

2011 SENATE FINANCE AND TAXATION

SB 2360

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2360
1/31/2011
Job Number 13660

Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to motor vehicle excise tax for school bus leases

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on SB 2360.

Senator Robinson – SB 2360 is before you, I'm speaking on behalf of the bill. You will see the prime sponsor is Senator Taylor. A friend and neighbor of mine who works with Dietrich Bus Services is with us today and will explain the bill in detail. Mr. Enger contacted me a number of days ago about the time of bill introduction deadline and asked that we bring this issue to the attention of the legislature, which we have done so. Given the fact that I had already met me limit on bill introduction, I approached the Minority Leader who introduced the bill on my behalf. The bill attempts to address an issue and again, I'm not the expert in this area, but I'll explain it briefly. Mr. Enger works with Dietrich Bus Service in Valley City. When they have a need to go out and lease a bus, under current law if they do so, even though they would like to lease the vehicle for a year, they are required to pay the full sales tax on that vehicle upfront. Because of that requirement, it really becomes a business situation that doesn't work. So they are not doing that. This bill would allow them to lease that bus for a year, and pay the sales tax for that bit of time. By doing so they can be competitive when they work with their customers, public school districts across the state of North Dakota. That's what the bill does, I have not seen the fiscal note, but it's a bill that would help them and also help our public schools.

Senator Burckhard – What do you mean by sales tax for that bit of time?

Senator Robinson – The excise tax that we pay on vehicles.

Don Enger, Dietrich Bus Services – We are a school bus contractor. We contract with the Valley City School District. That means we own the buses, we hire the drivers, we pay the fuel, we pay the insurance, we pay the maintenance, everything. A big part of that is the equipment. The cost of equipment continues to rise considerably. There are at times, that it would fit in our company, that we could do some short-term leases. Like Senator Robinson said, we do not do a year or 2 year leases because of this excise tax that needs to be paid up front. If we take an average cost of a good used bus, maybe \$50,000, new ones are

running close to \$100,000. If you take an average cost of \$50,000 for a bus, if I want to put a couple of them in my fleet for a couple of years, that's \$5,000 in tax. I don't do it, can't do it, because I can't recoup that from the school district in that short of time. And that in a nut shell is what I'm looking for.

Tom Balzer, Executive Vice President, North Dakota Motor Carriers Association –
(see attached testimony A in support of SB 2360)

Chairman Cook asked for testimony opposed to SB 2360.

Chairman Cook asked for neutral testimony for SB 2360.

Myles Vosberg, Tax Department – The comments we had, I think Mr. Balzer took care of them. When we first read this bill we weren't exactly sure what they were trying to accomplish. Based on some discussion that we've had, we understand what the situation is. The way this bill has been written to include school buses and those vehicles that qualify to pay tax on the lease payments rather than on the cost of the vehicle. It works, except, I was thinking that maybe we need to define what a school bus is and maybe that it is used primarily or totally or to certain extent for that purpose so that a school bus, what qualifies as a school bus doesn't get used for some other purposes. Otherwise I think the bill works the way it is. Schools that own or lease school buses are already exempt. This is not an exemption, it's just a matter of how you calculate the tax. That would be my concern, maybe tighten up a little bit what a school bus is and how it's used.

Chairman Cook – Schools, when they buy a bus, whether they are using that bus on a school route to pick up kids in the morning or whether they are taking athletic teams, they are always tax exempt.

Myles Vosberg, Tax Department – That is correct, whether it's a lease or a purchase they are exempt.

Chairman Cook – If a private company like Dietrich was to lease a school bus for 1 year, they pay the full sales tax right now on that lease. Do they get any of that back after a year? Is there a refund?

Myles Vosberg, Tax Department – Under the current law, no. There are really 2 requirements to meet the collection of tax on the lease consideration rather than the purchase price. Number one, it has to be leased for a year or more, and number two, it has to be a vehicle of 10,000lbs or less so school buses in general are going to fall out just because of the size of the vehicle.

Senator Triplett – You mentioned that you think this bill needs to be tightened up by defining the term school bus, but Mr. Balzer points out to us that school bus is already defined in a different part of statute. Do you think we need to define it in this section? Is that what you are saying?

Myles Vosberg, Tax Department – Maybe what we need to do, and I haven't looked at the definition that Mr. Balzer referred to, maybe we need to add that, a school bus as defined in, and maybe that would cover it. But somehow there needs to be a tie to what a school bus is.

