

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2394

2001 SENATE NATURAL RESOURCES

SB 2394

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-8-01

Tape Number	Side A	Side B	Meter #
	Start -end		
2-8-01	X		23.2 - 49.8
Committee Clerk Signature <i>Jeanette Johnson</i>			

Minutes:

SENATOR FISCHER opened the committee hearing. Roll was taken indicating that all committee members were present.

SENATOR DWIGHT COOK of District 34, cosponsor introduced SB 2394, A BILL RELATING TO FEE HUNTING AND GUIDE LICENSE FEES. This bill reflects four conviction that he has, 1.) Land ownership comes with rights, specifically that the owner has the rights to charge a fee for hunting on his property. 2.) That people who engage in commerce have responsibility, that they have to collect and remit sales tax, 3). In regard to taxes in general, that for a tax to be fair must be tax all equally. 4). The role of Game & Fish Department and their responsibility to make the hunting program successful but must now compete with commercialized hunting. Senator Cook continued to walk through the SB 2394. He defined that an outfitter can be a guide, can do anything a guide can do the only difference is if they are taking revenue you are an outfitter. Anyone collecting revenue for hunting or fishing relating

services whether it is a landowner or an outfitters requires an outfitters license, a sales tax permit and will have to post the land that is open for a fee. They will have collect sales tax and remit the tax to the State Tax Commissioner and will have to do some reporting to Game & Fish. Hunters will have to pay sales tax and will require them to carry the receipt for fee hunting.

REPRESENTATIVE LYLE HANSON, of District 48 cosponsor of SB 2394 testified before the Committee.

SENATOR TODD PORTER, of District 34 cosponsor of SB 2394 testified that this growing industry should be brought but to the requirements of other businesses and should be required to pay taxes.

PAT CANDRIAN, manager of the Cannonball Company of Regent, ND testified in support in SB 2394. He feels that there is a lot of tax revenue not being collected at this time and that the bill would clean up the industry. He is not totally in support of the posting for fee hunting.

MIKE DONAHUE representing the North Dakota Wildlife Federation and the United Sportsman Club testified in support of SB 2394.

ROGER ROSTUET, Deputy Director the North Dakota Game & Fish Department was available for any questions. He answered that the only fiscal change to the department would be the additional outfitters licenses that would be required to be purchased with passage of this bill. Because of printing technology must hunting for fee signs are mostly personalized. Receipts for hunting fee including taxes paid will need to be carried by the hunter along with his hunting license.

GARY ANDERSON, Director of Sales and Special Taxes of the Office of the State Tax Commissioner was available to answer any questions of the Committee. He explained how the fiscal note was prepared.

JIM NAGEL, representing the North Dakota Guides and Outfitters Association testified in opposition to SB 2394 (See attached testimony).

SENATOR TOLLEFSON: questioned who holds the liability of an injury on fee hunted property.

JIM NAGEL explained that to his understanding that as long as the land owner is not taking a fee, it is the responsibility of the outfitter. Unfortunately many land owners who do collect for fee hunting think that their farm policy will cover them and is concerned that someone might "lose the farm".

RON WANNER, owner of Knife River Ranch testified in opposition of SB 2394. He feels there are good items in the bill but is opposed to posting his land and the negative attitude of the state towards non resident hunters.

SENATOR FISCHER: closed the hearing on SB 2394.

FEBRUARY 8, 2001

SENATOR FISCHER reopened discussion on SB 2394.

Discussion was held about the taxing of tangible property not services and posting of property for fee hunting. There were questions about who is the lessee, is it the landowner or the outfitter who is paying for fee hunting? Also how do you enforce the bill and the fee hunting. Should the charge be for the whole event or separate the service out and charged only?

SENATOR TRAYNOR made a motion to adopt an amendment to add the definition of lessee.

SENATOR TOLLEFSON second the motion.

SENATOR FISCHER called for roll vote # 1. The vote indicated 6 YAYS, 0 NAYS, 1 ABSENT to adopt the amendment.

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Senate Natural Resources Committee

Bill/Resolution Number SB 2394

Hearing Date 2-8-01

SENATOR TOLLEFSON made a motion for a "DO PASS as AMENDED"

SENATOR TRAYNOR second the motion.

SENATOR FISCHER called for roll vote # 2. The vote indicated 5 YAYS, 1 NAYS, 1 ABSENT

FOR A "DO PASS as AMENDED.

SB 2394 will be rereferred to Appropriations Committee.

SENATOR FISCHER will carry SB 2394.

FISCAL NOTE
 Requested by Legislative Council
 03/01/2001

Bill/Resolution No.:

Amendment to: SECOND ENGROSSMENT
 SB 2394

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				(\$10,000)		(\$10,000)
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.*

Currently hunting or fishing guides and outfitters pay \$100 for a license or \$150 if they guide for both hunting and fishing. This bill reduces the fee for guides who work for an outfitter to \$50.

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.*

It is estimated that 100 guides will pay \$50 for their license, a reduction of \$50 per year. The total revenue reduction will be \$5,000 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:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	03/01/2001

FISCAL NOTE
 Requested by Legislative Council
 01/30/2001

Bill/Resolution No.: SB 2394

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						
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.*

The fiscal impact of SB 2394 cannot be determined. For information purposes, please note: Nine entities affected by this bill currently hold sales tax permits and deducted (in 2000) \$416,000 in tax-exempt services. If all of these services become subject to sales tax under the provisions of this bill, and if these 9 entities represent 20% of the entire market, the bill could generate \$100,000 in annual tax revenues.

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, 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: 02/07/2001

REPORT OF STANDING COMMITTEE

SB 2394: Natural Resources Committee (Sen. Fischer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2394 was placed on the Sixth order on the calendar.

Page 3, line 22, after the period insert ""Lessee" means a person renting the land for agricultural purposes and a person defined as an outfitter in this section.

20."

Page 3, line 29, overstrike "20." and insert immediately thereafter "21."

Page 4, line 3, overstrike "21." and insert immediately thereafter "22."

Page 4, line 5, overstrike "22." and insert immediately thereafter "23."

Page 4, line 6, overstrike "23." and insert immediately thereafter "24."

Page 4, line 16, replace "24" with "25"

Page 4, line 21, replace "25" with "26"

Page 4, line 30, replace "26" with "27"

Page 5, line 3, replace "27" with "28"

Page 5, line 7, replace "28" with "29"

Page 5, line 9, replace "29" with "30"

Page 5, line 17, replace "30" with "31"

Page 5, line 18, replace "31" with "32"

Page 5, line 22, replace "32" with "33"

Page 5, line 24, replace "33" with "34"

Page 5, line 25, replace "34" with "35"

Page 5, line 27, replace "35" with "36"

Page 6, line 1, replace "36" with "37"

Page 6, line 4, replace "37" with "38"

Page 6, line 6, replace "38" with "39"

Page 6, line 7, replace "39" with "40"

Page 6, line 10, replace "40" with "41"

Page 6, line 13, replace "41" with "42"

Page 6, line 15, replace "42" with "43"

Page 6, line 17, replace "43" with "44"

Page 6, line 18, replace "44" with "45"

Page 6, line 19, replace "45" with "46"

Page 6, line 21, replace "46" with "47"

Renumber accordingly

2001 SENATE APPROPRIATIONS

SB 2394

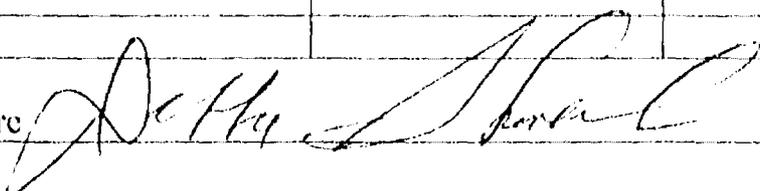
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

Senate Appropriations Committee

Conference Committee

Hearing Date February 19, 2001

Tape Number	Side A	Side B	Meter #
2	X		4,1-17.0
Committee Clerk Signature 			

Minutes:

Senator Nothing opened the hearing on SB 2394.

