

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

4001

2001 SENATE FINANCE AND TAXATION

SCR 4001

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 4001

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 1/16/01

Tape Number	Side A	Side B	Meter #
I		x	24.6-33.6
1/22/01 - I		x	35-37.5
Committee Clerk Signature <i>Lynelle M. Kraft</i>			

Minutes:

Senator Urlacher: Opened the hearing on SCR 4001, a concurrent resolution directing the Legislative Council to study the property tax exemption.

Jennifer Clark: Legislative Council, testified neutrally for the bill. There's a concern that there's inconsistency across the state on how nursing homes are being treated for tax purposes.

Senator Christmann: Is there an example of what kind of guidelines the nursing homes have?

Jennifer Clark: There weren't any illustrations of abuses of this. It's more a concern of them being treated consistently.

Senator Christmann: What would be something in the middle that would be arguable over whether it should be nonprofit?

Jennifer Clark: There were not any concrete examples of this.

Senator Christmann: Why is the interim recommending a study resolution? Did it come up too late to get a study done?

Page 2  
Senate Finance and Taxation Committee  
Bill/Resolution Number 4001  
Hearing Date 1/16/01

Jennifer Clark: What it would have required to give a full study is quite an extensive gathering of information across the state. My assumption is that the commission thought that was going to be specific and too time consuming.

Senator Urlacher: Closed the hearing.

Committee discussion through meter number 33.7. Action delayed.

Discussion held 1/22/01. Meter number 35-37.5.

COMMITTEE ACTION: 1/22/01

Motion made Senator Stenehjem for a DO PASS, Seconded by Senator Wardner. Vote was 6 yeas, 0 nays, 0 absent or not voting. Bill carrier was Senator Kroeplin.

Date: 1/22/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 4001

Senate Finance and Taxation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Stenehjem Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Kroeplin

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

**REPORT OF STANDING COMMITTEE (410)**  
January 22, 2001 11:34 a.m.

Module No: SR-10-1367  
Carrier: Kroepfln  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SCR 4001: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4001 was placed on the Eleventh order on the calendar.**

2001 HOUSE FINANCE AND TAXATION

SCR 4001

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4001

House Finance and Taxation Committee

Conference Committee

Hearing Date March 21, 2001

Tape Number	Side A	Side B	Meter #
1	X		5,178
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

**REP. AL CARLSON, CHAIRMAN** Opened the hearing.

**JENNIFER CLARK, ATTORNEY FOR THE LEGISLATIVE COUNCIL** Testified as council for the Advisory Commission on Intergovernmental Relations. Gave a brief history of how the resolution came about.

**REP. CARLSON** The purpose of the study is to make sure that those who are getting tax exempt are actually not doing things they are not supposed to be doing.

**JENNIFER CLARK** In part, yes, but I think the concern was more that these organizations are treated uniformly across the state. There wasn't a strong feeling that these people were receiving these exemptions that shouldn't be.

**REP. CARLSON** Asked if there were examples that were brought up in the committee.

**JENNIFER CLARK** There were no specific examples. That was one of the committee's concerns, that there isn't a mechanism right now, where a poll was taken to get that information.



Page 2

House Finance and Taxation Committee

Bill/Resolution Number ser 4001

Hearing Date March 21, 2001

**REP. CARLSON** Gave an example of his Mom living in a nursing home. Recently, they built a big addition on which is basically, an apartment building where you can get your meals and things, are they concerned that that new building added onto this building, may be tax exempt when, in fact, it is renting to people?

**JENNIFER CLARK** I think that is an example.

**REP. CARLSON** Maybe because not all of them are doing that, they don't want an exception to the rule?

**JENNIFER CLARK** I think the concern was that that is taking place in dozens of places across the state, and that taxing districts are calling that entire facility, a charitable institution, exempting them, and other districts were taking off that addition, and not exempting them. That was the concern, that they weren't treated the same.

**REP. CARLSON** Does that exemption come from the state then, flows through the city to the state, is that how it works? How do they become tax exempt in the first place? Somebody has to declare that as tax exempt.

**JENNIFER CLARK** You have to ask someone who is more familiar with tax procedures than I am, but I can tell you that it does come down from our state constitution and state law. Apparently, from the testimony received from the tax commissioner, it is the local taxing districts, that ultimately, make the decision whether it is a charitable institution.

**REP. KROEBER** Gave an example of a case in Jamestown, where he happened to be at a city council meeting and they approved a tax exemption of a local institution.

**REP. SCHMIDT** Asked how they handle a hospital with a drug store?

**JENNIFER CLARK** All I know is that the committee didn't look at these other issues, all they were looking at was, typically, nursing homes. They thought that was a small place to start. She read from the statute regarding this law.

**SHELLY PETERSON, PRESIDENT OF THE NORTH DAKOTA LONG TERM CARE ASSOCIATION,** Appeared to provide information. See written testimony. Also submitted a letter from Norman Triebwasser who has developed senior assisted living facilities, and, submitted a Summary of Real Estate Tax Agreements for Senior Congregate Housing Projects.

**REP. CARLSON** It appears to me, we are already allowing local control in this situation.

**REP. LLOYD** Related to the letter from the architect, how can an assessor make a change, an assessor goes by what is already on the books, they don't arbitrarily decide one way or the other.

