

2011 HOUSE FINANCE AND TAXATION

HB 1334

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1334
January 25, 2011
#13346

Conference Committee

Committee Clerk Signature

May Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales tax exemption for membership dues and activity fees of nonprofit corporation clubs and organizations; and to provide an effective date.

Minutes:

See attached testimony #1, #2

Chairman Wesley R. Belter: Sponsor. Support. I have introduced HB 1334 on behalf of individuals who were interested in this issue of the gross receipts tax on membership dues for nonprofit corporations and organizations. I've been on the tax committee since 1987 and I don't know if we've ever really looked at this issue that I can recall. It's an area that I think needs our attention. I noticed that there are a number of individuals who are here to testify and I've asked the Tax Department here to help us figure out how we deal with the nonprofits and the gross receipts that they've been required to pay.

Rick Jorgenson, Devils Lake: Support. Please refer to attached testimony #1.

Chairman Wesley R. Belter: In your specific organization what gross receipts or sales tax are you paying? Are you paying it on the memberships and where else?

Rick Jorgenson: It is my understanding and I wasn't aware of this until recently that the state has a negotiating agreement with the clubs and organizations that are similar to ours that we are to pay taxes on a portion of our membership dues that are considered user fees. I understand that the agreement was reached that approximately \$10 of those fees would be related. If you had dues of maybe \$30 and maybe \$10 of that would be considered a use fee for the use of the range and that type of thing. I'll give you an example of why the record keeping is so difficult; say you're running a fun shoot or having an activity at your range and you will sell bottles of water we have to collect sales tax on that. Typically we hand them out or just give them away and take donations on them. Typically you're talking about sales tax revenue on that activity that might be \$3.23. Probably the most impact on the clubs is the membership dues and possible match fees. My understanding is we are supposed to collect sales tax on match fees as well. Those can be an interesting thing because say we have a junior match and they pay a match fee. A portion of that goes to the sponsoring organization and then a portion is kept by the club. We would be paying sales tax on the gross match fees that we collected so if we collected \$10 from each kid we would owe the tax on that total. We really don't see much revenue

from that at all, in fact, in mostly becomes a wash for us because of all the expenses associated with operating a range and using it. These expenses are rather substantial and that's where you can get into a situation with a larger club and they really need that revenue to maintain that operation of that facility.

Representative Glen Froseth: I believe that with a nonprofit status you would have to be organized as a 501 (3) (c) to be exempt. I'd like to get clarification from the Tax Department on that later. Are you organized under this?

Rick Jorgenson: No our local club is not. My understanding of this bill was that it didn't address just 501 (3) (c)s so I guess that was the reason I am here today. I would hope the bill would affect all North Dakota nonprofits whether they be a 501 (3)(c) which is a federal designation versus a state designation as a nonprofit club.

Representative Lonny B. Winrich: Can you tell me what your sales tax revenue was last year?

Rick Jorgenson: I'm sorry I am not able to say.

Tom Thompson, Bismarck: Support. Please refer to attached testimony #2.

Chairman Wesley R. Belter: Question for Myles of Tax Department. In the early testimony a comment was made that there was certain agreements that you make with certain clubs. Could you give us some background on this and how you handle golf clubs?

Myles Vosberg, ND Tax Department: Generally what are subject to tax are admissions to places of amusement and activities where you participate in a sport or activity. Where the memberships come into play is if a membership entitles the member to something that is usually subject to tax then that portion of the membership becomes taxable. We have a guideline out there that says if you can separately identify the portion of your membership that applies to this service or fee that's normally subject to tax you only need to tax that portion. Memberships to associations in general are not subject to tax. If you are a member to a service club for example those types of things are not subject to tax. What happens here is because some of the service that is provided in the membership is normally subject to tax then we ask that to be taxed. We don't really make agreements but what we ask the club or organization to do is determine what portion of their membership applies to the taxable fee and then tax that portion of it. Listening to the testimony this morning I'm thinking perhaps these organizations may be paying a little more tax than is required because a fee that is paid for an educational activity is not subject to tax. If some of the fees are for safety training and those types of things they are not subject to tax. We may need to work with some of these organizations to help clarify that. When I read this bill and it talks about gross receipts from membership dues and activity fees collected by a nonprofit we have a few questions on what that means. Does it also include the sale of tangible personal property or does it include a onetime access fee? It addresses nonprofit clubs or organizations. I wonder whether that would include a park district that runs a golf course for example. I don't think that is what is intended here as nonprofit but they are not a for profit organization. It doesn't give any code section or relationship to whether it is

taxed or tax exempt under the IRS code. I think the most common organizations involved here would be the golf clubs, the shooting and gun clubs, racquet and tennis clubs, etc.