Senator Dwight Cook, District #34, spoke on the fiscal note attached to this bill which applies sales tax to all paper hunting and guide licenses fees. An example from his district to support this bill was Cannonball Corp., where they remitted to the state \$2,400.00 for taxes collected last year and if this bill was in force it would have been \$16,000.00.

Senator Bowman: I received a call yesterday on this bill stating that the paperwork would discourage this business, mainly the fiscal impact to collect from businesses. Is this the intent of this bill or for tax revenue?

Senator Cook: The intent of this bill is for neither of those issues. Landowners have a right to charge fees, more pay for hunting. Game and Fish know what's out there. The winners will be the landowners or the corporation/landowners. These corporations paid landowners \$12.00 per bird so they both profited. This opens opportunity to pursue a new adventure.

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Senate Appropriations Committee

Bill/Resolution Number 2394

Hearing Date February 19, 2001

Senator Tomac: Is this bill more for hunting fees. Looking at Section 2 posting of land, does this apply to other taxed services in ND?

Senator Cook: I'm not sure in ND. To pay the hunting tax is done in other states. Separate fees and use of the land.

Wade Moser, Stockmen's Association, spoke in opposition of the bill questioning the fiscal impact of the bill, and not sure of the figures. This bill will discourage hunters to participate with landowners. I question the \$100,000 it would generate in tax revenues. We don't feel it will be there for from the landowners.

Senator Grindberg: Landowners received CRP payments from the Federal Government. If there wasn't CRP the wild life would not be there.

Wade Moser: Habitat goes with CRP, this was not originally the purpose of CRP. Food plots were provided for habitat which goes back to the landowners.

Miles B, stated sales tax compliance is hard with hunting and the determination. Look at entities not charged in other ways. \$416,000 non taxable sales to those that would have services subject to this tax and with an assumption of about 20% for the entire market, is how the \$100,000 was estimated for the revenue.

Senator Tallackson: Anything additional added to the bill, magazines?

Miles: Easier to read and understand the retailer, like Outfitter Magazine, the definition of the subject to tax.

Representative Lyle Hanson, District #48, gave support on the bill as a co-sponsor.

John Adam, farmer from Driscoll, ND, testified in opposition of this bill. He stated if this bill passes he will post all of his land.

With no further testimony, the hearing was closed. Tape #2, Side A, meter 17.0.

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Senate Appropriations Committee
Bill/Resolution Number 2394
Hearing Date February 19, 2001

February 20, 2001 Full Committee (Tape #1, Side A, Meter No. 47.7-53.4)

Senator Nething reopened the hearing on SB2394.

Discussion on the bill. Senator Solberg moved a DO PASS; seconded by Senator Heitkamp.

Discussion. Roll Call Vote: 7 yes; 6 no; 1 absent and not voting.

Floor assignment will go back to original committee; Senator Fischer carrier.

Date: 7-26-01

Roll Call Vote #: _____

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 9394

Senate Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken As passed

Motion Made By Sen. Solberg Seconded By Sen. Heitkamp

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger		✓			
Elroy N. Lindaas	✓				
Harvey Tallackson		✓			
Larry J. Robinson		✓			
Steven W. Tomac		✓			
Joel C. Heitkamp	✓				
Tony Grindberg		✓			
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg					
Bill Bowman		✓			
John M. Andrist	✓				

Total Yes 7 No 6

Absent 1

Floor Assignment Senator Fischer

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

REPORT OF STANDING COMMITTEE (410)
February 20, 2001 9:54 a.m.

Module No: SR-31-3960
Carrier: Fischer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2394, as engrossed: Appropriations Committee (Sen. Nethling, Chairman)
recommends **DO PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2394 was placed on the Eleventh order on the calendar.

2001 HOUSE FINANCE AND TAXATION

SB 2394

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

House Finance and Taxation Committee

Conference Committee

Hearing Date March 13, 2001

Tape Number	Side A	Side B	Meter #
2	X		4,580

Committee Clerk Signature *Janice Stein*

Minutes:

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

SEN. DWIGHT COOK, DIST. 34, Introduced the bill, see written testimony. Also submitted amendments which he explained.

REP. CARLSON As the bill came from the Senate, there was no mention about the landowner who was charging a fee to hunt?

SEN. COOK That is correct.

REP. CARLSON As you add these amendments back in, it does not require that landowner to be an outfitter or a guide?

SEN. COOK If you are taking money from a customer, you must be an outfitter.

REP. CARLSON Even if the landowner who now is leasing his land or charging a fee to hunt, he would have to buy the outfitter's license then?

SEN. COOK To be legal, he would have to buy the outfitter's license.

REP. WINRICH If a landowner simply charges someone for access for hunting and doesn't participate in the hunt or guiding them or showing them appropriate places, they still must have an outfitter's license?

SEN. COOK That would be correct. A lot of what was taken out of the bill, were important mechanisms. Submitted a memorandum relating to sales tax from the Tax Department.

REP. LLOYD I assume the mule deer are covered in these sections

SEN. COOK Are you referring to the one hundred white tailed deer license?

REP. LLOYD I am referring to the Section 4 amendment, which identifies specifically, white tailed deer licenses, and I am questioning if mule deer licenses are already covered in another section.

SEN. COOK This bill has absolutely nothing to do with any laws regarding mule deer hunting.

REP. KELSH As I looked through this bill, it seems to me we are relying a lot on the honesty of the landowners, applying for the sales tax permit, there is a lot of room for denying whether they are granting access to the land, how do we address that?

SEN. COOK You are correct. We are depending a lot on honesty. I like to believe people are honest. When I meet someone new, I assume that is an honest person, and that they all obey the laws. I assume there is some room for them not to be.

REP. CLARK Are there people out there who are not paying taxes on that income?

SEN. COOK I do not know of any who are charging fees and not paying their taxes. I hear a lot of stories about it.

REP. CLARK You are basically saying in this bill that this is just to clear up an ambiguity and take it out of the grey area?

SEN. COOK I do not consider it a problem that people are collecting money and not paying taxes, that is not what I am trying to address with this bill. I think that is a whole unique problem. This bill is not geared toward that. It is geared toward gathering information which is important for game and fish to make important decisions. The other thing this bill is intended to do, is to make this growing industry subject to sales tax, which I firmly believe it should be.

REP. DROYDAL I assume everyone is honest too, but then I golf with people once in awhile. If I have some land in the Badlands, and they are hunting and having a good time, and they come up and say, here is fifty bucks, take your wife out to dinner, where would I qualify in this bill?

SEN. COOK The bill would not affect you because you did not charge a fee.

