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ROLL NUMBER

DESCRIPTION

2362

2005 SENATE FINANCE AND TAXATION

SB 2362

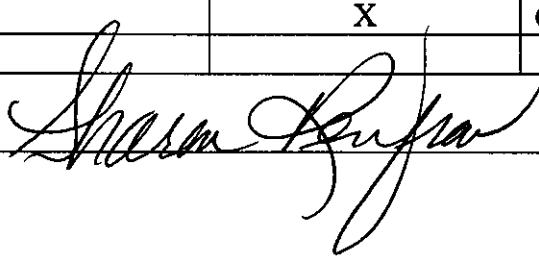
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2362

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
# 1	X		13.0 - 30.4
		X	6.7 - 7.6
Committee Clerk Signature 			

Minutes:

SEN. DEVER: prime sponsor of the bill appeared in support stating this bill was a follow up to SB 2367 in the last session. Sen. Wardner and I went up to visit with John Walstad concerning an issue with active duty military and state income tax and he mentioned that SB 2367 had past last time which provides that military reserves and national guard that are called to active duty do not then have to pay state income tax. The problem with the bill as we saw it is that it excluded unless you volunteer.

SEN. URLACHER; no state income tax forever?

ANSWER: for the time they are on active duty.

SEN. COOK: do you know for sure right now, national guard members who are right now serving in Iraq, who volunteered for active duty, do they qualify for the income tax reduction?

ANSWER: we asked John Walstad and he said, whether its in practice that they pay it or not, its in the law that they are excluded from that.

SEN. URLACHER; is it just those serving in Iraq?

ANSWER: no, the bill is for everybody that is called up to active duty.

SEN. TOLLEFSON: I'd like the definition of volunteer. I think all national guard members are volunteers technically. To differentiate between draft and volunteer. To me at least, all national guard members are technically volunteers, nobody drafts them into that service today.

ANSWER: I can't disagree

JOHN JACOBSEN; Chairman of the Legislative Committee for the ND Veterans Coordinating Council appeared in support with written testimony

SEN. EVERY: do we know exactly how many active duty national guard and reserve volunteers we have today?

ANSWER; doesn't know the numbers, National Guard may know

SEN. WARDNER: why is it that language was put in there that active guard and reserve tours which are the member has volunteered, why that was in there?

ANSWER; no I do not know.

SEN. EVERY: how can we not know, how can we not figure out how many active duty members they have and come up with some kind of number on what this fiscal affect would be.

JOE BECKER; Tax Dept. We did contact the National Guard Office, its difficult for them to pin down volunteers they come and go. We did follow up on it.

SEN. EVERY: its kinda tough to pass a bill if you don't know what the effects are gonna be.

ANSWER; we can tell you that last year, we had 595 who did claim it

SEN. COOK: at some point in time, they are going to sit down and do their taxes, if we pass this bill, what changes would you make in those instructions.

ANSWER: We would remove the language that says that if you volunteer to serve in Federal active duty, you can claim the exclusion as well.

SEN. COOK: so right now you have language in that book that says if you volunteered you do not get to claim this exclusion?

ANSWER; exactly, the instructions reflect what the statute states.

SEN. COOK: a ND resident serving active duty at one of our air force bases, do they pay income tax in the state of ND?

ANSWER; any resident of ND serving in the armed forces is generally subject to State income tax, if they are serving here in state, there are generally no exclusions available, yes they would pay tax.

SEN. COOK: if anyone of these individuals end up in a combat zone, then they get the exclusion, is that correct?

ANSWER: If they are called up for title 10 federal active duty service and sent over seas and they are in a combat zone, for federal income tax purposes, federal income tax law will exclude that pay and therefore ND doesn't have to do anything because its automatic. This is going to go above and beyond in terms of any pay they might receive for their federal active duty outside the combat zone.