Chairman Wesley R. Belter: Has there been any discussion between the shooting clubs and the tax department over this issue?

Myles Vosberg: I can't answer that question for sure but I guess on the reporting I would guess there have been some conversations with our compliance section. I don't think we've had any discussion regarding an exemption or this particular bill.

Chairman Wesley R. Belter: Do you see any unique problems that they type of organizations that have testified today would be similar to what is happening in our golf courses?

Myles Vosberg: They have to go through that same record keeping process. They have to determine how much of their membership is for the activities that are subject to tax. I would agree that there is definitely some burden there for these organizations.

Representative Dave Weiler: What part of fees for education, for example, may not have to be taxed?

Myles Vosberg: The law imposes taxes on admissions on places of amusement and so on. Our view is that if there is a training course of some kind whether it be shooting, a golf lesson, etc. that is more of a training issue and not an activity or an admission. So those are not subject to tax. I heard this morning that some of the fees for an organization for shooting class or safety instruction they are collecting tax on that.

Representative Dave Weiler: You mentioned a certain portion of someone's dues or fees or membership fees may not be taxable. Say my membership dues are \$1000 to some nonprofit and I pay tax on that \$1000 and then it's determined by the organization that \$300 of that is nontaxable then they are only going to remit \$700 of sales tax to the state, correct? Where am I going to get my break because I just paid tax on \$1000 and shouldn't have had too.

Myles Vosberg: An example of that would be belonging to a golf club that is nonprofit and that entitles you to greens fees and to use of their building facilities to include locker rooms and so on. The portion of that membership that is subject to tax would be the portion that entitles you to golf. What we instruct those organizations to do is to determine what portion is taxable and then apply tax to only that portion rather than the whole thing.

Representative Dave Weiler: They are instructed only to collect tax on that portion?

Myles Vosberg: That is correct.

Representative Dave Weiler: Do we have any idea whether some of them charge tax on the whole dues and remit only part of it?

Myles Vosberg: The only way we would know that is if we audited those organizations.

Vice Chairman Craig Headland: I'm not clear what all these shooting clubs entail but I think I have a good idea of a racquet club or golf club. These gentlemen that testified earlier said their organizations are taken care of by volunteers. When I look at a golf club or a racquet club I'm assuming they have paid professionals that are responsible for taking care of their obligations to the state. You testified that it appeared some of these volunteers were paying things they weren't even responsible to pay sales tax on. Is there a possibility or a way to isolate or differentiate these different clubs that are made up of volunteers and probably don't have the capability as other organizations who have hired and trained professionals?

Myles Vosberg: You may be correct on that as far as paid employees and so on. When I first saw HB 1334 I went to the Secretary of State's website and searched on names of businesses just with the words "golf club" and I came up with 35 or 37 organizations. All but two of those entities were nonprofit. There are a lot of golf courses and so on in the smaller communities that are nonprofit organizations. Whether they have paid employees or not, I'm assuming they probably do because they have maintenance and a number of other things. Whether they are bookkeepers that are tracking our volunteers or not, I am not sure, that could be possible. If you wanted to address just the gun clubs maybe that could be done or we certainly could try and work on some language that you are trying to accomplish here. It may be difficult for us to know who has paid employees and who doesn't and does it matter. We could work on that if you like.

Vice Chairman Craig Headland: This is hard. I have a concern that some of these employees are being asked to do some things that they probably aren't properly trained for. I don't know if they have the revenue stream to hire professionals for this.

Representative Shirley Meyer: Does attending a high school football game fall under the education exemption or are all those activities taxed?

Myles Vosberg: There is a provision in the law that exempts gross receipts when they are received by the public schools and expended under the provisions of law.

Representative Lonny B. Winrich: There is a sign that reads "This is a non-profit corporation but we didn't plan it that way." What is the definition of nonprofit under the tax law?

Myles Vosberg: There is nothing specific in the law that defines what a nonprofit organization is. There are some other places in the law that provides exemptions for sales by nonprofit organizations. In those cases they define nonprofit organizations that is exempt from income tax under code 501 (c)(3). I think there are more kinds of nonprofit organizations. The golf courses that I looked at were 501 (c) (7)s.

Representative Lonny B. Winrich: As this bill is written it's pretty vague about which organizations would qualify.

Myles Vosberg: It is vague in fact we had the question if a government entity would fall under this category.

Representative Wayne Trottier: I was not aware that clubs were subject to taxes. If a car club would be responsible for taxes collected and they sponsor a meal and sell tickets, would that be subject to tax?

