

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

13992

2001 HOUSE FINANCE AND TAXATION

HB 1392

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1392

House Finance and Taxation Committee

Conference Committee

Hearing Date January 29, 2001

Tape Number	Side A	Side B	Meter #
1		X	3,967
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN, Opened the hearing and read the fiscal note.

REP. DAVID MONSON, DIST. 10, Introduced the bill as the prime sponsor. The bill was introduced on behalf of former Lieutenant Governor, Rosemary Myrdal's daughter-in-law, who had a problem with a non-profit organization, who evidently do not have a sales tax exemption, they don't qualify for that as such. Although, she is a resident of my district, the organization that she represents is out of Park River, which is in Rep. Herbel's district. What we are trying to do with this bill, is to send small fund raisers, that non-profits do, that requires them, at this time, to pay tax on anything they sell. If they do a raffle or a soup and sandwich benefit at my school, they may be required to pay sales tax on the proceeds of that event. I felt that if we are trying to promote these non-profit organizations, they do very good things in our community, and if we can save them some extra money that they can put toward their organization, I would be happy to promote that for them. Anything over five thousand dollars in gross receipts, they would still

have to pay taxes on. If they have received more than five thousand, they should be able to pay the sales tax out of the proceeds and still have quite a bit left over. That is the purpose of the bill.

REP. GIL HERBEL, DIST. 16, Testified in support of the bill as a sponsor of the bill. Part of the reason that this bill was brought about is because of your smaller communities not having facilities that are able to host a fund raiser, so they have to have it in the school, and of course, the school is a public facility and that creates a problem of them having to pay the sales tax. We ran a fund raiser for our hospital organization and held it in the armory, which is a public facility, and consequently, ended up having to pay the sales tax involved in that.

BRENDA DISSETT, NORTH DAKOTA NON PROFIT ASSOCIATION, Testified in support of the bill. We represent twenty eight hundred non-profit organizations, and most of those are in the smaller communities. She stated she had been working for this association for about three years, and one of the reasons they had started a non profit association, was to gather information for all of the non profits out there.

GARY ANDERSON, DIRECTOR OF SPECIAL TAXES, STATE TAX DEPARTMENT,

Appeared before the committee to answer technical questions.

REP. CARLSON If I am going to have a raffle at the church, and we are going to give away prizes, and when we are all done selling tickets which are worth forty five hundred dollars, who do these organizations apply to, or do they need a special permit before they issue raffle tickets?

GARY ANDERSON Any time a non profit organization is going to conduct an activity which is held in a public facility, it is not necessary for them to get a permit, we try to keep it rather informal. We realize most of the non profit organizations will have one or two fund raising activities in the state, so when possible, we try to contact them beforehand, to comprise them of

their responsibility to collect taxes. We have a form which they can fill out, a one time remittance form, a special event reporting form. Most of the organizations we deal with in the state, are familiar with that. It is a very easy process.

REP. CARLSON So if they made three thousand dollars, they would have to pay a tax of five percent on it?

GARY ANDERSON The way the law is written today, yes, they would have to file taxes on the receipts, which is five percent. A lot of these organizations are holding these events in communities that also have a one percent local sales tax, which would also apply in that instance as well.

REP. CARLSON If they went to a non public facility, what difference would that make?

GARY ANDERSON The way the law is written, it indicates that the only taxable moment for a non profit organization, when they are using the money for charitable, education or religious purposes, the only time it will become taxable, is when they hold the event in a public facility. If they hold it in a private facility, for example, a church or a private, commercial parking lot, a business location, no taxes would apply to that.

REP. CARLSON Why is that?

GARY ANDERSON Years ago, what was happening, individuals were coming in from outside the state of North Dakota, and sponsoring events. Primarily, in large civic centers or school auditoriums, and would get a local non profit organization to sponsor them, they would take a large percentage of that money and give a small commission to the non profit organization. That was one way to close off that loop hole.

REP. SCHMIDT Do Ducks Unlimited pay five percent?

GARY ANDERSON Again, you have to look at where the location is. A lot of times, Ducks Unlimited will have an annual fund raising event, right here in Bismarek, for example, at a lodging facility, which is private property, where the net proceeds will not be subject to tax.

REP. HERBEL Do you find that there is some that don't report this at all?

GARY ANDERSON We have a good relationship with most of the non profit organizations, where you run into some problems, is where some non profit organizations change officers frequently, in the state, then it becomes our responsibility to contact them. A good portion come forward.

REP. KROEBER Isn't Ducks Unlimited and the National Elks Foundation, because their headquarters lie outside the state of North Dakota, taxed differently than other sportsmen's clubs?

GARY ANDERSON Any non profit organization within the state of North Dakota will enjoy the same application of sales tax.

REP. KROEBER I think those two are handled differently, I think they pay regardless if they are in a private or a public facility.

GARY ANDERSON One thing we have to be careful of, is that we are talking about sales tax in the sale or raffleing of personal property. Gaming activities are not covered in this bill. There is a separate gaming tax with the Attorney General which regulates and applies and administers. The gaming tax would not be a part of this bill.

REP. CARLSON What if there is a benefit for someone who is ill, where does that fall?

GARY ANDERSON That is one of the situations again, if it is in a public facility, they don't get taxed.

