

2019 SENATE FINANCE AND TAXATION

SB 2191

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2191
1/15/2019
Job # 30789

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-39.2-02.2 and 57-40.2-02.3 of the North Dakota Century Code, relating to the application of sales and use tax to certain sellers located outside this state; and to provide an effective date.

Minutes:

Attachments: 0

Vice Chairman Kannianen took over the hearing for SB 2191.

Chairman Kannianen: We will call the hearing to order on SB 2191.

Senator Cook: Introduced SB 2191. Last session as you recall, we passed the legislation that created what you see in front of you. This was our bill that told remote sellers, they had to start collecting and remitting sales tax on sales made into ND. The Supreme Court gave us collection authority this past summer. We were the only state in the nation that acquired collection authority the very next day. The Court acted on a Thursday, the following Monday it was in the Attorney General's office and he placed an order with Wayfare and Wayfare was collecting our sales tax the following Monday. We are making one change with this bill. The threshold when introduced was \$100,000 for 200 invoices. What we are doing is removing the 200 invoices. 200 is not going to get close to the 100,000 threshold. It becomes a burden on them to have to remit their sales tax and it becomes a burden on the tax department to have to process a bunch of small sales tax reports. With that I will stand for questions.

(2:25) Dee Wald: Testified neutrally on the bill. We have 2,424 registered remote sellers. As far as revenue collected, we haven't received the fourth quarter returns. Those are due at the end of Jan. We do have the 2.4 million we have already collected 1.4 million of that is from the 20 largest. That is about 71% of the total amount collected. We have not had issues with people registering. We were up and running very soon after the decision came out. Now I will stand for any questions.

Senator Dotzenrod: Was the 71% the share collected by the largest retailer? How many is that out of the 2,424? Did I misunderstand?

Dee Wald: For the total of registered remote sellers, there is 2,424. We have collected 2.4 million of which 1.4 million was from the 20 largest. Those 20 largest account for 70% of the total collections.

Senator Cook: The 20 largest, were they collecting the remitting sales tax in ND prior to Wayfare?

Dee Wald: One was for sure. We have to remember that some of these were collecting only on their own sales. We do not know those collecting on a platform.

Senator Dotzenrod: The period of time covered by the 2.4, when did that start and what period of time does it cover?

Dee Wald: We started having registrations within the next week. Because the Supreme Court discussed the burden of the people to get registered right away, we established a deadline on October 1. This bill now puts that into law. We received a lot after October. There is still some trickling in. We are allowing them a little bit of a break.

Chairman Kannianen: We will close the hearing on SB 2191.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2191
1/16/2019
Job # 30864

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-39.2-02.2 and 57-40.2-02.3 of the North Dakota Century Code, relating to the application of sales and use tax to certain sellers located outside this state; and to provide an effective date.

Minutes:

Attachments: 0

(9:33) Committee discussion begins at this time. First part of the recording is SB 2193.

Chairman Cook: Called for discussion on SB 2191. This is a pretty simple bill that eliminates 200 invoices. There is one other think that it makes clear in law that I failed to mention the yesterday. That is, that it sets the time frame for when a remote seller that reaches this threshold is required to start remitting tax. It is either 60 days after that point is reached or at the beginning of the following calendar year. That is the current policy in the tax dept. All this does is put it in code so if there is a remote seller who wants to know what it is, it is very clear and obvious for them.

Senator Dotzenrod: Is it the seller's responsibility to know that that obligation is on them to know that once the exceed that threshold that they have 60 days. Do they get notified or is there something that would let them become aware? Once they have exceeded that level, there is a legal obligation in ND law that they need to get this done.

Chairman Cook: It is the seller's obligation I believe. Every state has similar language.

Senator Meyer: I am going to make a Do Pass motion on SB 2191.

Senator Unruh: Seconded.

Chairman Cook: Any questions of discussions? Hearing none, I will ask the clerk to take the roll on a Do Pass motion for SB 2191.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senate Finance and Taxation Committee
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Senator Cook will carry the bill.

REPORT OF STANDING COMMITTEE

SB 2191: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Eleventh order on the calendar.

2019 HOUSE FINANCE AND TAXATION

SB 2191

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2191
3/4/2019
33105

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to the application of sales and use tax to certain sellers located outside this state; and to provide an effective date.

Minutes:

No attachments

Chairman Headland: Opened hearing on SB 2191.

Senator Cook: Introduced bill. Last session we passed an economic nexus legislation; we copied South Dakota. It included \$100,000 in sales or \$200,000 in invoices. We got collection authority from the Supreme Court ruling. This bill changes what that economic nexus authority is. It eliminates the \$200,000 invoices. The only standard would be \$100,000 in sales. It makes it clear when a remote seller would require economic nexus if it's either the first of the calendar year or 60 days after they reach that threshold, whichever comes first.

Representative Steiner: Can you review the details of the invoices again? Why was it in there and why was it taken out?

Senator Cook: South Dakota put it in as their economic nexus standard and we just copied them. Since that time there's been discussion among states that have done this and \$200,000 invoices can be a low number as far as total sales. The most important number is \$100,000 in gross sales. I would see that figure possibly coming down in the future. You have to walk before you run.

Chairman Headland: Is there testimony in support?

Mike Rud, President of the North Dakota Retail Association: All of our Main Street businesses support this bill. We think it's another step in the whole process of further tightening up what we need to see in terms of market place fairness. I would urge a do pass recommendation.

Eric Spencer, Greater North Dakota Chamber: We are in support of SB 2191.

Chairman Headland: Is there any opposition? Seeing none, we will ask the Tax Department how much revenue we've gained since Quill was overturned.

Myles Vosberg, Office of State Tax Commissioner: I didn't look up the exact number but it is about \$5.1 million since the court decision at the end of June through the fourth quarter of 2018, which was due just at the end of January. We have roughly about 3,000 more companies that have registered to collect tax.

Representative Dockter: We had a forum on Saturday and it breaks down to the cities so I believe Bismarck has received an additional \$80,000 in that \$5.1 million.

Myles Vosberg: I didn't bring the exact numbers but that includes the local taxes as well.

Chairman Headland: Is there anything else? Seeing none we will close the hearing on SB 2191. What are the wishes of the committee?

Representative Toman: MADE A MOTION FOR A DO PASS

Representative Mitskog: SECONDED

Chairman Headland: Discussion?

Representative Trottier: Why is it \$100,000 and not less? It seems a lot of people could be left out of this.

Chairman Headland: I think you heard Senator Cook's response that we may want to look at it in the future. You have to walk before you can run.

ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT

MOTION CARRIED

Representative Dockter will carry this bill.

Date: 3-4-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2191**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Toman Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich	X		Representative Mitskog	X	
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt	X				
Representative Fisher	X				
Representative Hatlestad	X				
Representative Kading	X				
Representative Koppelman	X				
Representative Steiner	X				
Representative Toman	X				
Representative Trottier	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Dockter

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

REPORT OF STANDING COMMITTEE

SB 2191: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Fourteenth order on the calendar.