Myles Vosberg: Probably not because there is a provision in the law that addresses more of the fundraising issues. An organization that uses the proceeds for educational, charitable, or religious purpose and have a short-term fundraising situation then those sales are not subject to tax.

Representative Wayne Trottier: Do you have to do much auditing around the state?

Myles Vosberg: We are not out policing these. We get contacted by a lot of organizations who are having fundraising activities or sales of some type that inquire about the taxability.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1334.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1334
January 25, 2011
13400

Conference Committee

Committee Clerk Signature

Mary Buckler

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales tax exemption for membership dues and activity fees of nonprofit corporation clubs and organizations; and to provide an effective date.

Minutes:

Chairman Wesley R. Belter: I think maybe we have some discrepancies of how different organizations are possibly being handled. The Tax Department indicated that we may need some clarification.

Representative Bette Grande: I'm not sure this can be solved with a short period of time. One of the things that I gathered from listening to testimony is that they all learned from each other and maybe that clarification from the Tax Department is at least going to help them out at least through this interim and this might be something we can look at to find these things out. This is a lengthy thing and I don't think this is something we are going to put together in one line.

Chairman Wesley R. Belter: I want to talk to Myles about this. Maybe there isn't anything we need to pass and it's just a case of these individuals not being informed of our current laws. I'd like to get some clarification from the Tax Department before we do anything on it. I feel that these organizations who operate as a nonprofit and get nailed with all the paperwork for a relatively small amount of money is more of an inconvenience to them and takes up time to audit them. But when there are clubs like golf courses who may have a lot of money we may need to guard against this. I will visit with Myles about this further.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1334
January 31, 2011
#13729

Conference Committee

Committee Clerk Signature

Mary Bruckler

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales tax exemption for membership dues and activity fees of nonprofit corporation clubs and organizations; and to provide an effective date.

Minutes:

See attached amendments #1.

Donnita Wald, General Counsel for Office of State Tax Commissioner: We were asked to draft some amendments to HB 1334 which would limit its application to nonprofit firearm shooting organizations. The amendment was reviewed. Please refer to attachment #1.

Chairman Wesley R. Belter: There is no specific language for a golf club or something like this is there?

Donnita Wald, General Counsel for Office of State Tax Commissioner: No and from what I understand that was some of the issues that came up during the hearing about how broad the original bill was.

Chairman Wesley R. Belter: So the Tax Department felt that it was necessary to specifically carve out these groups over other ones?

Donnita Wald, General Counsel for Office of State Tax Commissioner: From what I understood from Myles Vosberg to draft the amendments just to limit it to the nonprofit shooting clubs. This is probably easier to administer in the long run than membership dues, fees, and activities. This is one specific group of nonprofits whose admissions would be exempt now.

Representative Steven L. Zaiser: I'm sorry I didn't hear the explanation on why this was just on shooting clubs.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I was directed by Myles Vosberg to draft the amendments and to narrow the original bill down to these particular nonprofit organizations for shooting ranges. The original bill was introduced and the constituent wanted just the shooting ranges, is that correct?

Chairman Wesley R. Belter: It was brought to my attention by groups that operate these shooting ranges.

Donnita Wald, General Counsel for Office of State Tax Commissioner: The way it was originally introduced it was very broad and could have applied to a lot of different activities and a lot of fees so this is one way to narrow it.

Representative Dave Weiler: My concern on this is narrowing it to just this group. Next session you are going to have 100 bills in from different organizations from every walk of life coming and wanting an exemption on their dues and their fees. I think it's a dangerous policy to set and I would hope that we can oppose this piece of legislation.

Representative Shirley Meyer: In response to Representative Weiler, it is a problem currently, is it not? From the discussion we had they are confused about what they owe and what they don't owe. I think it effects quite a few organizations. Do we need something to clarify that?

Representative Dave Weiler: I still stand by my comments. If they are confused then there is a way we can clean it up somehow but if this is the only way to clean it up then I think they will just have to go on being confused. This is a dangerous road to go down.

Representative Wayne Trottier: Do swimming pools pay tax on their memberships and fees for using their swimming pools?

Donnita Wald, General Counsel for Office of State Tax Commissioner: I believe they do.

Representative Dave Weiler: I think we discussed this earlier. Are public golf courses that are owned by the Parks and Recreation Divisions considered to be a nonprofit?

Donnita Wald, General Counsel for Office of State Tax Commissioner: Any kind of governmental unit is a nonprofit so to speak. However, I believe when they are in competition with for profit organizations and there are some other rules that deal with it, they do collect sales and use tax on that.

