

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1328

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE FINANCE AND TAXATION

HB 1328

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1328**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 20, 2003

Tape Number	Side A	Side B	Meter #
1		X	45.9 to tape #2, Side A
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

REP. TODD PORTER, DIST. 34, MANDAN Introduced the bill. He gave a report of the situation which arose during the last interium. See attached written testimony.

REP. BELTER Is that the way most raffles are done?

TODD PORTER I am not sure on a lot of them. What we have been doing with this organization, is one pickup per year. We also do T.V's, and other items. If through their franchise, they floor plan it, and just, basically, allow the organization to display it, there isn't a transaction that takes place. One of the other things that comes up with this, is, in the past, especially with vehicles, and during the recession, a lot of the car manufacturers say, if you buy it now because they know you are giving it away in September, if you buy it now before the end of this month, there is a two thousand dollar rebate which expires at the end of this month. That is

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House Finance and Taxation Committee
Bill/Resolution Number HB 1328
Hearing Date January 20, 2003

an additional two thousand dollars that the charitable organization makes for their cause. It depends on how the manufacturer or the company you are purchasing this from, floor plans the items.

MILES FOSBERG, STATE TAX DEPARTMENT Testified in a neutral position. Answered the question Rep. Belter asked about what other organizations do. It has been the tax department's position that, a nonprofit organization can take the vehicle and display it for the short period of time, while selling the raffle tickets, without purchasing that vehicle. When the winner takes possession, the ownership is just transferred directly from the dealership to the winner, then the winner pays the tax, that avoids that double taxation. Gave an explanation of the fiscal note.

REP. BELTER Do your records currently show that there are two vehicles per month being raffled?

MILES FOSBERG Stated it is based on calls they get from various nonprofit organizations who are planning on having a raffle. They don't have concrete numbers.

REP. BELTER Currently, you don't have two cars or vehicles that are getting taxed twice, do you?

MILES FOSBERG We are estimating that right now, there are more raffles than two vehicles per month, but two of them per month get taxed by the nonprofit organization and then again by the winner of the vehicle.

REP. WEILER You say there are two vehicles per month getting double taxed?

MILES FOSBERG Stated that is their estimate. The nonprofit organizations do not purchase the vehicle, they just promote the raffle, and the dealership, perhaps, lets them display it for a

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House Finance and Taxation Committee
Bill/Resolution Number HB 1328
Hearing Date January 20, 2003

short period of time, when the winner is selected, the invoice is made directly from the dealer to the winner.

REP. SCHMIDT Asked whether that two vehicles per month includes the casinos.

MILES FOSBERG Stated, that would include the casinos.

REP. DROVDAL Is the five percent you pay when you title your vehicle, is that use tax or excise tax

MILES FOSBERG It is motor vehicle excise tax.

REP. DROVDAL Stated that when he used to be involved in raffles, dealers would take a vehicle and put it on a demo program and allow us to display it, using a demo plate, is that no longer allowed under the current laws?

MILES FOSBERG I think that is still allowed, as far as the tax laws go. The tax department does not have a problem with a dealer displaying a vehicle at a location of the raffle, for a short period of time.

There are two sections to this bill, one is the sales and use tax, and one is the motor vehicle excise tax. Under the sales and use tax law, when a nonprofit organization, currently, purchases something for raffle, they would have to pay the tax, but the winner does not have to pay the tax.

REP. WINRICH Questioned the term "charitable organization", we have dealt with a number of laws recently, that restricted, in some cases, what happens with nonprofit organizations that work primarily in the conservation area. Are there different categories of charitable organizations, what kind of a definition does that have under tax law?

MILES FOSBERG There are different categories. Normally, you can consider a 501C3, which is the most common, there are other types or other categories. The way the law is written, I

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House Finance and Taxation Committee
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Hearing Date January 20, 2003

would assume that, it wouldn't have to be a formal charitable organization established recognized by the IRS. Someone could organize a benefit for a charitable cause, for a short time period, for that particular cause, the way the bill is written.

REP. WINRICH Are you saying there is no definition?

MILES FOSBERG I am saying, charitable organization, is not defined in the sales tax statute. 501C3, is a nonprofit organization and is not subject to income tax. There are other sub categories in the 501C3.

KEITH KAISER, DIRECTOR OF THE MOTOR VEHICLE DIVISION, Testified in a neutral position. He commented on Section 2 where it talks about the fact that there would be no tax due on the charitable organization, if the winner was subject to tax on a later date, under this chapter. That would fit fine, except when the winner is not from North Dakota. This needs to be cleaned up a little further to cover that situation.

REP. BELTER Are you saying, the way it is written, we do have a problem with someone winning out of state, the charitable organization would then be taxed?