SEN. TOLLEFSON: Still think the definition of volunteer is unclear

ANSWER; the distinction in this statute is that yes, national guard you generally volunteer to serve in that capacity, however, your generally your not called up to title 10 or federal active duty service for which you have no choice but to go. The bill says that on line 9 of the bill.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2362

Hearing Date February 7, 2005

SEN. BERCIER; regular army and regular air force would not be entitled if they were state side to this exemption?

ANSWER; correct, this does not apply to regular army, navy, air force, etc. Just national guard and reserve.

Closed the hearing.

SEN. WARDNER: made a **MOTION FOR DO PASS**, seconded by Sen. Tollefson

ROLL CALL VOTE: 6-0-0 Sen. Wardner will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/25/2005

Bill/Resolution No.: SB 2362

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2362 expands the individual income tax deduction for income of national guard and reserve members to those members who volunteer for active service.

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.*

The active duty military pay that would become subject to the deduction due to the broadened definition provided in SB 2362 is not known.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/04/2005

Date: 2-7-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2362

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Wardner Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
February 7, 2005 12:39 p.m.

Module No: SR-24-1971
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2362: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2362 was placed on the Eleventh order on the calendar.

2005 HOUSE FINANCE AND TAXATION

SB 2362

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2362**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 9, 2005**

Tape Number	Side A	Side B	Meter #
1	X		52.3 TO SIDE B
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

SEN. DICK DEVER, DIST. 32, BISMARCK Introduced the bill. This bill involves an income tax exemption for the National Guard members who have been called up to active duty.

In 1971, I volunteered for the draft, I was treated just like everyone else, whether they were drafted or enlisted, except for one thing, I was U.S. Army and they were R A, Regular Army.

The bill spells things out more clearly.

REP. BELTER This is just for combat and hazardous duty zones?

SEN. DEVER Deferred to the colonel.

DAVID THIELE, LT. COLONEL, STAFF JUDGE ADVOCATE FOR THE NORTH

DAKOTA NATIONAL GUARD Testified in support of the bill. What this bill intended to do last session, was create a tax deduction for mobilized soldiers who weren't otherwise entitled to it because they weren't in the theatre of operations. We had units that were mobilized and spent a

year in Kansas at Ft. Riley. The intent of the legislation was to insure that the mobilized soldiers were treated equally as far as income tax deductions for the state. What we have found and what was created through this original bill, was there was potential for some confusion. The language that was deleted in the bill, that says this deduction does not include people who volunteered for an active guard or reserve tool, was intended to mean only those, for example, you can volunteer to do a three year tour, that could be anywhere, those take place routinely, whether we are in a period of conflict or not. The intent was that that deduction shouldn't apply to those particular individuals. See written testimony.

RAY ROTHMAN, PAST AMVETS COMMANDER Testified in support of the bill.

With no further testimony, the committee hearing was closed.

COMMITTEE ACTION Tape #1, Side B, Meter 17.0

REP. DROVDAL Made a motion to adopt the amendments which were presented to the committee. If you volunteer to go on an assignment, you do not get the tax deduction, if you are mobilized, to active duty, you get the tax deduction.

REP. WRANGHAM Second the motion. Motion carried by voice vote.

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House Finance and Taxation Committee
Bill/Resolution Number **SB 2362**
Hearing Date **March 9, 2005**

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

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

10 YES 0 NO 4 ABSENT

REP. OWENS Was given the floor assignment.

Date: 3-9-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2362

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

50814.0101

Action Taken

Do Pass as Amended

Motion Made By

Rep. Drovdal

Seconded By

Rep. Conrad

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	A				
KELSH, SCOT	A				
NICHOLAS, EUGENE	A				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	A				
WRANGHAM, DWIGHT	✓				

Total (Yes)

10

No

0

Absent

4

Floor Assignment

Rep. Owens

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

REPORT OF STANDING COMMITTEE

SB 2362: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2362 was placed on the Sixth order on the calendar.

