

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2051

2001 SENATE FINANCE AND TAXATION

SB 2051

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2051

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 1/17/01

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | | x | 6.8 |
| 2 | x | | 35.1-38.5 |
| Committee Clerk Signature <i>Lynelle N. Kraft</i> | | | |

Minutes:

Senator Urlacher: Opened the hearing on SB 2051, relating to evidence of sales or use tax payment or exemption for motorboat licensing.

Senator Wardner: Introduced the bill, testified in support. Feels it is a fairness bill. This bill says that when you apply for your license, you will have to show proof to the Game & Fish Dept. That you have paid sales tax on it. The problem comes when there is a private sale between two individuals.

Senator Kroeplin: Is it your intention that they pay sales tax one time?

Senator Wardner: That is correct.

Senator Stenchiem: Are you aware of how we handle it with automobiles?

Senator Wardner: I have a general idea. The difference between boats and automobiles is titling.

We don't title boats.

Senator Stenejem: If I sold the boat or gave it to my son and he went to license it, would he have to pay the sales tax again?

Senator Wardner: No.

Senator Christmann: Would the Game & Fish Dept. collect the sales tax money and send it to the tax dept.?

Senator Wardner: They would have to go to the tax dept. to take care of it.

Representative Droydal: Co-sponsored, testified in favor of the bill. This bill closes the loophole in the current legislation.

Randy Yon: Dakota Sports in Dickinson, testified in support of the bill. Our problem is with MT. They can come in and buy a boat without paying sales tax. The issue with jet ski's is the same thing, they take snowmobiles and ATV's, that's a titled vehicle. It's frustrating to lose sales because of sales tax.

Senator Christmann: Are there any other kinds of vehicles that are non-titled that we should be correcting at the same time?

Randy Yon: ATV's can be titled but it doesn't have to be. It's not too bad.

John Valley: GM and President of Valley Marine Centers, testified in support. If this bill goes through in the form that it's in, I think maybe some of the language is a little vague. Rather than Maybe it should explain what falls under motorboats. License is too easy to get.

Senator Nichols: If there's MT customers that want to buy a boat from you, you can wave the tax for them?

John Valley: Yes. That's part of the reciprocity.

Senator Krocplin: In the reciprocity agreement, there's no teeth in it that that dealer in MT has to collect the ND sales tax?

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Senate Finance and Taxation Committee

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John Vallely: None, whatsoever.

Senator Kroeplin: On farm machinery, when you buy it out of state, don't those dealers collect sales tax?

Gary Anderson: Office of Tax Commissioner, the situation for out of state seller, the determination of whether they have to charge ND tax is based on if they have a presence in the state.

Senator Stenehjem and John Vallely continue conversation through meter number 37.2

Paul Shadewald: ND Game & Fish Dept. testified in support of the bill. Explains his position through meter number 40.1.

Senator Stenehjem: Can I pay the tax at the Game & Fish?

Paul Shadewald: We do not collect any taxes for any other agencies.

Senator Stenehjem: In that case, would you require me to show you a certificate that I've paid the taxes to the tax dept. before you'd issue me the license.

Paul Shadewald: Currently we would not.

Senator Urlacher: If a dealer sold a boat, the purchaser could call in and get a temporary sticker?

Paul Shadewald: That's correct.

Senator Stenehjem: Would it be burdensome to collect the sales tax at the point of registration?

Paul Shadewald: I don't know that it would be burdensome, but we'd rather not.

Gary Anderson: Tax Dept., explains how they would collect the tax. This bill would primarily affect purchases outside of ND. Through meter number 49.1.

Senator Stenehjem: Is there a problem with the Game & Fish Dept. collecting the taxes?

Gary Anderson: I wouldn't say there would be a problem but enforcement might be an issue.

Senator Stenehjem: Couldn't the tax dept. Still enforce?

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Senate Finance and Taxation Committee

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Hearing Date 1/17/01

Gary Anderson: Yes it could.

John Vallely: Gets back up to explain a few things through meter number 54.

Paul Shadewald: We could collect the tax, and if something gets complicated we would refer them to the tax dept.

Randy Yon: What we would really like to have is titling. We wouldn't even have this problem.

Senator Urlacher: Closed the hearing on SB 2051. Action delayed.

Discussion held later. Meter number 35.1-38.5.

COMMITTEE ACTION:

Motion made by Senator Kroeplin for a DO PASS, Seconded by Senator Christmann.

Vote was 6 yeas, 0 nays, 0 absent or not voting. Bill carrier was Senator Wardner.

FISCAL NOTE
 Requested by Legislative Council
 12/14/2000

Bill/Resolution No.: SB 2051

Amendment to:

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.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | \$276,000 | \$24,000 | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

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

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 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 2051 requires that, at the time of licensing, sales and use taxes must be paid on boats purchased out-of-state.