REP. TODD PORTER, DIST. 34 Testified in support of the bill. I agree this is not a bill which is out on a witch hunt. I think we have a growing industry in this state. I think that industry is promoting economic development in rural North Dakota. I think it is the way landowners have found to enhance their income during poor farm economy time. But, I also believe they are running a business, and I am running a business, and in my business I have to collect and pay sales tax. In this business, they should also collect sales tax and pay it to the state of North Dakota. People in this industry who are playing by the rules, have testified that there are people who are not playing by the rules. There was an article in the Bismarck Tribune right around the start of hunting season which talked about the change in hunting. The reporter wouldn't mention the person's name, but the person told the reporter that he made fourteen thousand dollars last year, tax free, running a fee hunting operation. If that is the case, that we are going to allow businesses to operate in different settings in the state, then I want to be in one of those that doesn't have to pay taxes to the state.

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House Finance and Taxation Committee

Bill/Resolution Number SB 2394

Hearing Date March 13, 2001

Rep. Porter submitted a booklet relating to Conservation Plots Guide. See attached copy.

Section 2 in the amendment speaks to the pamphlet that shows hunting areas in North Dakota.

REP. DROVDAL As you alluded to Section 4 and the extra licenses that are available for certified guides and outfitters, Section 7, is deleting certified outfitters, how will that affect those licenses in Section 4, and you mentioned something about leveling the playing field, on EMT services and ambulance transfer, is there a sales tax on those particular services?

REP. PORTER There is not a sales tax on medical services in the state of North Dakota. As an ambulance service, we pay sales tax and use tax on equipment that we purchase for use on a patient, whether it be disposable or nondisposable, and we pass that on to the patient through our base rate.

REP. DROVDAL According to your earlier statements, that you want to level the playing field, maybe we should put a sales tax on those services?

REP. PORTER In an industry that has about a thirty percent uncollectable rate, it could be really difficult to decide which ones, on the fee collected or the fee charged. Minnesota actually has a tax on ambulance services, called their min-care tax. They are repealing it right now because they found it was almost impossible to regulate because of the high amount of people who don't pay those bills, and the provider isn't getting the revenue.

REP. DROVDAL Farmers and ranchers pay property taxes too that other services don't pay.

LARRY KNOBLICH, NORTH DAKOTA SPORTSMEN'S ALLIANCE. Testified in support of the bill. See written testimony.

REP. WINRICH Asked whether he supported the amendments Sen. Cook submitted.

LARRY KNOBLICH Yes I do.

MIKE DONAHUE, UNITED SPORTSMEN OF NORTH DAKOTA AND THE NORTH

DAKOTA WILDLIFE FEDERATION Testified in support of the bill. Also support the amendments to the bill.

REP. CARLSON How many members are in your two organizations?

MIKE DONAHUE The Wildlife Federation is approximately twelve hundred, and the United Sportsmen approximately nine hundred.

REP. HERBEL If this passes, do you see this as a Game and Fish enforcement or the Tax Department enforcement or who?

MIKE DONAHUE Personally, I am sure it would be both departments.

REP. CARLSON When you talk sales tax, I think you would have to rely on the Tax Department.

REP. DROVDAL If we are going to require posting land they are going to hunt on, wouldn't it be more advantageous to require all land in North Dakota automatically be opposed to hunting, unless they post it, then it would be like they are advertising for it?

MIKE DONAHUE We would think that they would like to advertise their business.

WADE MOSER, NORTH DAKOTA STOCKMEN'S ASSOCIATION Testified in opposition of the bill. We didn't like the bill in the Senate and were pleased that a lot of the parts were taken out, and hoped that the bill could be killed. This bill will not build relations a bit. If there is a tax to be collected for those that are providing a service that is currently taxed, they need to be paying that tax. This creates a new tax on people who lease their land and provide no other service. I think that is an important part of this bill. If that is what you intend to do, I think we could support something, provided every service in North Dakota is going to be taxed. I have

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House Finance and Taxation Committee

Bill/Resolution Number SB 2394

Hearing Date March 13, 2001

a hard time understanding what kind of information the Game & Fish is going to gather, what they are going to use this information for and how is it going to help, or hurt, their management. I think we owe more to our residents of North Dakota, then to create a system like this, when we are trying to get a handle on something. To me, that's a study resolution. If you want to get a handle on this, let's take a look at it. I don't think this will accomplish much except create some hard feelings. There is terminology in here that is expanded greatly. I don't think it would be recognized by people, as to what an outfitter is. Some guy gets off the tractor and charges fifty dollars for someone to shoot something on their land, and all of a sudden, he is considered an outfitter, because he put a fee on it. Think of the various seasons, in Section 2, that would be in thirty days of the close of the season. That would mean thirty days after the grouse season, thirty days after the deer hunting season. I am not sure what the fiscal note addressed except for what may be lost in income, but who is going to administer something like that. We would like to see you kill the bill. If you really want to get a good handle on this, let's look at it in a study resolution.

REP. DROVDAL There is a study resolution that has to do with elk and other things, would your organization support that resolution if it included provisions that are addressed in this fee hunting in this bill?

WADE MOSER Yes we would.

REP. DROVDAL We have heard these other lobbyist and the sportsmen they represent, would you address how many acres you represent or how many cattle your organization represents?

WADE MOSER Quite a few acres.

REP. CARLSON I think the intent of the sponsors was not to penalize anyone, but if you are running it as a business and you are collecting revenue, to have some accountability for that.

How do you respond to the fact that, someone in fact, is collecting revenue, whatever it happens to be, for thousands of dollars, and they are not claiming that income compared to someone else that is, how do you respond to that?

WADE MOSER I think if someone is collecting a fee and not reporting it on his income tax, he is violating state and federal law. That is the issue. We don't stand up here and defend someone who doesn't pay his taxes.

JIM NAGEL, NORTH DAKOTA GUIDE AND OUTFITTERS ASSOCIATION, Testified in opposition of the bill. See written testimony.

REP. RON FROELICH, SELFRIDGE, Testified in opposition of the bill. I have had a lot of phone calls and e-mail about this legislation. None of them have been positive. I have a lot of Mom's and Pop's out there making two, three or four hundred dollars. Whether they are reporting that to the federal income tax, I don't have an idea. What they told me, they are either going to buy the one hundred dollar license, and charge the sportsmen who come there. The hunters will actually pay more money, if this bill passes. I know a person last year, made one hundred eighty dollars, under this bill, he is classified as a guide and outfitter. We are talking about sales taxes, are there sales taxes on lawyers and doctors? What about rummage sales, are we going to make them buy a license? Somewhere along the line, we are crossing over a barrier. I think this piece of legislation is trying to stop small business. There are Mom's and Pop's out there who are eighty years old, making a few bucks on the side, I 'm not going to tell you they are paying federal income tax, I have no idea.

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House Finance and Taxation Committee

Bill/Resolution Number SB 2394

Hearing Date March 13, 2001

On page 4, line 12, this bill includes outdoor recreation activities. We have a few horses, and stuff, what if I went into the business of trail rides on my ranch, do I have to pay sales tax?

There is another thing I think this committee has to take into consideration, right now, there are two hundred and eighty three guides and outfitters in the state of North Dakota. I got those numbers from the Game & Fish Department. One percent of the deer licenses are set aside for non residents. Now let's take some hypothetical numbers, ninety thousand licenses are issued, nine hundred will go to out of state people, guides and outfitters are allowed one hundred, that is by law, now we have two hundred and eighty three guides in the outfitters, I don't know how many are certified, let's say more and more of these guys become certified, that will make that pool that much smaller. Right now, they are limited to five in an area. What exactly will this tell the Game & Fish, we haven't heard from them yet. These landowners are either going to charge more, or they will slam the doors. I believe things are working out right now.

