

2011 SENATE FINANCE AND TAXATION

SB 2184

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2184
January 18, 2011
Job Number 12990

Conference Committee

Hange

Explanation or reason for introduction of bill/resolution:

Relating to the feasibility and desirability of extending the sales tax exemption on purchases of tangible property to all charitable nonprofit organizations

Minutes:

Written Testimony Attached

Senator Cook opened the hearing on SB 2184, a bill to provide for a legislative management study relating to the feasibility; and desirability of extending the sales tax exemption on purchases of tangible property to all charitable nonprofit organizations.

Senator Hogue, senator from district 38 introduced the bill saying that the concept behind SB 2184 is that we should take a look at how we tax nonprofits.

Senator Burckhard asked who five of the eight largest nonprofit employers were.

Senator Hogue answer was Sanford in Fargo, Altru in Grand Forks, Trinity in Minot, Medcenter One and St. Alexius in Bismarck.

Senator Oehlke asked if this would also apply to Boy Scouts and Girl Scouts purchasing camping equipment.

Senator Hogue answered yes. This is "a shall" consider study which leaves it to the discretion of legislative management whether we will study this issue.

Dana Schaar, Executive Director, North Dakota Association of Nonprofit Organization testified in support of SB 2184. Written testimony A

Senator Cook asked if they would be alright with the committee putting language in that tried to attempt to set a criteria, at which the state could base or justify a sales tax exemption. Some type of criteria that would measure the benefits that the state received by giving the exemption.

Ms. Schaar said she wouldn't be opposed.

Senator Cook asked if there was any opposing testimony.

No opposing testimony.

Senator Cook closed the hearing on SB 2184.

Senator Oehlke asked the definition of tangible property.

Donita Wald, State Tax Department said that the intent was to have the study on tangible personal property. She doesn't think there is a difference between the two for sales tax purposes.

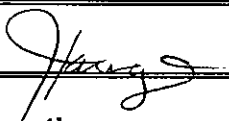
Discussion followed on definitions and examples.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2184
February 7, 2011
14137

Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Vote

Senator Cook opened discussion on SB 2184 to provide for a legislative management study relating to the feasibility and desirability to extending the sales tax exemption on purchases of tangible property to all charitable nonprofit organization. Senator Cook summarized the bill and past discussion and explained the amendments.

Senator Hogue moved to adopt amendment 11.8197.01001.

Seconded by **Senator Miller**.

Verbal vote all yes. **Amendment adopted.**

Senator Triplett moved a Do Pass as Amended.

Senator Dotzenrod seconded the motion.

Roll call vote 7-0-0. **Motion passed.**

Carrier is **Senator Hogue**.

February 7, 2011

JS
2-7-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2184

Page 1, line 3, after "organizations" insert "and comparative analysis of the efficacy of sales tax exemptions or rate reductions"

Page 1, line 9, after the period insert "The legislative management also may undertake a comparative analysis of the efficacy of sales tax exemptions and rate reductions including, for each exemption or reduction, a detailed analysis of the fiscal impact to the state, benefits to the state economy from eliminating or retaining the exemption or rate reduction, relationship of the exemption or rate reduction to tax policies of other states and to federal or state laws or regulations, and who are the beneficiaries of each exemption or rate reduction, specifically including the extent to which the benefits flow to out-of-state concerns."

Renumber accordingly

Date: 2-7-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2184

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 Miller

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: 2-7-11
 Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2184

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 Dotzenrod

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) 7 No 0

Absent 0

Floor Assignment Senator Hogue

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

REPORT OF STANDING COMMITTEE

SB 2184: Finance and Taxation Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Sixth order on the calendar.

Page 1, line 3, after "organizations" insert "and comparative analysis of the efficacy of sales tax exemptions or rate reductions"

Page 1, line 9, after the period insert "The legislative management also may undertake a comparative analysis of the efficacy of sales tax exemptions and rate reductions including, for each exemption or reduction, a detailed analysis of the fiscal impact to the state, benefits to the state economy from eliminating or retaining the exemption or rate reduction, relationship of the exemption or rate reduction to tax policies of other states and to federal or state laws or regulations, and who are the beneficiaries of each exemption or rate reduction, specifically including the extent to which the benefits flow to out-of-state concerns."

Renumber accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2184

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2184
March 9, 2011
#15165

Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill to provide a legislative management study relating to the feasibility and desirability of extending the sales tax exemption on purchases of tangible property to all charitable nonprofit organizations and comparative analysis of the efficacy of sales tax exemptions or rate reductions.