Representative Patrick Hatlestad: This one basically seems to be for the promotion of safety for young people and teaching young people plus promoting the sport. Couldn't we do the same for tennis, golf, swimming, etc. as long as we are educating children and promoting the sport?

Donnita Wald, General Counsel for Office of State Tax Commissioner: I suppose you could but it is a policy decision that you would have to make.

Chairman Wesley R. Belter: I think we do have a problem here that we should solve. Representative Weiler is uncomfortable with the language and I must say I am little uncomfortable with the language being this specific. Maybe we should have Myles come down and we could ask him some of these questions. We are being so specific here and

are we creating a problem where the next organization has to come in and do this. Apparently other organizations must not be having the problem, either they are not getting taxed or they don't have a problem with it.

Donnita Wald, General Counsel for Office of State Tax Commissioner: The bill as written is very broad and I think to some extent it would be nice to have some clarification on our part when we administer this who you intend and who is not intended to get this. I agree that as written this is very narrow and I agree that there may be other organizations that would like to be entitled to the same exemption. If we could get some direction and if you intend on adding nonprofit golf courses or tennis clubs or those types of things and we would be happy to discuss those with you.

Chairman Wesley R. Belter: I think one of the big concerns for me is with these particular groups they are all volunteer type organizations. If you have a golf course where you have hired people to include full-time staff and everything else I don't that may be a reason to differentiate between one group and another, I don't know.

Donnita Wald, General Counsel for Office of State Tax Commissioner: We see that in a lot of organizations where they do have volunteers. Fraternal organizations such as the Moose have volunteers who take over the books and records and they are voted to be President, Vice President, Secretary, or Treasurer for the year and they don't understand that along with that comes the responsibility to report to us. We've seen that situation a number of times. Another example are those in the Bismarck/Mandan area are familiar with the Bismarck High School Demonettes who sell popcorn balls and after a certain amount of sales they are required to remit sales and use tax on the sales of their popcorn balls. There is a bill in to remedy that situation but there are a number of situations where volunteers are required to pay the sales and use tax.

Vice Chairman Craig Headland: When you have volunteers filling out these reports, what is the penalty if they do something wrong? Does it go against them if they fill out the sales tax report wrong?

Donnita Wald, General Counsel for Office of State Tax Commissioner: The penalty for non-filing and/or nonpayment is \$5 or 5% of the tax due, whichever is greater, and 1%/month interest. In these situations we are talking about we also have the ability by statute to waive penalty and interest for good cause shown. Then we use that as an educational opportunity to teach them their responsibility and if they need help they should call us but three strikes and you're out type of thing. Those individuals would not be personally responsible, the organization would be.

Representative Steven L. Zaiser: This bill seems very inconsistent in the depth of threshold. It is broad like you said in one aspect and then narrows in the area of gun safety. I am in agreement with Representative Weiler. I just wanted clarification on who this applies to. I see this as opening up a can of worms.

Representative Glen Froseth: You mentioned volunteers but this amendment doesn't say anything about volunteers. There are a lot of shooting ranges throughout the state where they have an annual membership just like a golf club or curling club or anything else.

I think if it said anything about volunteers it would at least specify it has to be operated by volunteers.

Donnita Wald, General Counsel for Office of State Tax Commissioner: It is possible.

Representative Shirley Meyer: I thought the whole basis of this bill was that there is confusion out there. The nonprofit groups do not understand and organizations do not understand what portions of their membership dues are taxed and their activity fees. That is what I thought this bill was trying to clarify.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I think the bill as introduced does that. I think what we need to do is further limit the organizations; maybe use some volunteer language, operated by a non-compensated volunteer board, and see what happens. We can send it back and work on it.

Chairman Wesley R. Belter: My concern is that when you carve out a specific organizations and when I introduced this bill I had no idea what was going on. My intent here was to clarify things and do for this group what other groups are doing. Maybe it's just administration on their part, I don't know. I'm a little concerned about carving out these individuals. I don't know who else is having a problem like this.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I'm not aware of any with membership dues. I'm sure there's some horse clubs that would be a compliance issue. Unless you find out about it it's hard to know exactly who is not complying. I want to clarify and I think Myles brought this up during his testimony that this does not absolve them if they make retail sales, they still have to collect sales tax on those sales. The membership dues are kind of a complicated area and confusing so with direction we can ...

