

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4001

2001 SENATE FINANCE AND TAXATION

SCR 4001

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 4001

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 1/16/01

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| I | | x | 24.6-33.6 |
| 1/22/01 - I | | x | 35-37.5 |
| Committee Clerk Signature <i>Lynelle M. Kraft</i> | | | |

Minutes:

Senator Urlacher: Opened the hearing on SCR 4001, a concurrent resolution directing the Legislative Council to study the property tax exemption.

Jennifer Clark: Legislative Council, testified neutrally for the bill. There's a concern that there's inconsistency across the state on how nursing homes are being treated for tax purposes.

Senator Christmann: Is there an example of what kind of guidelines the nursing homes have?

Jennifer Clark: There weren't any illustrations of abuses of this. It's more a concern of them being treated consistently.

Senator Christmann: What would be something in the middle that would be arguable over whether it should be nonprofit?

Jennifer Clark: There were not any concrete examples of this.

Senator Christmann: Why is the interim recommending a study resolution? Did it come up too late to get a study done?

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Senate Finance and Taxation Committee
Bill/Resolution Number 4001
Hearing Date 1/16/01

Jennifer Clark: What it would have required to give a full study is quite an extensive gathering of information across the state. My assumption is that the commission thought that was going to be specific and too time consuming.

Senator Urlacher: Closed the hearing.

Committee discussion through meter number 33.7. Action delayed.

Discussion held 1/22/01. Meter number 35-37.5.

COMMITTEE ACTION: 1/22/01

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

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

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4001

Senate Finance and Taxation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Stenehjem Seconded By Wardner

| Senators | Yes | No | Senators | Yes | No |
|-------------------------------|-----|----|----------|-----|----|
| Senator Urlacher-Chairman | ✓ | | | | |
| Senator Wardner-Vice Chairman | ✓ | | | | |
| Senator Christmann | ✓ | | | | |
| Senator Stenehjem | ✓ | | | | |
| Senator Kroeplin | ✓ | | | | |
| Senator Nichols | ✓ | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Kroeplin

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

REPORT OF STANDING COMMITTEE (410)
January 22, 2001 11:34 a.m.

Module No: SR-10-1367
Carrier: Kroepflin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4001: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4001 was placed on the Eleventh order on the calendar.

2001 HOUSE FINANCE AND TAXATION

SCR 4001

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4001

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 21, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | X | | 5,178 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Janice Stein</i> | | | |

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing.

JENNIFER CLARK, ATTORNEY FOR THE LEGISLATIVE COUNCIL Testified as council for the Advisory Commission on Intergovernmental Relations. Gave a brief history of how the resolution came about.

REP. CARLSON The purpose of the study is to make sure that those who are getting tax exempt are actually not doing things they are not supposed to be doing.

JENNIFER CLARK In part, yes, but I think the concern was more that these organizations are treated uniformly across the state. There wasn't a strong feeling that these people were receiving these exemptions that shouldn't be.

REP. CARLSON Asked if there were examples that were brought up in the committee.

JENNIFER CLARK There were no specific examples. That was one of the committee's concerns, that there isn't a mechanism right now, where a poll was taken to get that information.

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House Finance and Taxation Committee

Bill/Resolution Number ser 4001

Hearing Date March 21, 2001

REP. CARLSON Gave an example of his Mom living in a nursing home. Recently, they built a big addition on which is basically, an apartment building where you can get your meals and things, are they concerned that that new building added onto this building, may be tax exempt when, in fact, it is renting to people?

JENNIFER CLARK I think that is an example.

REP. CARLSON Maybe because not all of them are doing that, they don't want an exception to the rule?

JENNIFER CLARK I think the concern was that that is taking place in dozens of places across the state, and that taxing districts are calling that entire facility, a charitable institution, exempting them, and other districts were taking off that addition, and not exempting them. That was the concern, that they weren't treated the same.

REP. CARLSON Does that exemption come from the state then, flows through the city to the state, is that how it works? How do they become tax exempt in the first place? Somebody has to declare that as tax exempt.

JENNIFER CLARK You have to ask someone who is more familiar with tax procedures than I am, but I can tell you that it does come down from our state constitution and state law. Apparently, from the testimony received from the tax commissioner, it is the local taxing districts, that ultimately, make the decision whether it is a charitable institution.

REP. KROEBER Gave an example of a case in Jamestown, where he happened to be at a city council meeting and they approved a tax exemption of a local institution.

REP. SCHMIDT Asked how they handle a hospital with a drug store?

JENNIFER CLARK All I know is that the committee didn't look at these other issues, all they were looking at was, typically, nursing homes. They thought that was a small place to start. She read from the statute regarding this law.