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 fiscal impact of SB 2051 is estimated to be \$300,000 for the 01-03 biennium.

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: | Tax Department |
| Phone Number: | 328-3402 | Date Prepared: | 01/16/2001 |

Date: 1/17/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2051

Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Kroeplin Seconded By Christmann

| 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) 10 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
January 17, 2001 4:09 p.m.

Module No: SR-07-1166
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2051: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2051 was placed on the Eleventh order on the calendar.

2001 HOUSE NATURAL RESOURCES

SB 2051

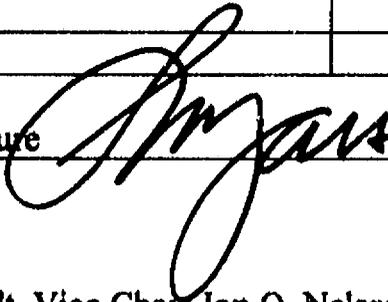
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2051

House Natural Resources Committee

Conference Committee

Hearing Date February 9, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-------------|
| 1 | x | | 2946 to end |
| 1 | | x | 1 to 408 |
| 1 | | x | 2583 to |
| Committee Clerk Signature  | | | |

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Drovdal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: Okay, I will open the hearing on SB 2051.

Sen. Rich Wardner - Dist. 37: The bill is bring before you has to do with fairness. I has to do with buying motor boats, or water craft. If the sale is made in North Dakota the dealer collects the tax on it. If it is purchased out side of the state, and the tax in that state is equal to or more than the state of North Dakota, there is no tax to be paid. In the western part of the State, we happen to border the state of Montana which does not have a sales tax. South Dakota which has lower sales tax and we have water craft coming into our areas that the taxes aren't paid on them and it makes for unfair competition for our local businessmen. This bill is here to correct that

problem. Here is the way we propose to do that. First of all upon acquisition or bring a boat to the state you shall provide proof of exemption for sales and use tax and we will do it when we license it with the ND Game and Fish Department. At the current time, you can go in buy a boat in Montana, license it here and no one will check on you. In this bill you have to show proof of purchase that you paid your sales tax. So if you bought the boat in Montana and came into North Dakota and paid your sales tax, you would have a slip, get your boat licensed, show it to them and that's it. What we are doing is having the Game and Fish Department ask for some kind of record showing that you paid your sales tax before they will give you the license. It's completely that simple, if you buy a boat with a casual sale, between two private parties, there is no sales tax to be paid. It does establish in here on line 13, acquired through a casual sale, the applicant shall present a receipt for a casual sale, if you didn't bring that, all I would have to do is write down the seller's name and phone number to provide proof I did buy that boat from a private party. This bill is a fairness bill for our instate business people. The Game and Fish Department and the Tax Department said they would work together on this, it is a positive to the general fund. I hope you will Do Pass.

Rep. DeKrey: I am assuming you are including auction sales. Would that be considered a casual sale?

Rep. Wardner: Yes, that is a casual sale.

Rep. DeKrey: Do boats have a title like a car?

Rep. Wardner: No, they don't. We've looked at that, we decided to take care of it here first and we've done a lot of talking about it and we say "Why". These boats cost a lot of money and if somebody steals one, they can not be tracked. We are thinking about something in the next session.

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House Natural Resources Committee

Bill/Resolution Number SB 2051

Hearing Date February 9, 2001

Rep. Hanson: Does this include personal water craft?

Rep. Wardner: Yes, it does.

Rep. Hanson: How about if you bought the boat in South Dakota, paid their sales tax, do you pay the difference?

Rep. Wardner: That is my understanding. I believe it works that way. You would remit the difference to the state of North Dakota.

Rep. Galvin: Rep. DeKrey mentioned auction sales. I think consignment auction sales pay sales tax.

Rep. Wardner: I would like to refer that question to the tax department.

Rep. Weiler: If I go buy a boat in Minneapolis, and their sales tax is 8 or 9 %. I bring that boat back to North Dakota, I paid that 8% tax. There would be no additional tax?

Rep. Wardner: That would be my understanding, you would just need proof you paid that tax in Minnesota.

Rep. Droydal: As the Senator has done excellent testimony, this bill does not change current law. It just tries to enforce the law that is currently in place. How many people in a year come in and file the form that they have purchased taxable items and brought them into the state and paid the North Dakota state tax on them. Rich Claybrough's answer was five and three of those forms were his. They checked the forms on used vehicles purchased from somebody else and they apply for a license, they did spot checking on how many of those vehicles had the right figures and it was only 50% that were correct. It was not an official study. What this does is to help people pay what they legally owe. No body pays twice. They do not pay the city sales tax. I hope this bill does the job, I have a concern about theft of motor crafts, because they are not titled.