Chairman Wesley R. Belter: From my perspective I was just interested that these people aren't paying sales tax on their memberships. It was my understanding this is what they do with golf club membership fees but then there are certain portions of your membership fees that are subject to tax. With this I am concerned about the membership fees. If they are selling shells and everything else then they are going to have to pay sales tax. I'm just wondering if there is some way that we don't have to be so specific with this group and broaden the language so that we are possibly covering other volunteer organizations that are involved in training whether it is tennis or swimming or whatever.

Donnita Wald, General Counsel for Office of State Tax Commissioner: One thing that when I first read this bill that really broadened it was the "and activity fees" language. If we limited that to membership dues or those portion of the membership dues that relate to "belonging to the organization" and not to say "green fees" or some other types of fees. I can take it back and Myles and I can think about it and see what we can come up with.

Representative Wayne Trottier: Is there a difference between a use tax and a retail something. I keep coming back to the example of a swimming pool, that's a use and so is a golf course. Could that be spelled out?

Donnita Wald, General Counsel for Office of State Tax Commissioner: This is a difference between a sales and use tax; a sales tax applies to gross receipts of sales of products made in this state. An example of a use tax is say Chairman goes to Minnesota and buys himself a pound of nails and he will pay Minnesota sales tax on that. When he brings it back into North Dakota that is taxable by North Dakota because he is going to use it in North Dakota. It's not the fact that something is used or not used in North Dakota, like a swimming pool or that kind of thing. I can give you Tax 101 on sales and use tax if you desire but that's kind of the difference between a sales and use tax.

Representative Dave Weiler: Under current law do these gun clubs or any other nonprofit association that has membership dues and fees have to pay sales tax?

Donnita Wald, General Counsel for Office of State Tax Commissioner: That is correct.

Representative Dave Weiler: I'm not sure what they are confused about, the people in the gun clubs and such. Is it a part of it they are not sure if they have to pay? I think they are not clear what part they are supposed to pay sales tax on and what part they shouldn't.

Donnita Wald, General Counsel for Office of State Tax Commissioner: It's just a matter of confusion and education.

Representative Dave Weiler: The way to solve this problem is to make them get educated on what part is taxed and what part is not taxed. In my opinion the way not to handle this is to make it all exempt from sales tax. You're going to have a lot of other problems out there if you pass this with other organizations.

Representative Mark S. Owens: The term "activity fees" bothered me, activity on what? The amendment is too narrow that we will have plenty of bills next time to re-evaluate this particular law if we put it in restricting to just gun clubs. I find it interesting from a nonprofit standpoint, particularly those operated by volunteer staff and a great number of them exist in North Dakota because of the way North Dakota is, I can understand them paying tax on the membership dues. On the nonmember user fees, when you're not a member but you come to use it for one weekend, I can understand that but the term "activity" bothers me. What if we change "activity" to "nonmember user fee only?" So it would read "membership dues nonmember user fees only are exempt." So now we've exempted just the sales tax on memberships and user fees when they have to buy a day pass but all the other activities are still taxed.

Chairman Wesley R. Belter: If you buy a membership at a golf course, that portion of your membership is sales tax exempt but if you get golfing rites with it that portion is taxed, is that not correct?

Donnita Wald, General Counsel for Office of State Tax Commissioner: Are you talking about that part that relates to green fees? That is taxable.

Chairman Wesley R. Belter: With this then would it not also be right if you don't pay on your membership fees but if they are under the same type of structure as a shooting club then wouldn't the shooting club person have to pay sales tax just like the person who

belongs to a golf course does making the assumption that they both have the same type of organizational structure?

Donnita Wald, General Counsel for Office of State Tax Commissioner: That seems logical to me. If you wanted your membership fees to also include the green fees or that portion that doesn't relate to just the membership portion of the fee we could write that to be all inclusive to that. The problem is when to start to divide up the membership fee versus the greens fee, versus the club house fee..

Chairman Wesley R. Belter: Isn't that what the Tax Department is doing?

Donnita Wald, General Counsel for Office of State Tax Commissioner: That is what we're doing now if we catch it.

Representative Dwight Wrangham: I'm getting more confused as we go along. If I join the golf club for the social activities, not to golf, and I pay \$100 to become a member is that \$100 taxable?

Donnita Wald, General Counsel for Office of State Tax Commissioner: No.

Representative Dwight Wrangham: If we're going to work further on this bill I would like some information about where I could find this in writing or in code or administrative rules.

Donnita Wald, General Counsel for Office of State Tax Commissioner: It's in the definition of retail sale. It has a laundry list of things and admissions is one of them except for that which is not stated.