REP. JIM KERZMAN, DIST. 35 Testified in opposition of the bill. Stated he agreed with Rep. Froelich with the same opposition. The biggest problem I see is they all have to become outfitters. I see problems with gratuity. One guy from Minneapolis gave me tickets to a Twins game, what kind of value do you place on that. Maybe some of that fee should come back to the landowners for providing the habitat. This will drive a wedge.

REP. CARLSON Do you think there is any kind of recording mechanism or a way to get a handle on how much fee hunting is really going on and who is doing it? We could probably use it as a marketing thing.

REP. KERZMAN I think you have to do a survey. I have been on different boards, where you survey people, they don't always answer either. I don't know how you will get a handle on this.

CHUCK DAMSCHEN, HAMPDEN, ND, REPRESENTING HIS NEIGHBORS AS WELL

AS HIMSELF Testified in opposition of the bill. This is a prime example of how to squeeze a new industry. Maybe it is one of the reasons why people might be secretive about it, is because somebody will put a tax on it and require them to have a license to do it. Beyond that, I think it is a violation of property rights, especially for farmers. The wildlife is there mostly because of the farmer, they are feeding them and maintaining the land. What we are looking at here, is some supplemental income for the guy who is putting the input in for the wildlife. I have this reoccurring nightmare that I will pass a hat at the Game & Fish Department and won't get the hat back. We have three small businesses budding, a neighbor who has an abandoned farmyard and he has a house there that he has kept up, they have been on the internet and get a lot of business. There was another one who started out as a low-cost housing project in a small town and a local farmer bought it, advertised it, and has it rented out now to fishermen. If I read this correctly, those people would be required to have an outfitter's license. This law could be inadvertently violated, as one of the guys I talked to yesterday, had no inkling this law was on the books as a possibility. This is a fellow who owns a four-plex which he is renting out. It really discourages new industry or a supplemental business for some farmers. This is bad legislation.

REP. KROEBER Don't you think North Dakota sportsmen put any money at all into wildlife?

CHUCK DAMSCHEN Into raising them? No, not into raising them. Sportsmen put a lot of money into purchasing equipment, going to local communities. That is the point, if you are going to require everybody, which this does, that charges a fee or gives some compensation for letting somebody on their land, or stay in a farm home that would otherwise be burned, you will discourage that kind of business.

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House Finance and Taxation Committee

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REP. CARLSON When you look at the bill, the part most people have a hard time with, is it the fact that if you are going to fee hunt, that you will have to buy a guide and outfitter's license and meet those requirements, or, is it the fact that you would be responsible for paying sales tax on the services provided?

CHUCK DAMSCHEN Of those two, I think it is being required to have the outfitter's license. I think the income is being reported. I would certainly report it, we are assuming honesty. He stated he was opposed to many aspects of the bill.

REP. CARLSON Commented, several times I have heard references to the Game & Fish and negative comments about them, I am not so sure they are driving this train. I feel bad when they get pounded down, it is sure not my intent of the bill.

BRIAN TISHMACK, SOUTHERN GRANT COUNTY Testified in opposition of the bill. Stated he hoped he could represent both factions. He is a sportsman, but also grew up on a family farm. He stated he asked his father, whom he considers a very honest person, he does sell a few week ends a year of pheasant hunting. His comment to me was, he didn't understand exactly where we lost our freedom of our land, as a family farmer. If any of you in this room have been in southern Grant County, it is pretty desolate. It is God's country, he was really angry when he made it, but it is God's country. The family farmer in that territory is really struggling. They are trying to make ends meet in any, way, shape or form. I asked him, why does he not sell the whole season, and he said everything needs balance. I asked him what he does with the money, and he said it is some of the grandchildren's Christmas money, some is used to pay the land tax. I said, why don't we sell it all, you can make your land taxes easier. No, there are neighbors who come down and do things, when they call, he grants them permission, there is no

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House Finance and Taxation Committee

Bill/Resolution Number SB 2394

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charge. Family members, myself included, and sometimes complete strangers, and he grants them permission. He said as long as I raise the game, I make the rules. He stated this is a freedom I fought for in the Navy, and it is something he will continue to do.

REP. DOUG LEMIEUX, DIST. 9 Testified in opposition of the bill. Gave a brief history of raising fees on hunting licenses when he was in college. He also gave an explanation of working on a dairy farm in Switzerland for six months.

GARY ANDERSON, STATE TAX DEPARTMENT Submitted written testimony for information to committee members.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-20-01, TAPE #1, SIDE B, METER #718

REP. DROVDAL gave a report of the research he did regarding the bill. He visited with Sen. Cook who said he wanted the tax in it and then pass the bill. Rep. Porter wanted to pass the bill out without Sec. 4 and Sec. 7 and leaving the requirements of filing and the fee for any landowner who received compensation. Sen. Fisher recommended a study on it so we could get a handle on fee hunting. The Game & Fish said, do whatever you want on it, all they get is a bad time no matter what happens on it. Rep. Drovdal felt it should be a do not pass.

REP. HERBEL Stated that he talked to Rep. Porter as well, he feels the bill could be amended by taking the sales tax portion out of the bill. Rep. Herbel still felt the bill creates animosity and does nothing other than create hard feelings between landowners and hunters. He concurred with Rep. Drovdal that it should be a do not pass.

REP. KELSH Stated he visited with Sen. Cook and he would like the bill passed in its original form. What he really wanted was to get a handle on how much fee hunting was going on. Maybe a study would be better.

REP. CARLSON Stated he made the same phone calls that Rep. Drovdal made. He stated he did have objections to the sales tax and objections to the fact that everyone who charges to fee hunt, would be classified as an outfitter. I don't think that is the intent of laws of this state, or other states. An outfitter should be someone who is guiding or setting up trips to accompany you on those, not someone standing at the gate taking money. Stated he visited with the Game & Fish Department regarding fee hunting and what they would recommend.

REP. HERBEL Stated he asked Rep. Porter, if I charge you to come and hunt on my land, would I be required to pay the sales tax, and he said yes. If I charged four guys to come and hunt on my land, would I pay sales tax, and he said yes. I said, if I lease it to you for the whole season, would I pay sales tax, and he said yes. If I lease it to someone to farm it, should I pay sales tax, and he said that is different. I am not sure if it is or not.

REP. CARLSON Stated, the sales tax is amended out of there now.
Most of the committee members felt this was not a good bill.

REP. DROVDAL Made a motion for a **DO NOT PASS**.

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

12 YES 2 NO 1 ABSENT

REP. HERBEL Was given the floor assignment.

Date: 3-20-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2394

House FINANCE & TAXATION Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Drovdal Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN		✓	NICHOLAS, EUGENE	✓	
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) 12 No 2

Absent 1

Floor Assignment Rep. Herbel

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

REPORT OF STANDING COMMITTEE (410)
March 20, 2001 4:26 p.m.