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House Natural Resources Committee

Bill/Resolution Number SB 2051

Hearing Date February 9, 2001

That is an issue for next session. I think we need to try this and see how it works. It is to level the playing field, it is not complicated. I hope you give this favorable consideration.

Vice Chair Nelson: Are you aware in Montana, do they require a title?

Rep. Droydal: I am not aware of that.

Rep. Nottestad: I commend the sponsors for what they have done in this bill, but I fault you for not going the rest of the way. By going with titles, turning this over to Motor Vehicles you solve all the problems. That way they can go to Minnesota, buy a boat, pay no sales tax and bring it to North Dakota and title it. Then North Dakota gets the total sales tax. My point is to do this this year and do that next year, that is incomplete.

Rep. Droydal: I do certainly appreciate and agree with your comments, but I feel this is the way to go this particular session.

Rep. Hanson: If you live in Watford City, buy a boat in Sidney and license it in Sidney, you use it in both states, do you have to pay the sales tax then, since we have the reciprocal on boat licensing.

Rep. Droydal: If you are a resident of North Dakota and you bring products over here to use you are responsible to pay sales tax. If you buy a boat in Sidney and license it in Sidney to use in Montana and you are a resident of North Dakota you are required to have a North Dakota license also. You can use your boat in Montana if you are licensed in North Dakota.

Chairman Rennerfeldt: Could we get the tax department up here to answer all the questions?

Gary Anderson - ND Tax Department: The question of licensing. Minnesota, South Dakota and Montana all have different tax rates, what generally happens if you purchase in another state if we were to apply a license fee like on motor vehicles what would happen is if an individual bought a boat in Minnesota and picked it up in Minnesota from the dealer, Minnesota tax law

would require that 6 and 1/2% be applied to that sale. When that boat is brought back here if we had a licensing fee like motor vehicles, the motor vehicle excise tax law does a reciprocity or credit section. It indicates if you pay the sales, or use tax in another state you will get credit for it. If that boat is picked up in Minnesota and you pay tax in Minnesota we would recognize credit for it at the time of licensing. Obviously if they have not paid sales tax in another state, they would have that requirement to register upfront. Most states that apply a sales tax, all of those states have a reciprocity clause built into the law that states if you pay sales tax in another state legally, then our state will recognize that tax. On the auction sale business, this bill looks at the purchases coming in from out of the state. As it applies currently in state, state law currently requires any vendor to charge sales tax. When you are talking about auction sales, we apply the same application on boats as we would out of state sale. If it is a casual auction, the sale of that boat is not taxable. In a consignment situation you may not know the principles of that auction, if they are not disclosed in that auction, the sales are taxable.

Rep. DeKrey: If you buy a boat at an auction sale in North Dakota, that would not be taxable.

Anderson: That is correct. If you are buying it from a farm auction.. Anything would be exempt from tax.

Rep. DeKrey: What's to stop a guy from buying a boat in Minnesota, bringing it to North Dakota and saying I bought this at an auction?

Anderson: This bill requires some sort of documentation provided. If they bought it at auction we would want to have a sale bill, flyer or an address. We work very well with the other states and their taxing authority, if we had a question we would contact them. In some cases the individuals know where they bought that boat. I am envisioning some spot checks along the way. Right now, we don't have any documentation, this would at least provide some to follow up on.

Rep. Droydal: If we require titling of boats we also would avoid the casual sale exemption too, would we not?

Anderson: If we are licensing boats similar to motor vehicles that would be true. You would no longer recognize a casual sale.

Rep. Nottestad: If they were handled as a motor vehicle, would that sales tax be paid in Minnesota or would it be deferred until they get to North Dakota?

Anderson: It is going to depend on where the customer picks up or titles that boat. If he picks it up at the sellers location in Minnesota he is first obligated to Minnesota's tax.

Rep. Nottestad: So that is why all vehicles picked up in Minnesota are listed on the receipt "delivered to North Dakota"?

Anderson: One of the problems we have with a boat versus a motor vehicle. Generally in most states when it comes to a motor vehicle many states treat it like North Dakota, where you are given thirty days to make a decision where you are going to title that car. So if I buy a car in North Dakota I don't have to pay tax right away. The law gives me thirty days to make that decision. Most states give you an opportunity to decide where you are going to use it and title it. They might not identify a boat as a motor vehicle so they may require the tax immediately. You have to look at other states first.

Rep. Nottestad: The reason I question this is I have bought motor vehicles in Minnesota and we have always up front paid the taxes in North Dakota.

Anderson: A good example is snow mobiles. North Dakota does identify a snow mobile as a motor vehicle. Minnesota does not, so if you buy it in Minnesota and pick it up there, you still have to pay their sales tax. If you buy that same snow mobile in North Dakota and you want to use it in Minnesota, our law says you have thirty days to decide where you are going to use it.