SHELLY PETERSON, PRESIDENT OF THE NORTH DAKOTA LONG TERM CARE ASSOCIATION. Appeared to provide information. See written testimony. Also submitted a letter from Norman Triebwasser who has developed senior assisted living facilities, and, submitted a Summary of Real Estate Tax Agreements for Senior Congregate Housing Projects.

REP. CARLSON It appears to me, we are already allowing local control in this situation.

REP. LLOYD Related to the letter from the architect, how can an assessor make a change, an assessor goes by what is already on the books, they don't arbitrarily decide one way or the other.

SHELLY PETERSON I am not sure what happened in that situation. I would have thought, as was illustrated earlier, that when you give an exemption, that it would have been reported somewhere.

KEN YANTES, WAS ON THE COMMITTEE FOR THE ADVISORY COMMISSION OF THE INTERGOVERNMENTAL RELATIONS Stated he is probably the oldest member on this committee. Appeared to relate what happened in the committee meeting. He stated there were questions from all over. He said they could see where there were problems. We do need a study on this, as things are not being done the same all over.

With no further testimony, the hearing was closed.

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House Finance and Taxation Committee
Bill/Resolution Number ser 4001
Hearing Date March 21, 2001

COMMITTEE ACTION 3-21-01, TAPE #1, SIDE B, METER #3100

REP. DROYDAL Made a motion for a **DO PASS**

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

7 YES 5 NO 3 ABSENT

REP. CLARK Was given the floor assignment.

Date: 3-21-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4001

House FINANCE & TAXATION Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Drovdal Seconded By Rep. Renner

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-------------------|-----|----|
| CARLSON, AL, CHAIRMAN | | ✓ | NICHOLAS, EUGENE | A | |
| DROVDAL, DAVID, V-CHAIR | ✓ | | RENNER, DENNIS | ✓ | |
| BRANDENBURG, MICHAEL | ✓ | | RENNERFELDT, EARL | A | |
| CLARK, BYRON | ✓ | | SCHMIDT, ARLO | ✓ | |
| GROSZ, MICHAEL | | ✓ | WIKENHEISER, RAY | | ✓ |
| HERBEL, GIL | ✓ | | WINRICH, LONNY | A | |
| KELSH, SCOT | ✓ | | | | |
| KROEBER, JOE | | ✓ | | | |
| LLOYD, EDWARD | | ✓ | | | |
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Total (Yes) 7 No 5

Absent 3

Floor Assignment Rep. Clark

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

REPORT OF STANDING COMMITTEE (410)
March 21, 2001 11:17 a.m.

Module No: HR-49-6263
Carrier: Clark
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4001: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (7 YEAS, 5 NAYS, 3 ABSENT AND NOT VOTING). SCR 4001 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SCR 4001

Senate Finance and Taxation Committee
Justin J. Schwarz- Committee Intern
January 16, 2001
SCR # 4001

SCR #4001 deals with N.D.C.C. 57-02-08(8), which allows for buildings belonging to institutions of public charity, including public hospitals and nursing homes properly licensed, used wholly or in part for public charity, to be exempt from taxation. The resolution would have the Legislative Council study the property tax exemption for institutions of public charity providing a combination of health and housing services.

In my discussions with Marcy Dickerson in the Tax Commissioner's Office, she informed me that the current problem seen with regards to 57-02-08(8) is nursing homes. Nursing homes are traditionally considered charitable, and most in North Dakota today have tax-exempt status. But the problem arises where the nursing homes add assisted-living apartments. Currently, some of these types of homes in North Dakota are given tax exempt status, while others are not. Two such nursing homes in Traill County are recent examples of homes where the tax-exempt status has been debated. In this matter, the State Equalization Board granted the exemption (although an Attorney General's opinion later in the year suggested that the property in this situation should not have been tax-exempt). The problem thus is, according to Ms. Dickerson, that similar facilities in North Dakota are treated differently, with some tax-exempt and some not.

The North Dakota Supreme Court decided a case involving this section of the law in 1989 in the case of Riverview Place v. Cass County, 448 N.W.2d 635 (N.D. 1989). In Riverview, the Court stated that whether an institution is exempt is determined by a two-step process: whether the organization is charitable and whether the property exempted is being devoted to charitable purposes. The Court stated that it is the use of the property which determines exempt status or not. Essentially, the Court decided that the Riverview Place was not tax-exempt because the residents were functionally independent and capable of living on their own, therefore the home was not acting as a charitable institution under N.D.C.C. 57-02-08(8).