REP. CARLSON If we passed this law, and they collected less than five thousand dollars, it would not be taxed

GARY ANDERSON That is correct.

REP. HERBEL If they paid the tax based on their net profit, what kind of latitude would they have for net profit?

GARY ANDERSON They pay on the gross receipts. Approximately seventy five to eighty percent of the non profit organizations who report to us, would fall under the five thousand dollars.

With no further testimony, the hearing was closed.

COMMITTEE ACTION TAPE #2, SIDE A METER #650

RICK CLAYBURGH, STATE TAX COMMISSIONER Appeared before the committee to voice his concern regarding the bill as he was not present during the testimony. He stated there is one issue he wanted to address. You could conceivably be a profit type organization and then contract out with non profit organizations and give them a cut of the proceeds to escape taxation. He wanted the committee to be aware of that.

Committee members felt it would still probably be a small event in a small community. If there is only five thousand dollars gross receipts, there won't be large organizations coming in.

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

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

13 yes 0 No 2 Absent

FISCAL NOTE

Requested by Legislative Council

01/23/2001

Bill/Resolution No.: HB 1392

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			(\$11,000)	(\$1,000)		
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.*

HB 1392 creates a sales tax exemption for charitable events and activities held in publicly owned facilities that do not exceed gross receipts of \$5000.

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.*

If enacted, HB 1392 is expected to reduce state general fund and state aid distribution fund revenues by \$6000 per year.

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
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Phone Number: 328-3402

Date Prepared: 01/26/2001

Date: 1-29-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1392

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Schmidt Seconded By Rep. Clark

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

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Kroeber

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

REPORT OF STANDING COMMITTEE (410)
January 29, 2001 12:05 p.m.

Module No: HR-15-1818
Carrier: Kroeber
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1392: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1392 was placed on the Eleventh order on the calendar.

2001 SENATE FINANCE AND TAXATION

HB 1392

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1392

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 3/6/01

Tape Number	Side A	Side B	Meter #
	x		7.6-26
3/7/01 - 1		x	7.3-11
Committee Clerk Signature: <i>Synelle M. Hayes</i>			

Minutes:

Senator Urlacher: Opened the hearing on HB 1392, relating to sales tax application to educational, religious, or charitable activities held in a publicly owned facility.

Senator Wardner was absent from the hearing.

Senator Harvey Tallackson: Co-sponsored the bill, testified in support. This says that if a charitable organization holds anything in a public building, anything up to \$5,000 is exempt from sales tax.

Senator Urlacher: They have to pay sales tax even though they pay rent on that facility?

Senator Harvey Tallackson: Yes.

Representative Dave Monson: Co-sponsored the bill, testified in support. This was brought to our attention by a charitable group. This bill tries to open the loophole a little bit for small organizations.

Senator Tom Trenbeath: Co-sponsored the bill, testified in support. Agrees with previous comments. Sometimes in small towns the only facilities available are publicly owned.

Representative Gil Herbel: Co-sponsored the bill, testified in support for the reasons already expressed.

Representative Joyce Kingsbury: Co-sponsored the bill, testified in support. Sometimes nonprofit organizations don't understand the tax laws.

Brenda Disette: ND Nonprofit Organization, testified in support.

Gary Anderson: State Tax Dept., testified neutrally. The fiscal note is based on actual past numbers.

Senator Urlacher: Would this also effect county taxes

Gary Anderson: It would effect both state and city or county sales taxes.

Senator Christmann: Would you explain the difference between holding an event in a publicly or privately owned facility.

Gary Anderson: The way the law currently exists, if a nonprofit organization holds an even in a public facility that they're are obligated to pay sales taxes. If they held that very same event in a private facility, they would not be subject to tax.

Senator Stenchjem: The Civic Center here in Bismarek, for example, they have charitable events, they must be charging a tax for all the concessions.

Gary Anderson: That's correct. They're paying tax on concessions, admissions. The fact that they are a nonprofit organization does not remove them from that responsibility.

Senator Stenchjem: Would it under this bill?

Gary Anderson: If it was below the \$5,000 level. The tax is on the gross receipts.

Senator Urlacher: Closed the hearing.

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Senate Finance and Taxation Committee
Bill/Resolution Number 1392
Hearing Date 3/6/01

Discussion followed.

Senator Nichols: Is this going to be tough to administer?

Gary Anderson: I don't think so.

Discussion held 3/7/01. Meter number 7.3-11.

Senator Christmann: For a point of discussion, maybe we should lower the limit to \$3,000.

Motion made by Senator Christmann to change \$5,000 to \$3,000, Seconded by Senator

Stenehjem. Vote was 2 yeas, 4 nays, 0 absent and not voting. Motion failed.

COMMITTEE ACTION: 3/7/01

Motion made by Senator Wurdner for a DO PASS, Seconded by Senator Nichols. Vote was 6 yeas, 0 nays, 0 absent and not voting. Bill carrier was Senator Stenehjem.

Date: 3/7/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1392

Senate Finance and Taxation Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Wardner Seconded By Nichols

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 Stenehjem

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2001 5:50 p.m.

Module No: SR-39-5058
Carrier: Stenehjem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1392: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the Fourteenth order on the calendar.