**SHELLY PETERSON** I am not sure what happened in that situation. I would have thought, as was illustrated earlier, that when you give an exemption, that it would have been reported somewhere.

**KEN YANTES, WAS ON THE COMMITTEE FOR THE ADVISORY COMMISSION OF THE INTERGOVERNMENTAL RELATIONS** Stated he is probably the oldest member on this committee. Appeared to relate what happened in the committee meeting. He stated there were questions from all over. He said they could see where there were problems. We do need a study on this, as things are not being done the same all over.

With no further testimony, the hearing was closed.

Page 4  
House Finance and Taxation Committee  
Bill/Resolution Number ser 4001  
Hearing Date March 21, 2001

**COMMITTEE ACTION 3-21-01, TAPE #1, SIDE B, METER #3100**

**REP. DROYDAL** Made a motion for a **DO PASS**

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

**7 YES      5 NO      3 ABSENT**

**REP. CLARK** Was given the floor assignment.

Date: 3-21-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SCR 4001

House FINANCE & TAXATION Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Drovdal Seconded By Rep. Renner

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN		✓	NICHOLAS, EUGENE	A	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	A	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL		✓	WIKENHEISER, RAY		✓
HERBEL, GIL	✓		WINRICH, LONNY	A	
KELSH, SCOT	✓				
KROEBER, JOE		✓			
LLOYD, EDWARD		✓			

Total (Yes) 7 No 5

Absent 3

Floor Assignment Rep. Clark

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

**REPORT OF STANDING COMMITTEE (410)**  
March 21, 2001 11:17 a.m.

**Module No: HR-49-6263**  
**Carrier: Clark**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4001: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (7 YEAS, 5 NAYS, 3 ABSENT AND NOT VOTING). SCR 4001 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SCR 4001

Senate Finance and Taxation Committee  
Justin J. Schwarz- Committee Intern  
January 16, 2001  
**SCR # 4001**

SCR #4001 deals with N.D.C.C. 57-02-08(8), which allows for buildings belonging to institutions of public charity, including public hospitals and nursing homes properly licensed, used wholly or in part for public charity, to be exempt from taxation. The resolution would have the Legislative Council study the property tax exemption for institutions of public charity providing a combination of health and housing services.

In my discussions with Marcy Dickerson in the Tax Commissioner's Office, she informed me that the current problem seen with regards to 57-02-08(8) is nursing homes. Nursing homes are traditionally considered charitable, and most in North Dakota today have tax-exempt status. But the problem arises where the nursing homes add assisted-living apartments. Currently, some of these types of homes in North Dakota are given tax exempt status, while others are not. Two such nursing homes in Traill County are recent examples of homes where the tax-exempt status has been debated. In this matter, the State Equalization Board granted the exemption (although an Attorney General's opinion later in the year suggested that the property in this situation should not have been tax-exempt). The problem thus is, according to Ms. Dickerson, that similar facilities in North Dakota are treated differently, with some tax-exempt and some not.

The North Dakota Supreme Court decided a case involving this section of the law in 1989 in the case of Riverview Place v. Cass County, 448 N.W.2d 635 (N.D. 1989). In Riverview, the Court stated that whether an institution is exempt is determined by a two-step process: whether the organization is charitable and whether the property exempted is being devoted to charitable purposes. The Court stated that it is the use of the property which determines exempt status or not. Essentially, the Court decided that the Riverview Place was not tax-exempt because the residents were functionally independent and capable of living on their own, therefore the home was not acting as a charitable institution under N.D.C.C. 57-02-08(8).

**Testimony on SCR 4001**  
**House Finance and Taxation**  
**March 21, 2001**

Chairman Carlson and members of the House Finance and Taxation Committee, thank you for the opportunity to testify on SCR 4001. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. Our Association represents nursing facilities, basic care facilities and assisted living facilities, the entities that would be affected by SCR 4001. I am here today to provide information regarding institutions of public charity or nursing facilities providing health and housing services.

The resolution states that the Constitution of North Dakota provides that property used exclusively for charitable purposes is exempt from taxation. It further questions whether these charities should be subject to full or partial assessment of property taxes for the value of certain services provided for their benefit. The resolution also states uniformity may be lacking in application of property tax exemption for institution of public charity providing health and housing services.

What I believe this resolution is attempting to study are non-profit nursing facilities, which are medical institutions, who venture into assisted living services. A nursing facility provides twenty-four hour nursing care, however, many are developing assisted living facilities to help address and support individuals who need appropriate housing with services, but not twenty-four hour nursing care.

In the past few years nursing facilities have been asked to expand their services and help meet the needs of senior adults living in the community, through the development of assisted living and congregate housing. This type of housing with services is appropriate for the person who needs a little bit of help but not twenty-four hour skilled nursing care.

North Dakota as you may know, institutionalizes individuals in nursing facilities at the highest rate of any state in the nation. Over 100 years ago North Dakota began developing nursing facilities and today we have 88 facilities spread throughout North Dakota. North Dakota taxpayers will spend over \$125 million a year caring for about 3600 individuals in need of care this year. We spend this much money and the demographic tidal wave of senior adults will not hit us for another decade or two.

Consumers are searching for options and choices to remain in their communities for as long as possible. An identified need has been ground floor housing with the ability to contract for services when and if they need them. The nursing home profession in North Dakota is committed to provide the full continuum of care and empower North Dakotans with choice.