Minutes:

See attached testimony #1.

Senator Hogue: Introduced bill. Support. Senate bill 2184 started out as a discretionary study. It never had more ambition than that. We added another part to this bill to study the efficacy of some of our sales tax exemptions that we provide to various industries. The original part of the bill was to propose a study of why we treat and tax noncorporations differently. Is it because we like some more than others? Is it because some have a more philanthropic intent than others? We thought it would be a good idea to study that. Later on we added the idea that we should study why we provide sales tax exemptions to various entities. We have over 54 exemptions from the general imposition of sales tax. We do it for a variety of different reasons. I know we passed over the House a sales tax exemption for the telecommunications industry. We passed one over for buying new equipment for new surface mines. The argument from a lot of these industries is typically the same. If you give us this exemption will that stimulate economic activity? One of the questions I always wondered about was it that proposition really true? If we reduce or eliminate the sales tax on telecommunications equipment does that really lead to increased investment in telecommunication infrastructure? If we give the coal industry a sales tax exemption for buying new equipment for a new mine will that actually stimulate a decision to open that new mine? Those are the types of issues this bill proposes to study. It's a discretionary study, not a mandatory study and that is the reason we are asking for your support.

Dana Schaar, Executive Director of North Dakota Association of Nonprofit Organizations: Support. Please refer to attached testimony #1.

Chairman Wesley R. Belter: Is there any concern with the nonprofits that anytime we study something that we may see it as an opportunity to tax something?

Dana Schaar: We've had a long discussion with the board members and the policy committee regarding this issue in terms of opening things up for discussion. The decision

of the board is that this is something that they wanted to address because all charitable nonprofits aren't treated equally and we felt that would be the appropriate thing to do.

Representative Steven L. Zaiser: You talked about those that are taxed and those that are not. Could you distinguish between the two?

Dana Schaar: The ones that are currently excluded tend to be education and health related nonprofits so private schools, for example, are exempt when they are buying school related materials. Hospitals and nursing homes are exempt for most of their purchases. I'm not sure why those were chosen specifically but those tend to be the ones that are exempted currently.

Cal Rolfson, Anne Carlsen Center in Jamestown: Support. The Anne Carlsen Center cares for the most highly medically fragile and behaviorally challenged children in the state. They are one of those ICF-MRs or intermediate care facilities for the mentally retarded. We do not hear the idea that something may happen if the truth is found or that fair and equitable truth is discovered so we support this bill in its current form and we hope you pass it.

Chairman Wesley R. Belter: No further testimony. Closed hearing on SB 2184.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2184
March 14, 2011
#15404

Conference Committee

Committee Clerk Signature *Mary Bruckler*

Explanation or reason for introduction of bill/resolution:

A bill to provide a legislative management study relating to the feasibility and desirability of extending the sales tax exemption on purchases of tangible property to all charitable nonprofit organizations and comparative analysis of the efficacy of sales tax exemptions or rate reductions.

Minutes:

No attachments.

Representative Glen Froseth: Haven't we done this study before?

Chairman Wesley R. Belter: Many times.

Representative Glen Froseth: I move a DO NOT PASS.

Representative Roscoe Streyle: Seconded.

A roll call vote was taken: YES 12 NO 2 ABSENT 0
MOTION CARRIED FOR DO NOT PASS.

Representative Glen Froseth will carry SB 2184.

Date: 3-14-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2184

House 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 Rep. Froseth Seconded By Rep. Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

SB 2184, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2184 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2184

A

**Testimony of Dana Schaar, NDANO Executive Director
Senate Finance and Taxation Committee in Support of SB 2184
Tuesday, January 18, 2011**

Chairman Cook and Members of the Committee, my name is Dana Schaar, and I am the executive director of the North Dakota Association of Nonprofit Organizations (NDANO). We are here in support of SB 2184.

NDANO represents more than 160 nonprofit members throughout North Dakota with diverse mission areas – from human services and the environment to education and the arts. Charitable nonprofits, working in every North Dakota county, provide public benefits that strengthen our communities, both rural and largely populated, across our state. North Dakota's nonprofits range from emergency shelters to boys and girls clubs, from museums to community health centers, from daycares to organizations working with the elderly, veterans, and disabled persons.