KEITH KAISER That is correct. As I read Section 2, the bill talks about a tax exemption for the charitable organization, if the winner of that raffle, is also subject to the tax, which would be fine if the winner is from North Dakota. But, if the winner happens to be from out of state, they would not be subject to the excise tax laws in North Dakota. I think there would then be a taxing problem for the organization.

REP. BELTER TO REP. PORTER I am assuming, it would be your intent, if a Minnesotan wins, that the organization would not pay the tax?

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REP. PORTER Stated he hadn't given it that much thought. He gave an example if someone from Moorhead buys a vehicle in Fargo, they are not subject to a tax, so he couldn't understand in the situation of a charitable organization raffle, why, because an out of state person purchases a raffle ticket, they would have to pay a tax. The problem discussed with the tax department was in the different franchises floor planning a vehicle, to help the charitable organizations.

REP. DROVDAL The other concern which was brought up is the definition of charitable organizations. What is your intent as to the definition of a charitable organization?

REP. PORTER I don't believe, because the prize exceeds a certain dollar amount, in order to have this raffle, you have to have a permit from the Attorney General's Office direct.

REP. SCHMIDT Gave an example of selling vehicles at an auction, he questioned whether a person who bought a vehicle in North Dakota, but was from Minnesota, did not pay a tax.

KEITH KAISER Addressed Rep. Schmidt's question. He stated that excise tax law is a titling tax, it is imposed at the time someone titles a vehicle in North Dakota. When a vehicle is sold to a nonresident, there is no tax imposed in North Dakota, because your vehicle is not being titled in North Dakota. A nonresident pays that tax at whatever the rates are in their home state.

REP. DROVDAL Is that true of Minnesota, South Dakota and Montana, that there is a registration tax such as ours?

KEITH KAISER States do different things. Montana does not have a general sales tax on motor vehicles, or an excise tax as we do. Minnesota does, and South Dakota does, their rate may be different, but they have, essentially, the same process. We do have reciprocity agreements, in that, if a resident of North Dakota buys a vehicle in Arizona and paid the tax, they don't have to pay the tax here.

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House Finance and Taxation Committee
Bill/Resolution Number HB 1328
Hearing Date January 20, 2003

The hearing was closed, however Rep. Clark, who could not be at the hearing, would give his testimony at another date.

REP. BYRON CLARK, DIST. 24, FARGO Sponsor of the bill, testified in support of the bill.

He introduced the bill because he saw the potential of double taxation issue for the nonprofits who are purchasing cars to give away in raffles. They are required to pay taxes on that. He stated it came to his attention because there was a nonprofit organization who was audited by the tax department, and got their wrists slapped because they gave a car away in a raffle, and should have paid taxes on it. They hadn't done it in the past. He stated he didn't know of any nonprofits who are currently doing that.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-21-03, Tape #2, Side A, Meter #9.0

REP. CLARK Presented amendments to the committee members, which were prepared by the Legislative Council.

REP. CLARK Made a motion to adopt the amendments as presented.

REP. IVERSON Second the motion, motion carried by voice vote.

REP. KELSH Made a motion for a **DO PASS AS AMENDED**

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

13 YES 0 NO 1 ABSENT

REP. KLEIN Was given the floor assignment.

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10/3/03
Date

FISCAL NOTE
Requested by Legislative Council
01/23/2003

Amendment to: HB 1328

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$44,160)	(\$3,840)		
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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.*

Engrossed HB 1328 provides a motor vehicle excise tax exemption for vehicles purchased by charitable organizations to be awarded as raffle prizes.

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, Engrossed HB 1328 is expected to reduce state general fund and state aid distribution fund revenues by -\$48,000 in the 2003-05 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 Dept.
Phone Number:	328-3402	Date Prepared:	01/24/2003

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10/3/03
Date

FISCAL NOTE
Requested by Legislative Council
01/14/2003

Bill/Resolution No.: HB 1328

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$44,160)	(\$3,840)		
Expenditures						
Appropriations						

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

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Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/17/2003

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Date: 1-21-03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1328

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30537.0101

Action Taken Do Pass as amended

Motion Made By Rep. Kelsh Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	A				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Klein

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

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10/3/03
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REPORT OF STANDING COMMITTEE (410)
January 22, 2003 12:34 p.m.

Module No: HR-12-0906
Carrier: F. Klein
Insert LC: 30537.0101 Title: .0200

REPORT OF STANDING COMMITTEE
HB 1328: Finance and Taxation Committee (Rep. Belter, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1328 was placed on the
Sixth order on the calendar.

Page 1, line 15, replace "the winner of" with "upon registration"

Page 1, line 16, replace "upon receiving the motor vehicle" with "or the motor vehicle is
registered in another state"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-12-0906

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2003 SENATE FINANCE AND TAXATION

HB 1328

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1328

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1	X		40-2200
Committee Clerk Signature <i>Deanna Hall</i>			

Minutes: Senator Urlacher opened the hearing on HB1328. All committee members are present.