Testimony on SCR 4001
House Finance and Taxation
March 21, 2001

Chairman Carlson and members of the House Finance and Taxation Committee, thank you for the opportunity to testify on SCR 4001. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. Our Association represents nursing facilities, basic care facilities and assisted living facilities, the entities that would be affected by SCR 4001. I am here today to provide information regarding institutions of public charity or nursing facilities providing health and housing services.

The resolution states that the Constitution of North Dakota provides that property used exclusively for charitable purposes is exempt from taxation. It further questions whether these charities should be subject to full or partial assessment of property taxes for the value of certain services provided for their benefit. The resolution also states uniformity may be lacking in application of property tax exemption for institution of public charity providing health and housing services.

What I believe this resolution is attempting to study are non-profit nursing facilities, which are medical institutions, who venture into assisted living services. A nursing facility provides twenty-four hour nursing care, however, many are developing assisted living facilities to help address and support individuals who need appropriate housing with services, but not twenty-four hour nursing care.

In the past few years nursing facilities have been asked to expand their services and help meet the needs of senior adults living in the community, through the development of assisted living and congregate housing. This type of housing with services is appropriate for the person who needs a little bit of help but not twenty-four hour skilled nursing care.

North Dakota as you may know, institutionalizes individuals in nursing facilities at the highest rate of any state in the nation. Over 100 years ago North Dakota began developing nursing facilities and today we have 88 facilities spread throughout North Dakota. North Dakota taxpayers will spend over \$125 million a year caring for about 3600 individuals in need of care this year. We spend this much money and the demographic tidal wave of senior adults will not hit us for another decade or two.

Consumers are searching for options and choices to remain in their communities for as long as possible. An identified need has been ground floor housing with the ability to contract for services when and if they need them. The nursing home profession in North Dakota is committed to provide the full continuum of care and empower North Dakotans with choice.

North Dakota is an aging state. From 1980 to 1990, North Dakota's population declined 2.1% however our older population age 80 and over grew 36%. According to the United States Census Bureau, in 1990, 118,175 or 18.5% of North Dakota residents were 60 or over. In the year 2020 it is projected that more than 161,000 or 22.4% of North Dakotans will be age 60 or over. The fastest growing age group in North Dakota are those 85 years of age and over, a projected increase of 78%, growing from 11,240 people in 1990 to 20,000 individuals in 2020.

We will never have enough room or staff - young people to care for all these individuals in nursing facilities. Housing with options, keeping these people spread throughout North Dakota in our communities is the answer.

Non-profit nursing facilities do not pay property taxes, however if they provide assisted living services, they may on the assisted living portion of their operation.

Today, each non-profit nursing facility negotiates with their political sub-division the amount of property taxes. Some have negotiated very well (Cando) and don't have to pay property taxes, and some must begin paying taxes on day one when the project opens. Some, five years ago received a five year tax abatement and now the tax liability is requiring a \$125 month rent increase to be passed on to a 90-year old resident living on a fixed income.

Attached is a letter and chart from Norman Triebwasser, he has completed the architectural, construction and development of over fifty senior assisted living facilities. His letter illustrates the various approaches assessors have used to apply property taxes. All assisted living projects, associated with non-profit nursing facilities, must pay property taxes unless they negotiate some other arrangement with the assessor. Although this process leads to a lack of uniformity, the political subdivisions and community desire this local control over taxes.

Thank you for the opportunity to provide testimony on SCR 4001. We really don't see a need for a study, however if passed we would fully participate and provide information.

Shelly Peterson, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660

January 16, 2001



Ms. Shelly Peterson
ND Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501-1914

PH: (701) 222-0660
FX: (701) 223-0977

RE: Senate Resolution Regarding Real Estate
Taxes For Senior Assisted Living Complexes

Dear Shelly:

Thank you for faxing me the Senate Concurrent Resolution No. 4001 regarding the study of real estate taxes as they apply to senior congregate / assisted living facilities.

I have completed the architectural, construction and development of over 50 senior congregate / assisted living facilities, of which the majority have been completed in the last ten years. Ninety-Eight percent (98%) of these facilities have been for non-profit nursing homes or hospitals.

I have found the pattern of how assessors have approached the taxation of these projects all over the board. They range from total exemption to \$1800/unit/year. This translates to \$150/month added to an already high rent number. It also means that some projects are identical in size and unit type but one community will have rents for their seniors at \$100/month more than their neighboring community only because of real estate taxes.

To help our clients, I have compiled a spreadsheet showing what each of 14 different projects are paying in real estate taxes. Those that are listed as proposed are now final.

I have had projects stalled for as long as two years due to the inability of our clients to come to agreement with local assessors over the amount of real estate taxes that the project could afford because of rent limitations in the marketplace. We have had other clients with five years of real estate tax abatements where the old assessor has retired and now a new assessor computes the tax liability at \$1,500/unit / year, requiring a \$125/month rent increase to be passed on to a 90-year old resident on a fixed income.