Representative Steven L. Zaiser: I think it gets back to threshold; we are inconsistent and we don't know where. In some organizations it is pretty broad when you have to pay a use tax and in others you get drilled deep in with the activity. From my perspective we almost need to hog house this thing and really start with the definitions. There is a lot of confusion.

Representative Lonny B. Winrich: I think part of the problem is we are trying to lump together activities and organizations and so on that really have very different structures. You can often become a social member of a country club or you can buy a golf membership and the golf membership is a lot more expensive than simply having access to the restaurant and maybe the swimming pool and tennis courts. Shooting clubs don't structure their memberships at all like that. There is not a nonmember user fee that I know of in a shooting club because their insurance requirements are so stringent when they are out there with firearms that you must be a member to even enter on the property. You have very different kinds of structures among these organizations and I don't know if its possible to lump them all together.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I agree with you. We see that all the time. Formal versus informal groups who just decide to get together and start a club and don't realize they have all these responsibilities when they do so. When you start splitting those up it can be taxpayers gain.

Vice Chairman Craig Headland: The membership fee today must be taxable or why would we need to pass this bill.

Donnita Wald, General Counsel for Office of State Tax Commissioner: What we are finding is that some of it and some of it isn't. If it's just a flat membership fee then it is exempt.

Vice Chairman Craig Headland: What we need here is education on what is taxable and what isn't. I'd like to remind this committee that just last week we decided the education on the part of a contractor that didn't realize he was supposed to submit a use tax fee we told him with our do not pass that he needs to educate himself or find the education. I think we need to have some kind of consistency here.

Representative Dave Weiler: I am not suggesting that we add golf courses or anything like that to this bill. I haven't heard of many golf courses in North Dakota that would fall under this category, they are either private or public.

Donnita Wald, General Counsel for Office of State Tax Commissioner: I know there are some because I grew up in an area with just social memberships.

Representative Lonny B. Winrich: I'm not sure that all private clubs are for profit, there could be private nonprofit ones too.

Chairman Wesley R. Belter: Dee, maybe you could work on something.

Donnita Wald, General Counsel for Office of State Tax Commissioner: So I have three concepts I am supposed to work on; membership fees only or nonmember user fee, and volunteer or organization run by volunteers.

Chairman Wesley R. Belter: I think we should talk with Myles because he has broad experience with these groups. Maybe we could make the language less specific.

Donnita Wald, General Counsel for Office of State Tax Commissioner: Maybe Myles and I could look at other organizations who sale things like popcorn balls.

Chairman Wesley R. Belter: What if you just eliminate all sales tax on memberships or are we already doing that?

Donnita Wald, General Counsel for Office of State Tax Commissioner: I will find out.

Chairman Wesley R. Belter: We will discuss this further once the amendments are drafted.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1334
February 2, 2011
Job # 13819

Conference Committee

Committee Clerk Signature *Markus Kienzle*

Minutes:

"See attached testimony #1."

Chairman Belter: We are ready for discussion on HB 1334.

Myles Vosberg, ND Tax Department: Gave the options for amendments on the hand out.

Chairman Belter: Myles give us some pit falls for these choices.

Myles Vosberg, ND Tax Department: The first choice which basically exempts all the memberships and fees for non-profit organizations is pretty broad. I don't know that I can anticipate what all is going to be included there, which would be the pit fall for this option. The next option includes all of the entities, but this one would strictly limit it to organizations that are operated by volunteers. One of the concerns that were addressed during the hearings was some of these non-profit organizations do not have employees they just have individuals that are trying inadequately to report and remit tax and they don't have training.

Chairman Belter: Does that exempt for, example some school from selling popcorn balls?

Myles Vosberg, ND Tax Department: There is another bill out there that has an existing section of the sales tax code that addresses sales that are made by non-profit organizations when the proceeds are used for charitable, educational and religious purpose. This has been modified a number of times over the past years and right now there is a dollar limit in there. If it's held in a publically owned facility and the organization sells up to \$5,000 it is exempt but if it goes over \$5,000 than all the profits become taxable. This has been a little difficult for some of these organizations that are teetering right on that threshold.

Chairman Belter: So the key is not to hold it in a public owned facility.

Myles Vosberg, ND Tax Department: Right. The reason for that is that exemption was originally put in the law without any limit as to where the event took place. What was happening is there would be concerts that were not non-profit events and they would come into a city and would find a non-profit sponsor. They would offer a small share of the proceeds to avoid paying taxes. Now this creates a problem for those who legitimately have a fund raising event that did occur in publicly owned facilities. So the next step was the \$5,000 threshold. This has also caused some problems, so the proposal for that bill is

to increase it to \$10,000, with only pay taxes for the amount that exceeds the \$10,000. That is being heard in the Senate 2/3/11.