Module No: HR-48-6194
Carrier: Herbel
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2394, as reengrossed: Finance and Taxation Committee (Rep. Carlson, Chairman)
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
Reengrossed SB 2394 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2394

Senate Natural Resources Committee:

In behalf of the North Dakota Professional Guide and Outfitters Association I would encourage this committee to vote do not pass on SB2394 for the following reasons:

1. This Bill as written would impose a State Sales Tax on Services which would be a Sales Tax on Labor. This is not right, when we go to have our car worked on there is Sales Tax on the parts required but not on the Labor for the installation of those parts.
2. We have no opposition to sales Tax for Bed and Breakfast fees as this is similar to Sales Tax imposed on the Motel and Restaurant Industry. However, Sales Tax on Services or in otherwards Labor would be treating the Guide and Outfitters industry different then other industries and would not be fair.
 - A. It would appear that this Bill is attempting to require some License requirements and accountability into the person who is not in the Business of Guiding clients but is simply charging access fees for clients to Hunt on their land. We agree with this concept, however I think a new class of License must be initiated to cover the person charging access fees and this License should be a different License then the ones presently being issued to Guides and Outfitters and the regulations must be different then the ones governing the operation of Guides and Outfitters.
 - B. If the Committee insists on sending this Bill forward with a do pass vote Another issue that should be considered that isn't even being addressed in this Bill is insurance requirements. The Guide and Outfitters association is still of the opinion that all Guides should be certified, that is to have Liability insurance, CPR and First Aid Certificates. Would the committee ask for this requirement of Guides and Outfitters, and the person who is simply charging access fees, or one or the other or neither???

Thanks for your consideration and please feel free to call if you would be interested in any additional input from our organization.

My regrets that I cannot appear at the hearing in person however prior obligations will have me out of State for about a week.

Once again I would like you to consider a do not pass on SB2394.

James L. Nagel
Lobbyist Registration #369

Phone# 222-1620 and Email: nageljames@qwest.net

Testimony for SB2394
House Finance & Tax
Senator Dwight Cook
District 34, Mandan

Mr. Chairman, members of the committee, the primary intent of SB2394 is help Game and Fish get a handle on a very fast growing industry in North Dakota commonly referred to as pay for hunting. We have all seen our fair share of hunting bills this session dealing with many different issues. I believe the driving issue behind many of these bills is this rapid growth in commercialized hunting. As the prime sponsor of this bill I believe that had we passed a bill like this a few years ago our decisions this session would be a lot easier. Why, because they would have been supported with some factual data. It is the intent of the sponsors to explain this bill and to make it clear what we mean by getting a handle on pay for hunting.

Mr. Chairman, before I start I should explain four convictions that I hold true and that are reflected in SB2394. The first one is that landownership comes with rights. Specifically, a landowner has the right to charge a fee to hunters for the right to hunt on the landowner's land. This conviction has drawn me into an argument or two. There are constituents in my district who will disagree with me. There are people who believe that the state has the right to ban pay for hunting. I am not one of them and I will always defend the right of a landowner to charge a fee.

The second conviction is that people engaged in commerce have certain responsibilities. I myself am a small business owner. I cannot pay employees cash. I must pay a minimum wage, pay social security, workers compensation, and unemployment insurance. I must carry insurance or risk losing everything I own. I must fill out numerous reports, including reports that give evidence to the amount of commerce that I conduct. And Mr. Chairman, a responsibility that I have, that I really don't care for, is I must collect and remit sales taxes owed to the state. I might add that North Dakota is not the only state that I collect and remit sales taxes for. Collecting sales tax is a responsibility that all people engaged in commerce have.

My third conviction is in regards to taxes. I don't like taxes. I wished we didn't have taxes. I dream sometimes of a government where we simply passed the collection plate at the end of the year. People could give freely

an amount that reflected their ability to pay. But we don't live in that world. So I resolve to the conviction that a tax to be fair must tax all equally.

The last conviction that is reflected in this bill is the role of game and fish. They have of course, the awesome responsibility of managing wildlife in our state. Managing it in a way so that all North Dakotans may enjoy it to its fullest. They are challenged, not only with the responsibility of assuring that North Dakotans have ample places to hunt but also with the responsibility of assuring that individuals involved with commercialized hunting might reach their optimum success. Now, because of this rapid increase in commercialized hunting, Game and Fish must not only work at making it successful they must compete with it. They are starting numerous new programs where they too can offer financial incentives to landowners in exchange for free public access.

It is important that all of us in the public policy arena understand their challenges and their efforts so that all might enjoy our wild life resources and that all might be successful no matter what one's endeavor might be. All of us in this public policy arena understand the importance of accurate data. SB2394 will help provide needed accurate data relative to hunting and fishing in North Dakota.

Mr. Chairman, members of the committee, the two major changes that this bill makes is that it makes pay for hunting subject to sales tax and it creates a mechanism for those involved in this business to report to Game and Fish. Only then will we have the important data needed to make informed decisions.

Mr. Chairman, the Senate had a considerable debate over the sales tax issue. There was concern that we were moving into uncharted waters by taxing a service. I disagree and will be presenting evidence that we do already charge sales tax in areas where you cannot separate the service from the tangible property. I compare it to green fees on a golf course. I might add that pay for hunting is subject to sales tax in other states including South Dakota. The Senate removed, with floor amendments, section nine of the original bill and I will be presenting amendments to put that section back in.

Mr. Chairman, members of the committee that ends my testimony. I would like to explain the bill and present my amendments. I would be happy to

answer any questions and I would urge you to give this bill favorable consideration.

North Dakota Sportsmen's Alliance

1205 6th Avenue NE
Jamestown, ND 58401
Phone: 701-252-1586



TESTIMONY OF LARRY KNOBLICH NORTH DAKOTA SPORTSMEN'S ALLIANCE

PRESENTED TO THE HOUSE COMMITTEE ON FINANCE AND TAXATION
ON SB 2394, MARCH 13, 2001

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Larry Knoblich, representing over 2000 resident sportsmen of the North Dakota Sportsmen's Alliance. Membership includes the members of: Barnes County Wildlife; Future Pheasants of Dickey & LaMoure County; Stutsman County Wildlife Federation; United Sportsmen of ND, Jamestown Chapter; Carrington Wildlife Club; and individuals from throughout North Dakota.

→ IN THEIR AMENDED FORM.

We stand in support of the bill as originally proposed with its section 9 and section 2. We feel that without sections 9, the bill is not worth the paper it's written on nor the time you will be required to spend dealing with it.

— THESE

Section 9 provides for a tax on some of the guiding business as we now know it. As we now understand, by present law the outfitters are only required to pay taxes on the lodging portion of a day's hunt. On a typical \$225 daily fee, as was charged by the Cannonball Company in 2000, the outfitters were only required to pay sales tax on the \$40 charge for lodging. In other words, \$2.40 for a \$225 transaction. This seems a very paltry sum when compared to other businesses in North Dakota. According to the State Tax Department, only 9 outfitters paid such taxes on their business during the last filing period. Again, a paltry number when compared to the hundreds of such businesses that claim to be in danger of "going out of business" if the state were to impose taxes or regulate nonresidents from hunting our state.

→ COLLECT AND

We feel that any business that claims to be such a viable part of the "economic development" of the State of North Dakota and lobbies so vigorously against ND resident hunters and leases hundreds of thousands of acres of prime hunting land from

"To Lobby for the Good of North Dakota Sports Persons"

**TESTIMONY OF LARRY KNOBLICH
NORTH DAKOTA SPORTSMEN'S ALLIANCE**

**PRESENTED TO THE HOUSE COMMITTEE ON FINANCE AND TAXATION
ON SB 2394, MARCH 13, 2001**

Page 2

the hunting range of the resident hunter, should at least be required to ^{COLLECT AND} pay their fair share of taxes to support the state of North Dakota, just as the rest of us "Maw & Paw" operations do.

We urge you to return ^{AMENDED} section 9 ^{AND 2} to the bill and pass it in its amended form.

We would support the original bill ^{WITH AMENDED} section #2 on [REDACTED] and including section 9 of said [REDACTED] bill.