Senior congregate / assisted living facilities are economic development for North Dakota communities. In the majority of cases, approximately 60% of the residents entering a new congregate or assisted living facility are selling single-family homes, which are purchased and renovated by young families with an average of two children per family.

If you construct 16 units at 60% = 10 single family homes multiplied by two children means the local school district gains 20 children. The state's contribution per student averages \$220 / child. This translates into an increase of \$44,000 for the local school district. By keeping seniors in their communities, the local banks retain their deposits of their seniors to lend to the young families.

Sixty percent (60%) of all health care costs are spent in the first six months and last six months of life, according to national statistics. By keeping seniors in their communities, their health care dollars go to retaining local doctors, clinics, nursing homes and hospitals for their services, as well as the young, working families. Senior congregate / assisted living facilities are a win/win asset to the nursing homes and communities they serve.

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Ms. Shelly Peterson
January 16, 2001
Page Two

I read in a Kiplinger Letter that 85% of all seniors return to where they lived and worked 10 years prior to their retirement by the age of 72, if appropriate senior housing is available. When I look back over the 50 plus projects that I have done, 25% to 40% of the residents living in senior congregate / assisted living projects are returning from locations more than 200 miles from the subject project.

Senior congregate / assisted living projects are truly economic development for the communities that develop them.

I would be happy to testify or make a presentation to explain the benefits of these facilities to their communities and the State of North Dakota.

If I can be of further assistance, please call.

Sincerely,



Norman E. Triebwasser

NET/jh
Encls.

SUMMARY OF REAL ESTATE TAX AGREEMENT FOR SENIOR CONGREGATE HOUSING PROJECTS

August 28, 2000

| Community | # Of Units | Years 0-5 | Years 6-10 | Years 11-15 | Years 16-20 | Year 20 |
|--|------------|------------------------------------|----------------------------------|--------------------------------|----------------------------------|--------------------------|
| Mayville, ND PILOT | 16 | \$1,000 / Yr. \$62.50 / Unit | \$1,000 / Yr. | \$1,000 / Yr. | \$1,000 / Yr. | |
| Hillsboro, ND PILOT | 14 | \$1,000 / Yr. \$71 / Unit | \$8,800 / Yr. \$629 / Unit | \$8,800 / Yr. \$629 / Unit | \$8,800 / Yr. \$629 / Unit | |
| Trollwood Fargo, ND | 147 | \$85,584 (1999) \$582.20 / Unit | | | | |
| The Heritage Jamestown, ND | 29 | \$ 0 | \$14,065 / Yr. \$485 / Unit | \$16,000 / Yr. \$551 / Unit | \$16,000 / Yr. \$551 / Unit | |
| Valley City, ND PILOT | 24 | \$4600 / Yr. \$191 / Unit | \$10,000 / Yr. \$416 / Unit | \$21,000 / Yr. \$875 / Unit | \$21,000 / Yr. \$875 / Unit | |
| Milnor, ND PILOT | 12 | \$ 0 | \$5,000 / Yr. \$416 / Unit | \$7,500 / Yr. \$625 / Unit | \$10,000 / Yr. \$833 / Unit | \$10,000 \$833 / Unit |
| Finley, ND PILOT | 12 | \$ 0 | \$5,000 / Yr. \$416 / Unit | \$6,000 / Yr. \$500 / Unit | \$8,000 / Yr. \$666 / Unit | |
| New Rockford, ND Proposed Payment | 16 | \$ 0 | \$5,000 / Yr. \$312.50 / Unit | \$6,000 / Yr. \$375 / Unit | \$7,500 / Yr. \$468 / Unit | |
| Cando, ND City gave abatement forever. | 12 | \$ 0 | \$ 0 | \$ 0 | \$ 0 | |
| Lakota, ND PILOT | 16 | \$ 0 | \$5,000 / Yr. \$312.50 / Unit | \$6,000 / Yr. \$375 / Unit | \$7,000 / Yr. \$437.50 / Unit | |
| Halstad, MN Proposed Agreement | 16 | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | |
| Twin Valley, MN Proposed Agreement | 16 | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | \$6,000 / Yr. \$375 / Unit | |
| Perham, MN This project is owned by a Hospital District, which is tax-exempt in MN. | 31 | \$ 0 | \$ 0 | \$ 0 | \$ 0 | |
| Lisbon, ND Proposed Agreement | 16 | \$ 0 | \$6,656 / Yr. \$416 / Unit | \$10,000 / Yr. \$625 / Unit | \$13,328 / Yr. \$833 / Unit | |