There is a potential pit fall for the one that pertains to employees, and that if an organization would not have employees but would contract with someone else to provide services for their operation.

There is the other one that includes all organizations with the exclusion of golf courses.

Chairman Belter: One of the issues that was brought up by committee members was the language that was drawn up that specifically carved out the fire arms shooting organizations that would we be opening a door to other groups. What are your thoughts on that?

Myles Vosberg, ND Tax Department: We weren't sure how to proceed so we drafted it this way.

Representative Headland: Myles, it looks like there are ways out on each one of these amendments. Is some of it just education the public who operate these non-profits as to what their responsibilities are? I am not sure how you would do this. If you would do it when they get their permit from the Secretary of State's Office or passed on by the Tax Commissioner but just it appears to me we could try to fix this in a hundred different ways and we just create more problems.

Myles Vosberg, ND Tax Department: Many of these organizations exist by a large number of volunteers and these people change regularly, with a lot of turnover. This makes it difficult educating these organizations.

Representative Trottier: Vice Chairman, an example as to how complicated this is and what education could do for some of these people, I received an e-mail when I was checking with our local city. The amount of sales tax paid in 2009 was \$2,300 which is real money that our park board cannot give away. We have been told that golf memberships are taxable as well as green fees, cart fees, vending, as well as swimming membership and daily pass fees. The only items not taxed are swimming lessons, tee ball or little league because this is considered under education or training. It is confusing as it is now.

Myles Vosberg, ND Tax Department: I am not sure we are talking about park boards as they are not a government organization. This does not apply to political sub divisions.

Chairman Belter: I had received from the clubs the language having non salaried officers and staff. I was wondering if we could take this one option where it says solely by volunteers and without employees and change it to: served by non salaried officers and staff.

Representative Winrich: I don't read the "and" as an inclusive that they have to have a title as an officer. If they are non volunteers and the officers are non salaried, that is okay. It seems to me that volunteers are non salaried staff.

Representative Owens: All I was going to say is if we take the volunteers statement that they gave us where it talks about memberships, admissions and entry fees to activities and

events organized and operated by non-profits 501 C7, social and Rec clubs operated solely by non-salaried officers and staff, with annual gross receipts of less than 100,000. That way we don't restrict to just fire clubs but we rule out golf courses and the big boys and we give these little groups time to grow.

Representative Headland: Can I ask Myles if that will work?

Myles Vosberg, ND Tax Department: I am unsure if I got all that down. They discussed the above statement. I am not sure that 501 C7 includes everyone you are trying to capture here.

Representative Ziesler: Inaudible.

Representative Owens: It was to focus on social and recreation clubs. We can say that without the 501 C7 if you want but since it's there we can be that much more specific.

Chairman Belter: Do you want to scratch your 501 C7?

Representative Owens: I will be happy to.

Chairman Belter: Is the dollar amount breaking new ground there?

Myles Vosberg, ND Tax Department: I would say we are. If an organization reach that amount in a year, would they start charging tax the following year or there may need to some clarification? If it goes below the 100,000 the following year do they get the exempt that year?

Chairman Belter: I am unsure as to why we need a gross receipt figure?

Representative Owens: I did that because some of these bigger clubs. I only threw that in to limit the event.

Representative Grande: Myles, with the bill that they are hearing in the Senate where they are raising that threshold. How will they be determining that? Will that be done during the course of year when they hit it or at the end of the year when they find that they have hit that mark? Is that when they will start taxing it?

Myles Vosberg, ND Tax Department: That bill with the 10,000 limit is per event. So if a charitable organization goes to a street fair or an event in the Civic Center, the \$10,000 is the gross receipts for that specific event and they would be paying tax on only on the receipts in excess of 10,000. Right now it is on the full 5,000.

Representative Ziesler: Looking at the original bill it covers what we really want to cover. I make a motion do pass as the bill is.

Chairman Belter: No second motion fails.

Representative Headland: Made a motion to the amendment we have been working on minus the \$100,000 gross receipt language.

Representative Grande: Seconded

Representative Winrich: What is the change in line 3 again?

Myles Vosberg, ND Tax Department: in auditable

Representative Owens: I see it intent originally was non-profit organizations, which is how it should read.

Representative Winrich: What is the affect of changing non-profit organizations to non-profit social and recreational clubs? Who is being included or left out that wasn't before?

Representative Owens: Originally it was non-profit 501 C7 and I was asked to take the 501 C7 out. 501 C7 is social and recreation clubs. So all I was doing was providing that title and section in that IRS code.