Senator Dotzenrod – I want to make sure I understand the difference between subsection 1 and subsection 2. In subsection 1 we changed and added this term school bus regardless of weight, but in subsection 2 we left that alone. It looks like the difference that we didn't put that in subsection 2 is because this subsection 2 deals with school buses that may have been originally leased outside the state and then came into the state after they have been used. Is that why we are not adding this school bus language to subsection 2?

Myles Vosberg, Tax Department – You are correct. That does deal with vehicles that are transferred into the state.

Senator Dotzenrod – If a bus were transferred into the state, why would we not want to also have that school bus be prorated over the term of the lease? Rather than how it's done in subsection 1.

Myles Vosberg, Tax Department – That might be a good idea to do that although because this originally applied pretty much to personal vehicles because we are talking a vehicle of a pickup or car, 10,000lbs or less, I don't know how many times a school bus would move in from another state, and still be owned by the same entity. I suppose it's possible.

Senator Dotzenrod – It's probably true that subsection 2 would very rarely if ever happen.

Myles Vosberg, Tax Department – I would say that would be true.

No further action was taken.

Chairman Cook closed the hearing on SB 2360.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2360
February 8, 2011
14186

Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Committee Work/Vote

Senator Oehlke moved a Do Not Pass.

Senator Miller seconded the motion.

Senator Cook opened discussion on SB 2360 relating to motor vehicle excise tax for a school bus lease. He said that they had a motion for a Do Not Pass.

Senator Triplett said that Myles Vosberg, State Tax Department suggested an amendment to reference a school bus definition in this section.

Senator Hogue made reference to Tom Balzer's written testimony with a definition found in chapter 39-01.

Amendment 11.0785.01001 was presented to the committee.

Senator Triplett move to adopt the amendment.

Senator Oehlke seconded the motion.

Verbal vote: 7-0-0. **Amendment adopted.**

Senator Cook said that we have before us SB 2360 with a Do Not Pass as amended.

Senator Dotzenrod stated that the testimony they received in the hearing made a good case and there was no opposing testimony. What is it about this bill that isn't good?

Senator Oehlke said that there are other bus companies in the state besides the one testifying and he thought it was odd they hadn't testified. He contacted one and they said that schools don't pay excise tax on buses.

Discussion followed on contract leasing, leasing, and owning buses.

Senator Cook called for the vote for a Do Not Pass on SB 2360 as amended.

Roll call vote: 5-2-0. **Motion failed.**

Senator Oehlke will be the carrier.

FISCAL NOTE
 Requested by Legislative Council
 01/26/2011

Bill/Resolution No.: SB 2360

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill should have no material fiscal impact.

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.*

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.*

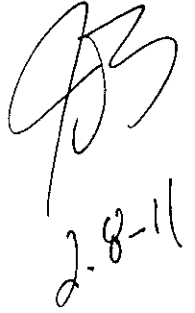
C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/28/2011

11.0785.01001
Title.02000

Adopted by the Finance and Taxation
Committee

February 8, 2011



Handwritten signature and date: 2-8-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 10, after "schoolbus" insert ", as defined in chapter 39-01."

Renumber accordingly

Date: 2-8-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

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 Oehlke Seconded By Senator Miller

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) 5 No 2

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2360: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 10, after "schoolbus" insert ". as defined in chapter 39-01."

Renumber accordingly

2011 TESTIMONY

SB 2360

**TESTIMONY
SENATE BILL 2360
FINANCE & TAXATION COMMITTEE
JANUARY 31, 2011**

Mr. Chairman and members of the House Transportation committee my name is Tom Balzer, executive vice president of the North Dakota Motor Carriers Association. I am here this morning to testify in support of Senate Bill 2360.

Under current law any vehicle with a weight of over 10,000 pounds (actual weight) has to pay excise tax on the full value of the vehicle, not just the term of the lease. This bill would allow for school buses used in a commercial venture on a lease basis to pay excise tax just on the value of the lease.

The term school bus is defined in code and limited the transportation preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events.

Subsection 70 of NDCC § 39-01-01 states that a "Schoolbus means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier."

We ask that you give HB 1191 favorable consideration and a DO PASS recommendation. I would be happy to answer any questions.