Page 1, line 9, overstrike "called or ordered to" and insert immediately thereafter "mobilized under"

Page 1, line 22, overstrike "called or ordered to" and insert immediately thereafter "mobilized under"

Renumber accordingly

2005 TESTIMONY

SB 2362

North Dakota Veteran's Coordinating Council

My name is John L. Jacobsen. I am the chairman of the Legislative Committee of the North Dakota Veterans Coordinating Council. I am a member of both the VFW and the American Legion. I am also a member of the VFW National Legislative Committee. We work directly with our Members of Congress on legislation at the national level.

I served 29 years in the ND National Guard and the US Army Reserve, retiring in 1995 with the rank of Colonel. I served on active duty in 1991 in the Persian Gulf stationed in the United Arab Emirates.

The NDVCC membership is comprised of 15 members representing the five (5) veterans' organizations in the state. (3 from each organization) They are:

- American Legion
- AMVETS
- Disabled American Veterans (DAV)
- Veterans of Foreign Wars (VFW)
- Vietnam Veterans of America (VVA)

These organizations represent approximately 60,000 veterans currently living in North Dakota.

I am a member of the Legislative Committee of the NDVCC. I am not a member of the NDVCC but report directly to them. In order for the Legislative Committee to support any bill brought up before our Legislature, concurrence must be unanimous, that is all 15 members must agree that we should support the bill. A single negative response will kill our support.

**Veterans by County
As of 19 January 2005**

Adam	251
Barnes	1,229
Benson	526
Billings	125
Bottineau	750
Bowman	254
Burke	262
Burleigh	6,650
Cass	10,414
Cavalier	474
Dickey	535
Divide	277
Dunn	359
Eddy	273
Emmons	405
Foster	311
Golden Valley	204
Grand Forks	6,423
Grant	279
Griggs	284
Hettinger	331
Kidder	274
LaMoure	430
Logan	203
McHenry	681
McIntosh	300
McKenzie	598
McLean	1,049
Mercer	860
Morton	2,370

Mountrail	693
Nelson	468
Oliver	175
Pembina	950
Pierce	487
Ramsey	1,051
Ransom	672
Renville	330
Richland	1,444
Rolette	959
Sargent	417
Sheridan	192
Sioux	332
Slope	52
Stark	2,079
Steele	242
Stutsman	2,187
Towner	285
Traill	893
Walsh	1,343
Ward	6,154
Wells	512
Williams	2,067

TOTAL 61,365

This total is 2,307 more than in
September 2004

Source:
Department of Veterans Affairs - Bismarck

TESTIMONY OF
LTC DAVID THIELE
STAFF JUDGE ADVOCATE
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE
MARCH 9, 2005
SENATE BILL 2362

Mr. Chairman, Members of the Committee,

Senate Bill 2362 deletes ambiguous language in NDCC 57-38-01.2 and makes it clear that a soldier can volunteer for a mobilization and still be eligible for the tax deduction. The original intent of the deleted language was to eliminate the tax reduction for soldiers and airman who volunteered for duty other than mobilizations such as a three-year AGR tour or a tour at National Guard Bureau. It is clear however that the current language could easily be interpreted to exclude soldiers who, for example, "volunteered" to go with the 141 Engineer Combat Battalion to Iraq.

With the change as proposed we still have a need to close a possible loop-hole in the law. We have prepared an amendment that makes it clear that the deduction is for soldiers and airmen mobilized under title 10 United States Code which is the original intent. By substituting "mobilized under" for "called or ordered to" we ensure that only those soldiers or airmen responding to national crisis receive the deduction. It will be easy to verify eligibility as orders issued for mobilized soldiers reflect that it is a mobilization. Those soldiers who volunteer for an AGR tour or a tour at National Guard Bureau are issued orders that state it is a voluntary tour and does not reference mobilization. Both orders however are issued under title 10 USC.

On behalf of the National Guard we request your favorable consideration of the proposed amendment and SB 2362. Thank you Mr. Chairman and members of the committee. I would be pleased to respond to any questions.