We kinda let it go and Minnesota doesn't. So you have to be careful when you go beyond the motor vehicle itself. What we define as a motor vehicle is not always standard around the county. That creates the problem we are talking about.

Chairman Rennerfeldt: Any tax questions from the committee? Anyone care to testify in favor of this bill?

Randy Yon - Dakota Sports in Dickinson: I support this bill. Our problem is the Montana sales. It is hard to lose a sale to sales tax. It is frustrating for us. We would like to see them titled. If a dealer from Minnesota delivers it to North Dakota, does he have to charge him sales tax in Minnesota?

Anderson: When a boat is delivered by an out of state retailer to North Dakota with their employees or with their truck they have an obligation to have a permit and collect North Dakota tax. If they contract with someone and drop it off somewhere, in that situation we don't have any authority to collect that tax. That what often happens, technically if they use their own trucks they should be paying tax. Those are the people we try to track down.

Rep. Weiler: So Randy you end up doing is selling the boat for the price less the tax.

Yon: If I have to compete I have to cut my margin. I have people tell me they bought in Montana to save that sales tax.

Rep. Weiler: So the only way to get the sale is knock the price down.

Chairman Rennerfeldt: How much do you think your sales would increase if we did this? ow much are you losing?

Yon: Me personally, 5 or 6 sales a year, 8 to 10 thousand dollars. The dealers in Montana even tell the customers they save that much money, they advertise that.

Rep. Droydal: Are you required to charge the city sales tax?

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House Natural Resources Committee
Bill/Resolution Number SB 2051
Hearing Date February 9, 2001

Yon: Yes, we do, the maximum is \$25.

Chairman Rennerfeldt: Any other questions from the committee? Anyone else wishing to testify in favor of SB 2051?

Paul Schadewald - ND Game and Fish Department: We are in support of this concept. I think we can easily check boats as they are registered. We will work with the Tax Department and I don't think it will be a major problem. We have looked at titling, it is an interesting can of worms. People don't like additional taxes.

Rep. Droydal: Can you clarify which boats are required to have licenses?

Schadewald: The current definition is motor boats. So boats without motors are not required to be registered.

Rep. Droydal: The size of the motor doesn't make any difference?

Schadewald: No, no difference.

Chairman Rennerfeldt: Any other questions from the committee? Anyone else like to testify in favor, any opposition to SB 2051? If not, I will close the hearing.

COMMITTEE WORK

Chairman Rennerfeldt: How about SB 2051? No amendments?

Rep. Nottestad: I move a Do Pass.

Rep. DeKrey: I second.

Chairman Rennerfeldt: Any further discussion on SB 2051? (explains to Rep. Keiser the content of the bill).

Rep. Droydal: It doesn't change the existing responsibility of the tax payer. It just makes them accountable for the tax they owe.

Rep. Hanson: Are we sending these for floor action. Or are we just going to sit on them?

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House Natural Resources Committee

Bill/Resolution Number SB 2051

Hearing Date February 9, 2001

Chairman Rennerfeldt: (There is some discussion on protocol) Okay, we have a Do Pass on SB

2051. Any further discussion on it? If not call the roll.

MOTION FOR A DO PASS

YES, 15 NO, 0

CARRIED BY REP. WINRICH

Date: 02/09/01
 Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2051 SB

House Natural Resources Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken: DO PASS

Motion Made By Rep. Nottestad Seconded By Rep. DeKrey

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------------|-----|----|-------------------|-----|----|
| Earl Rennerfeldt - Chairman | ✓ | | Lyle Hanson | ✓ | |
| Jon O. Nelson - Vice Chairman | ✓ | | Scot Kelsh | ✓ | |
| Curtis E. Brekke | ✓ | | Lonnie B. Winrich | ✓ | |
| Duane DeKrey | ✓ | | Dorvan Solberg | ✓ | |
| David Drovdal | ✓ | | | | |
| Pat Galvin | ✓ | | | | |
| George Keiser | ✓ | | | | |
| Frank Klein | ✓ | | | | |
| Darrell D. Nottestad | ✓ | | | | |
| Todd Porter | ✓ | | | | |
| Dave Weiler | ✓ | | | | |
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| | | | | | |

Total (Yes) 15 No 0

Absent _____

Floor Assignment Rep. Winrich

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

REPORT OF STANDING COMMITTEE (410)
February 9, 2001 4:07 p.m.

Module No: HR-24-2858
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

**SB 2051: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends DO
PASS (15 YEAS, 0 NAYS, ABSENT AND NOT VOTING). SB 2051 was placed on the
Fourteenth order on the calendar.**