Respectfully,

Larry Knoblich
Larry Knoblich,
Executive Director



WICK CLAYBURGH
COMMISSIONER

STATE OF NORTH DAKOTA

OFFICE OF STATE TAX COMMISSIONER

FEB 23 2001

STATE CAPITOL, 600 E. BOULEVARD AVE., DEPT. 127, BISMARCK, NORTH DAKOTA 58505-0599

701-328-2770

FAX 701-328-3700

Hearing/Speech Impaired 800-366-6888 (TTY Relay North Dakota)

<http://www.state.nd.us/taxdpt>

MEMORANDUM

TO: John Walstad
LEGISLATIVE COUNCIL

FROM: Gary L. Anderson
Director, Sales & Special Taxes

SUBJ: Taxability of Services

DATE: February 23, 2001

North Dakota provides for the application of sales tax on the following services:

1. Tickets or admissions for participation in amusement, entertainment, and athletic events
2. Playing of an amusement machine (coin-operated amusement machine)
3. Lease or rental of tangible personal property
4. Lease or rental of hotel or motel accommodations
5. Furnishing of natural gas
6. Furnishing of communication services
7. Tire recapping and retreading services

Taxable amusement or entertainment facilities may include, but is not limited to, a golf course, bowling alleys, swimming pools, tennis courts, billiard tables, and dancehalls.

A golf course is responsible for the collection of sales tax on the payment covering golfing privileges, including green fees and the rental of golf carts and clubs.

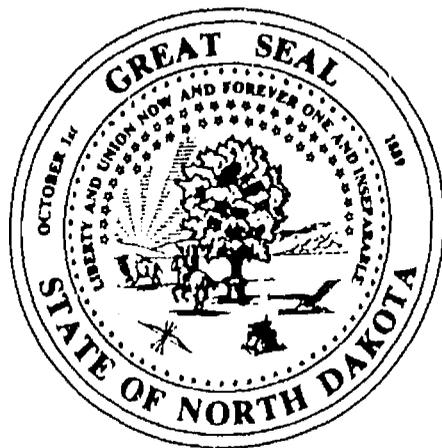
A bowling alley is responsible for the collection of tax on the price charged per line of bowling and rental of shoes.

Cities (i.e., park boards) or businesses operating swimming pools are responsible for the collection of sales tax on admission charges to the swimming pools.

The charge for hotel or motel accommodations, which includes charges for hotel/motel conference or banquet rooms or swimming facilities, is subject to sales tax.

I have included several of our *Sales and Use Tax Guidelines* that specifically address some of the areas mentioned. If you require additional information, please let me know.

Enclosures



JANUARY 1997

North Dakota
Sales and Use Tax Guideline
For:

**CLUBS AND
LODGES**

Prepared By
**OFFICE OF
STATE TAX COMMISSIONER**
Rick Clayburgh
Commissioner

CLUBS AND LODGES

Clubroom Facilities, Dining Room, And Bar

Many fraternal organizations like the Elks, Eagles, Moose, and Knights of Columbus maintain club facilities which include clubrooms, dining facilities, and a bar. If the club maintains a dining room, snack bar or beverage bar, then the club is engaged in a retail activity which requires the club to obtain a North Dakota sales and use tax permit and to charge sales tax on their prepared meals served at their dining facilities and for drinks and snacks served in their bar facilities. Purchases of items which are to be resold in either the dining facilities or the bar, should be purchased under the theory of resale and the club should then charge sales tax on the meals, lunches or drinks which are served through their facilities.

The gross receipts from bar facilities which provide mixed drinks and other alcoholic beverages as well as soft drinks or snack items, are subject to sales tax. The sales tax rate on alcoholic beverages is 7%.

Membership Fees Or Dues

Membership fees or dues paid to a health club, community club, fraternal lodge, service club, civic group, religious organization, political party, or similar organization, may or may not entitle the member to the use of amusement or entertainment facilities of a kind that are subject to sales tax when provided by other establishments which furnish such amusement or entertainment to the public. These taxable amusement or entertainment facilities may include a golf course, tennis court, swimming pool, dancehall, bowling alleys, billiard tables, exercise machines, weight lifting equipment, and racquetball courts.

Admissions to places of amusement or entertainment, or to athletic events, including amounts charged for participation in such activities, are taxable. If membership fees or dues entitle a member to free use of these facilities or the use of these facilities at a reduced rate, then all or part of the membership fees or dues may be subject to sales tax.

Any club or organization whose membership fees or dues entitle its members to the use of facilities for amusement, entertainment or athletic events, must allocate a portion of such fees or dues to those activities and must remit sales tax on that portion. Failure to allocate dues between taxable and nontaxable privileges subjects the entire amount of membership fees or dues to North Dakota sales tax.

Example: A country club has annual dues of \$1,500.00. Those annual dues entitle the member to play golf without payment of green fees, and also entitle the member to admission to the clubhouse, locker room and other club facilities. If the membership fee is charged to the member at a flat rate of \$1,500.00, without a proration of the fees charged for the golfing privileges, then North Dakota sales tax must be charged on the entire amount of the dues and must be remitted to the North Dakota Office of State Tax Commissioner.

If, on the other hand, the total annual membership of \$1,500.00 is divided into a club membership fee which merely entitles the member to clubhouse facilities and a separate fee to cover golfing privileges only the portion attributed to golfing is subject to sales tax since this is an admission to an entertainment or athletic event and the receipts from such charges are subject to North Dakota sales tax.

Any club or organization whose membership fees or dues do not entitle the members to the use of any specific amusement or entertainment facilities is not required to prorate their membership receipts since the entire amount is exempt from sales tax.

Sponsorship Of Amusement, Entertainment, Or Athletic Event

The taxable status of receipts from educational, religious or charitable activities is dependent upon the location of the activity and the distribution of the net proceeds.

Generally, nonprofit fraternal, religious, community or civic groups may sponsor an amusement, entertainment or athletic event without the collection of sales tax as long as all of the "net receipts" are expended for or donated to an educational, religious or charitable purpose. The term "net receipts" refers to the gross receipts minus necessary expenses connected with the sponsorship of the event. However, if these events are held in a "publicly owned" facility such as a civic center, college auditorium, fair grounds or city hall, or if the activity is in direct competition with other taxable activities, the gross sales receipts are taxable to the sponsor regardless of whether or not the net receipts are donated to religious, educational or charitable purposes.

If an event is sponsored by a fraternal or social organization and the net proceeds are merely put into the treasury of the organization, the gross receipts from the event are subject to North Dakota sales tax since the "net receipts" are not being expended solely for or donated to an educational, religious or charitable purpose.

Purchases For Use By The Organization

Country clubs, lodges, community and civic groups, churches, religious and charitable organizations, political organizations and similar groups making purchases from local suppliers and out-of-state suppliers for use by the club or organization, are subject to North Dakota sales or use tax.

If materials or supplies are purchased from a North Dakota supplier, or from an out-of-state supplier who has a North Dakota sales and use tax permit, the supplier must be advised that North Dakota sales tax should be charged on these purchases. If materials or supplies are purchased from an out-of-state supplier who does not have an obligation to collect and remit North Dakota sales or use tax, or if a North Dakota supplier fails to charge the tax properly, then the organization must account for these purchases and report the total cost of all such purchases on line 4 of the sales and use tax return, covering the period during which such purchases were made. The following is a list of some of the items which are taxable when purchased by any of the above groups for final use.

