there are 84 cities and one county that have such agreements with us whereby we collect and administer certain sales and use taxes on their behalf. However, because of the strict limitations of our confidentiality statute, N.D.C.C. § 57-39.2-23, the Tax Commissioner is unable to disclose any information at all to the governing body or individual appointed or elected members of the governing body of the cities or counties with which we have a contract to collect and administer taxes. In other words, we have contracts with these cities and counties; we collect taxes on their behalf from various merchants and taxpaying entities

within those cities and counties. But, if an elected or appointed member of a governing body, or the governing body itself for one of these cities or counties, in an official capacity, requests to review certain returns, reports, schedules and documents, or reports of an audit or investigation related to one or more taxpayer within their city or county who remits sales and use taxes, we must deny that request.

This bill, if enacted, would allow the Tax Commissioner to make information related to city lodging taxes, city lodging and restaurant taxes, or city or county sales and use taxes contained in the tax returns, reports, related schedules and documents, and reports of an audit or investigation available upon request to a duly elected or appointed member of the governing body of a city or county for which tax collection and administration is required by statute or carried out under a tax collection and administration agreement under N.D.C.C. § 57-01-02.1.

In turn, under this bill, the elected or appointed official or governing body would be strictly forbidden to disclose any information obtained from the Tax Commissioner under this section unless the disclosure is ordered by a judge and then only for tax administration purposes.

Mr. Chairman, members of the Committee, this bill makes good sense, it allows us to provide improved customer service, and it preserves the confidentiality the Legislature intended with this law while allowing a city or county to make reasonable, confidential inquiry of the Tax Commissioner into the collection and administration of taxes originating from within its borders.

We therefore ask for your favorable consideration of Senate Bill 2063.