This bill relates to a sales, use, and motor vehicle excise tax exemption for the acquisition by a charitable organization of property to be awarded as a raffle prize.

Representative Byron Clark (mtr #78) - Introduced the bill and explained the intent of the bill.

Ultimately will eliminate some double taxation.

Senator Seymour (mtr #235) - When did this issue come up and will it impact other charitable organizations.

Rep. Clark (mtr #270) - Could impact other kinds of charitable organizations.

Senator Wardner (mtr #286) - Clarified his understanding of the current law and the impact of this bill.

Representative Todd Porter (mtr #387) - Testified in support of HB1328 and explained how the bill came about. Also explained how the prize raffle of a charitable organization works.

Encourages the support of the bill.

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10/3/03
Date

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Senate Finance and Taxation Committee

Bill/Resolution Number HB1328

Hearing Date February 26, 2003

Senator Urlacher (mtr #638) - Organization could move the vehicles outside of an area of a franchise?

Rep. Porter (mtr #651) - Reviewed franchise area agreement and the ability to display a vehicle for the purpose of selling tickets.

Senator Syverson (mtr #698) - How tight are franchise limitations between dealers. Can leeway be granted.

Rep. Porter (mtr #769) - Franchise dealers not willing to grant leeway.

Senator Seymour (mtr #809) - Have you seen the fiscal note.

Rep. Porter (mtr #808) - Has seen the fiscal note, other organizations just floor plan the vehicle. Not sure of the of the statistical data used.

Gary Anderson, State Tax Department (mtr #923) - Regarding the fiscal note of the bill. Not many organizations raffle vehicles, the number does fluctuate over the years. Fiscal note data is hard to gauge. May be figured high.

Senator Syverson (mtr #1095) - Is the state involved in franchise boundaries?

Mr. Anderson (mtr #1120) - Franchise boundaries a business arrangement only, not a state law.

Senator Syverson (mtr #1160) - Question regarding the tax treatment of a vehicle is donated.

Mr. Anderson (mtr #1211) - If donated, there is an exemption in the sales tax law for goods other than vehicles. Motor vehicle excise tax doesn't provide the same exemption.

Senator Urlacher (mtr #1306) - More questions on the donated gun example.

Mr. Anderson (mtr #1310) - Answered the question in relationship to charitable organizations and tax.

Senator Wardner (mtr #1350) - Further questions on the prize rifle example.

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10/3/03
Date

Page 3

Senate Finance and Taxation Committee

Bill/Resolution Number HB1328

Hearing Date February 26, 2003

Mr. Anderson (mtr #1370) - Answered the question regarding the rifle example.

Senator Urlacher (mtr #1413) - Closed the hearing on HB1328.

Senator Wardner (mtr #1469) - Fiscal note seems like soft data. In favor of this bill. Moves a Do

Pass. 2nd by Senator Seymour

Senator Syverson (mtr #1610) - Wondered out loud if there is an easier fix to straighten out this issue.

Further general discussion by all Senators and Gary Anderson on exempt status and a prize item being taxed twice. Went over rifle example again for clarification.

Roll call vote 6 yea, 0 nay, 0 absent. Senator Syverson is the carrier.

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10/3/03
Date

Date: _____
Roll Call Vote #: _____

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HB 1310*

Senate	<u>Finance and Taxation</u>	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Yes pass a Bill for the Corporation

Motion Made By Sam Lawrence Seconded By Sam Lawrence

[illegible]

Total (Yes) 6 No 0

Absent _____

Floor Assignment Don Syverson

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Operator's Signature Deanna Hall Smith Date 10/3/03

REPORT OF STANDING COMMITTEE (410)
February 26, 2003 1:34 p.m.

Module No: SR-34-3520
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1328, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1328 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

SR-34-3520

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2003 TESTIMONY

HB 1328

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10/3/03
Date

HB 1328

Good morning Mr. Chairman and members of the House Finance and Tax Committee.
For the record, my name is Todd Porter, State Representative District 34 Mandan.

HB 1328 takes care of a little double taxation issue.

The purpose of this bill is to allow charities to purchase vehicles to be given away
without being subjected to motor vehicle excise tax.

This problem came to light with my involvement with a local charity that gives away a
pickup every year through a raffle.

1. Because of the multiple dealerships in the area, we are unable to floor
plan the vehicle and then display it around Bismarck/Mandan, so we
must purchase the vehicle prior to displaying.
2. With all of the rebates and expiration dates of rebates we were able to
save thousands of dollars by purchasing the give away vehicle by a
certain date.

When the vehicle is won, the individual then goes over to the dealership and takes
possession of the vehicle and pays any and all required taxes. The individual is also
subject to a 10-99 misc for the prize.

I would be happy to answer any questions the Committee may have.

Thank you

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