Trophies	Towels	Playing Cards
Party Decorations	Toilet Tissue	Soap
Chemicals	Janitorial Supplies	Office Supplies
Employee Uniforms	Matches	Rakes
Hand Tools	Insecticides	Shovels
Lawn Mowers	Fertilizer	Grass Seed
First Aid Supplies	Repair Parts	Glassware
	Ashtrays	Furniture

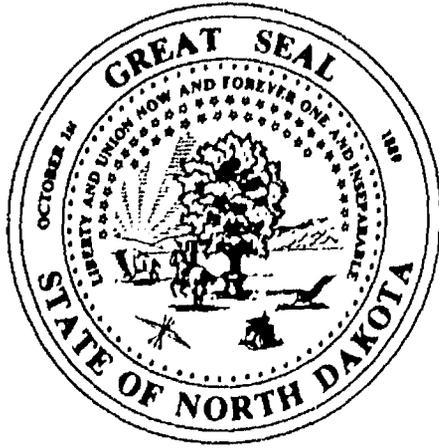
Games Of Chance

Any organization licensed by the North Dakota Attorney General to conduct bingo games pursuant to North Dakota Century Code § 53-06.1-03 must collect and remit sales tax on the furnishing of bingo cards. The furnishing of bingo cards is subject to North Dakota's general sales and use tax rate of five percent. Any applicable city sales tax should also be added to charges for bingo.

Any organization wishing to conduct games of chance should be aware that they must pay sales or use tax when they purchase bingo equipment, jars, pull tabs, punchboards, raffle tickets, or any other implements of gambling. If these goods are purchased from a North Dakota supplier or an out-of-state supplier who is registered to collect North Dakota sales and use tax, the tax should be paid directly to the supplier. If such equipment is purchased from an out-of-state supplier who is not registered to collect North Dakota sales and use tax, the organization making the purchase is responsible for remitting use tax on the cost of the goods.

Additional Taxpayer Assistance

Questions or comments regarding this guideline may be directed to the Office of State Tax Commissioner, Sales and Special Taxes Division, 600 East Boulevard Avenue, Bismarck, North Dakota 58505-0599. You may also call 701-328-3470 or toll free from anywhere in North Dakota at 1-800-638-2901, extension 8-3470. For the speech and hearing impaired, the local TDD number is 701-328-2778 or toll free in North Dakota at 1-800-453-8950.



North Dakota
Sales and Use Tax Guideline
For:

**BOWLING
ALLEYS**

Prepared By
**OFFICE OF
STATE TAX COMMISSIONER**
Rick Clayburgh
Commissioner

APRIL 1997

BOWLING ALLEYS

Charges for Bowling

Sales tax law imposes a tax on "admissions to places of amusement, entertainment, or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity"; thus, charges for bowling are subject to sales tax. Sales tax may be added to the price charged per line of bowling or sales tax may be included in the price per line. However, when the line price includes tax, a sign must be posted advising patrons that the price per line includes a specified amount of sales tax.

Sales and Rentals of Bowling Balls, Bags, Shoes and Towels

Most bowling alleys sell bowling balls, bags, towels, shoes and other bowling accessories and supplies. All such sales are taxable and must be reported on the sales tax return filed by the bowling alley.

Most bowling alleys also rent bowling shoes to their patrons and these rentals are taxable. Since the rental of shoes is taxable, the bowling alley may purchase the shoes without paying sales or use tax.

Rental of Lockers

Many bowling alleys rent lockers to their patrons. Generally, the locker rental fee is on a seasonal basis. These charges are not subject to sales tax since the rental of lockers is rental of real property (the lockers are affixed to the building) rather than rental of tangible personal property.

Trophies and Bowling Shirts

Bowling alley sales of trophies and clothing are subject to sales tax, including any charges for engraving trophies or awards and any charges for lettering placed on bowling shirts.

IMPORTANT:

Please note that charges for engraving trophies or awards and charges for lettering shirts are subject to sales tax even if the charges are separately stated from the price of the trophy, award, or shirt. The engraved trophy or the lettered shirt is regarded as "an article made to order" and its total selling price is subject to sales tax.

Coin-Operated Vending Machines

The gross receipts from coin-operated vending machines are subject to sales tax. Receipts from cigarette vending machines are taxable as are the receipts from soft drink vending machines, candy or gum vending machines or other vending machines which dispense merchandise. The only exception is for those vending machines which dispense peanuts, gum balls or other products for 15 cents or less.

Sales tax is included in the gross receipts from coin-operated vending machines and must be deducted before calculating gross receipts subject to sales tax (taxable sales). Taxable sales from coin-operated vending machines are calculated as follows:

- | | | |
|----|--|--|
| a) | 5% State Sales Tax only | Taxable Sales = Gross Receipts + 105% (1.05) |
| b) | 5% State Sales Tax and
City Sales Tax | Taxable Sales = Gross Receipts + [105% + city tax percent] |

Example:	1% city sales tax	Taxable Sales = Gross Receipts + 106% (1.06)
	1½% city sales tax	Taxable Sales = Gross Receipts + 106% (1.065)
	1¾% city sales tax	Taxable Sales = Gross Receipts + 106% (1.0675)

The owner of the coin-operated vending machine is the one responsible for sales tax on receipts from the machine. Sales tax should be subtracted from total receipts by the machine owner before calculating the percentage of receipts which go to the location owner.

Amusement Sales

State sales tax is due on eighty percent (80%) of the gross receipts collected from coin-operated amusement devices. Grand Forks provides for city sales tax on fifty-six percent (56%) of the gross receipts. All other cities that tax coin-operated amusement, tax 80% of the gross proceeds. Sales tax is included in the gross receipts from coin-operated amusement devices and must be deducted before calculating gross receipts subject to sales tax (taxable sales).

Taxable sales from coin-operated amusement machines are calculated as follows:

- | | | |
|----|--|---|
| a) | 5% State Sales Tax only | Taxable Sales = Gross Receipts x 76.92% (.7692) |
| b) | 5% State Sales Tax and
1% City Sales Tax | Taxable Sales = Gross Receipts x 76.34 (.7634) |
| c) | 5% State Sales Tax and
1 1/4% Grand Forks City
Sales Tax | (State) Taxable Sales = Gross Receipts x 76.20% (.7620)
(City) Taxable Sales = Gross Receipts x 53.34% (.5334) |

The owner of the coin-operated amusement device is the one responsible for sales tax on the receipts from the machine. Sales tax should be subtracted from total receipts by the machine owner before calculating the percentage of receipts which go to the location owner.

Receipts from amusement, entertainment or admission charges are subject to North Dakota sales tax. Accordingly, receipts from cover charges, dance tickets, billiards, card games and similar activities are subject to sales tax.

Restaurants, Cafes, Lunch Counters

A bowling alley in which a restaurant, cafe, lunch counter or caterer provides meals is responsible for collection of sales tax on the gross receipts from such sales. Sales tax must be added to the selling price of all meals, lunches, snacks, coffee, soft drinks, ice cream, cigarettes, cigars, and tobacco sold. Sales of candy bars, gum, snack foods and similar items are also subject to sales tax.

Alcoholic Beverage Sales

All sales of beer, wine, mixed drinks and other alcoholic beverages are subject to North Dakota sales tax whether these products are sold for consumption on or off the premises. The North Dakota sales and use tax rate on alcoholic beverages is 7%, not the general rate of 5%.