Current North Dakota sales and use tax law does not exempt purchases made by charitable nonprofits. Instead, the law details specific organizations which are exempt. Exempt organizations that are often nonprofit include:

- Private and parochial schools.
- Hospitals, skilled nursing facilities, intermediate care facilities, basic care facilities, and emergency medical services providers licensed by the North Dakota Department of Health.
- "Voluntary health associations" recognized as nonprofits by the Internal Revenue Service, the National Health Council, the State Tax Commissioner, and the North Dakota Secretary of State.
- Assisted living facilities licensed by the North Dakota Department of Human Services.

This bill simply asks Legislative Management to consider studying the extension of the sales tax exemption on purchases of tangible property to all charitable nonprofits. NDANO asks for your support of this study for several reasons.

First, there is confusion about existing state law. For example, some businesses believe all nonprofits are exempt from paying sales tax. NDANO often receives invoices that do not

include sales tax, so we have to contact the business to let them know we do pay sales tax. We have heard similar stories from our members.

Second, it would allow legislators to consider the issue of fair and equitable treatment of all charitable nonprofits under state law. Charitable nonprofits not currently exempt are primarily small and medium-sized community-based nonprofits, such as homeless shelters, museums, and youth groups.

Finally, the study would provide the opportunity to consider the multiple benefits of exempting all charitable nonprofits from payment of sales tax. As an example, extending the exemption would allow more money to be directed to programming or services that directly serve children and youth, victims of domestic violence, and those with physical limitations or mental health issues, among others. Charitable nonprofits would be able to use their funding to benefit the public and serve North Dakota communities instead of paying sales tax.

NDANO urges a DO PASS on SB 2184. This study would allow legislators to consider the issue of exemption from sales taxation of public-serving nonprofits, which is an issue of fair and equitable treatment, as well as good economic and social policy. Thank you.

*Testimony
#1
P. 1*

**Testimony of Dana Schaar, NDANO Executive Director
House Finance and Taxation Committee in Support of SB 2184
Wednesday, March 9, 2011**

Chairman Belter and Members of the Committee, my name is Dana Schaar, and I am the executive director of the North Dakota Association of Nonprofit Organizations (NDANO). We are here in support of SB 2184.

NDANO represents more than 160 nonprofit members throughout North Dakota with diverse mission areas – from human services and the environment to education and the arts. Charitable nonprofits, working in every North Dakota county, provide public benefits that strengthen our communities, both rural and largely populated, across our state. North Dakota's nonprofits range from emergency shelters to boys and girls clubs, from museums to community health centers, from daycares to organizations working with the elderly, veterans, and disabled persons.

Current North Dakota sales and use tax law does not exempt purchases made by charitable nonprofits. Instead, the law details specific organizations which are exempt. Exempt organizations that are often nonprofit include:

- Private and parochial schools.
- Hospitals, skilled nursing facilities, intermediate care facilities, basic care facilities, and emergency medical services providers licensed by the North Dakota Department of Health.
- "Voluntary health associations" recognized as nonprofits by the Internal Revenue Service, the National Health Council, the State Tax Commissioner, and the North Dakota Secretary of State.
- Assisted living facilities licensed by the North Dakota Department of Human Services.

This bill simply asks Legislative Management to consider studying the extension of the sales tax exemption on purchases of tangible property to all charitable nonprofits, and as amended by the Senate, conducting an analysis of all current exemptions. NDANO asks for your support of this study for several reasons.

First, there is confusion about existing state law. For example, some businesses believe all nonprofits are exempt from paying sales tax. NDANO often receives invoices that do not

#1 p. 2

include sales tax, so we have to contact the business to let them know we do pay sales tax. We have heard similar stories from our members.

Second, it would allow legislators to consider the issue of fair and equitable treatment of all charitable nonprofits under state law. Charitable nonprofits not currently exempt are primarily small and medium-sized community-based nonprofits, such as homeless shelters, museums, and youth groups.

Finally, the study would provide the opportunity to consider the multiple benefits of exempting all charitable nonprofits from payment of sales tax. As an example, extending the exemption would allow more money to be directed to programming or services that directly serve children and youth, victims of domestic violence, and those with physical limitations or mental health issues, among others. Charitable nonprofits would be able to use their funding to benefit the public and serve North Dakota communities instead of paying sales tax.

NDANO urges a DO PASS recommendation on SB 2184. This study would allow legislators to consider the issue of exemption from sales taxation of public-serving nonprofits, which is an issue of fair and equitable treatment, as well as good economic and social policy. Thank you.