For ease of administration, alcoholic beverage retailers may include sales tax in the posted price of all on-sale beverages and all off-sale alcoholic beverages. Prices for nonalcoholic off-sale and other taxable goods should not include sales tax. When the posted price of on-sale or off-sale alcoholic beverages includes sales tax, a sign should be posted advising patrons that the posted price includes sales tax.

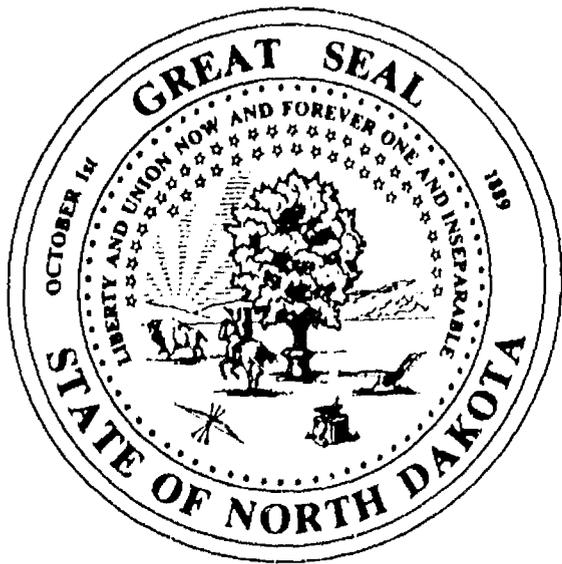
Purchases Subject to Use Tax

All bowling alleys are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include:

<u>Equipment</u>	<u>Supplies</u>
Bowling balls (for house use)*	Cleaning supplies
Bowling pins	Toilet tissue
Pin setting machines & parts	Paper towels
Ball cleaning machines	Brooms & mops
Fixtures & furniture	Oil for alley maintenance
Tables & booths	Light bulbs
Cash registers	Office supplies
Office equipment	Dishes & glassware
Bar or lounge equipment	Ash trays
Cafe equipment	

If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who fails to charge North Dakota sales or use tax, the purchaser must include the cost of the purchases on line four of the North Dakota Sales and Use Tax Return and remit the use tax on those items directly to the Office of State Tax Commissioner.

*Special note - Many bowling alleys accept used bowling balls as "trade-ins" on new bowling ball sales. The bowling alley then utilizes these used balls as "house balls" rather than reselling them. When the bowling alley does this, it is required to pay use tax on the value of the used bowling balls. The value is the amount credited as a "trade-in" on a new ball.



APRIL 1997

North Dakota
Sales and Use Tax Guideline
For:

**HOTELS
AND MOTELS**

Prepared By
**OFFICE OF
STATE TAX COMMISSIONER**

Rick Clayburgh
Commissioner

HOTELS AND MOTELS

Gross Receipts Are Taxable

Gross receipts from the rental of hotel, motel or tourist court accommodations including but not limited to meeting rooms, conference rooms, banquet rooms, or swimming facilities are subject to sales tax, provided that the period for which the accommodations are rented is less than thirty consecutive days or one month. If a hotel or motel operates a bar, lounge, coffee shop, cafe, dining room or gift shop, those receipts are also subject to sales tax. Items sold at a newsstand, such as books and magazines, are subject to sales tax; however, newspapers are specifically exempt.

Accommodations Rented for Periods of Thirty Consecutive Days or More

Hotel, motel, and tourist court accommodations occupied by the same individual or individuals for residential housing for periods of thirty or more consecutive days are exempt from tax.

In order to qualify for the exemption, each occupied room must include continuous residency by at least one specific individual for thirty or more consecutive days. Any break in the continuous occupancy of the room by that individual which results in a continuous occupancy of less than thirty consecutive days shall subject the accommodations to tax. In cases where an occupancy break results in one continuous occupancy period of thirty or more consecutive days and one continuous occupancy period of less than thirty consecutive days, the exemption applies only to the occupancy period of thirty or more consecutive days.

Exempt Institutions

Under sales tax law, the United States government and its agencies as well as the state government and all of its political subdivisions are exempt from payment of sales tax.

Individuals who represent any of these agencies and who rent hotel or motel accommodations are subject to sales tax on accommodations; this includes federal employees, state employees, county and city employees and school groups. Accommodation for these individuals and groups are taxable unless payment for the room is made directly by government warrant or government check.

Example: If the local high school's basketball team travels to another North Dakota city where they rent hotel rooms for an overnight stay, sales tax applies to the rental charge for those rooms unless the accommodations are paid for by a school check.

Government employees, whether they are traveling for the Federal government, the state government or local government, are subject to sales tax when staying at a hotel or motel in North Dakota if they pay for their own lodging and are then reimbursed by the unit of government for which they work.

Rooms Provided Free of Charge

Some hotel and motel operators include a room as part of the fee paid to entertainers who appear in the hotel or motel lounge. Despite the fact that it is included in the entertainer's pay, there is use tax due on the value of that room. The value is considered to be the lowest commercial rate offered by that hotel or motel for that particular room.

Non-Taxable Service

Services offered to customers, such as valet, laundry or babysitting, are not taxable under North Dakota sales tax law.

Telephone Charges

Under North Dakota tax law, charges for communication services (including telephone service) are subject to tax.

When guests at hotels and motels make intrastate telephone calls (interstate calls are exempt from state and local sales tax), applicable toll and tax charges are assessed by the phone company on the hotel's or motel's telephone bill. The hotel or motel then typically passes these toll and tax charges along to the guest making the call. In these cases, applicable sales tax will be paid by the hotel or motel to the phone company and it is not necessary to remit sales tax a second time on the actual expenses recovered from the guest.

However, if a hotel or motel adds any type of surcharge to a guest's telephone charges (over and above what is actually expended by the telephone company), the surcharge is subject to sales tax. Such charges are always taxable as local communication charges, no exemption is provided for surcharges imposed on interstate telephone service.

Items Subject to Sales or Use Tax

Hotels and motels are subject to sales or use tax on all equipment, supplies and materials purchased for use in the operation of the hotel and motel, including a bar, lounge, coffee shop, or dining room. Examples of taxable items for each of these operations are set out in the paragraphs below. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who fails to charge North Dakota sales or use tax, the purchaser should include the cost of the purchases on Line 4 of the North Dakota sales and use tax return and remit the use tax on those items directly to the Office of State Tax Commissioner.

A. Hotels and Motels: A hotel or motel must pay sales or use tax on the purchase price of all items of equipment, including beds, furniture, television sets, room furnishings and other similar items. They are also responsible for sales or use tax on supplies furnished to guests or used in the operation of the hotel or motel. These supplies include items such as linen, bedding, towels, soap, toilet tissue, laundry bags, drinking glasses, stationery, matches, menus, keys, registration books, office supplies, and cleaning supplies.

B. Bars and Lounges: All bar and lounge owners are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: drinking glasses, cleaning compounds, equipment and furniture, coin-operated machines, chairs, cash registers, and similar items.

C. Restaurants and Cafes: All restaurant or cafe owners must pay sales or use tax on items of equipment, materials or supplies purchased for personal or business use, with the exception of those food items which are expressly exempt from tax. Purchases of cleaning and sanitary supplies such as soap, cleansers, brooms, sweeping compounds, toilet tissue and light bulbs are subject to North Dakota sales tax.

Sales and Special Taxes Division - 600 East Boulevard Ave. - Bismarek, ND 58503-0599
Phone (701)328-3470 or toll free 1-800-638-2901, extension 8-3470
TDD (701)328-2778 or 1-800-453-8950

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CONSERVATION PLOTS GUIDE

Rep. Todd Portno
SB 2394

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