Representative Winrich: I don't think that answers my question. As it reads now it is non-profit social and recreational clubs. I don't understand the difference between that and non-profit organizations. The original bill that was brought in by Rep Belter was particularly interested in doing something for the shooting clubs. I don't know if they are organized under 501 C7 or not or if they are even incorporated under Federal Tax law. What are we changing here with this change now?

Representative Owens: Specifically the gun clubs are covered under this. More importantly the Grand Forks gun club is covered under the C7. This amendment broadens it to the organizations like the gun club.

Myles Vosberg, ND Tax Department: There are a lot of 501 C7 organizations and I don't know where they all fall. My personal feeling is you want to limit it to the social and recreational clubs than put the 501 C7 into the amendment so we don't have individuals questioning what a social and recreational club or that is.

Representative Owens: There are 28 listed in the 501 C7. The reason I listed number 7 in this case is the problem when we were looking at all 28 and we were looking at tax credit for non-profits. This gave credit to unions and pack groups and everything else. We made the tax credit more specific back then. I did that so there would not be that misinterpretation.

Myles Vosberg, ND Tax Department: The tax bill that we previously addressed for charitable organization was for 501 C3 categories. So it is a different group. So if you would choose to limit it to that it would be easier to administer.

Representative Grande: I would move to further amend.

Representative Headland: Second it

Representative Grande: Made a motion Do Pass as Amended

Representative Headland: Second it

Do Pass as Amended Yeas 9 Nay 2 Absent 3 Carrier Representative Hatlestad

FISCAL NOTE
 Requested by Legislative Council
 02/09/2011

Amendment to: HB 1334

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$32,200)	(\$2,800)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1334 creates a sales tax exemption for dues and fees received by specific nonprofit clubs and organizations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, engrossed HB 1334 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$35,000 in the the 2011-13 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/14/2011

FISCAL NOTE

Requested by Legislative Council
01/18/2011

Bill/Resolution No.: HB 1334

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1334 creates a sales tax exemption for dues and fees received by nonprofit clubs and organizations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

We are unable to estimate the fiscal impact of HB 1334. We are unsure if the language of HB 1334 would include city-owned golf courses, for example, and if greens fees and concessions would be included in the exemption. Skating rinks, gun clubs, and other types of organizations may or may not be included in the intended exemption.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/25/2011

Date: 2-1-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1334

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Zaiser Seconded By _____

MOTION FAILS

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

PROPOSED AMENDMENT TO HOUSE BILL NO. 1334

Page 1, line 2, replace "membership dues" with "memberships, admissions,", and replace "activity" with "entrance"

Page 1, line 3, replace "corporation clubs and" with "firearm shooting"

Page 1, line 7, replace "membership dues and activity fees collected by a nonprofit" with "memberships, admissions, and entrance fees to activities organized and operated by nonprofit firearm shooting organizations whose primary purpose is to provide training on operation and safety of firearms and to promote recreational shooting sports."

Page 1, remove line 8

Renumber accordingly

PROPOSED AMENDMENT TO HOUSE BILL NO. 1334

Page 1, line 2 replace "membership dues" with "memberships, admissions,", and replace
"activity" with "entrance"

Page 1, line 3 remove "corporation clubs and"

Page 1, line 7, replace "membership dues and activity fees collected by a nonprofit" with
"memberships, admissions, and entrance fees to activities and events organized and
operated by nonprofit organizations operated solely by volunteers and without
employees."

Page 1, remove line 8

Renumber accordingly

Date: 2-1-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1334

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

February 2, 2011

VR
2/2/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 2, remove "membership dues and activity fees"

Page 1, line 3, replace "of nonprofit corporation clubs and organizations" with "memberships, admissions, and entrance fees of nonprofit 501(c)(7) social and recreation clubs"

Page 1, line 7, remove "membership dues and activity fees collected by a nonprofit"

Page 1, line 8, replace "corporation club or organization" with "memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] operated solely by nonsalaried officers and staff"

Renumber accordingly

Date: 2-1-11
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1334

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Grande ^{Further amend} Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE
AYE
MOTION CARRIES

REPORT OF STANDING COMMITTEE

HB 1334: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1334 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "membership dues and activity fees"

Page 1, line 3, replace "of nonprofit corporation clubs and organizations" with "memberships, admissions, and entrance fees of nonprofit 501(c)(7) social and recreation clubs"

Page 1, line 7, remove "membership dues and activity fees collected by a nonprofit"

Page 1, line 8, replace "corporation club or organization" with "memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] operated solely by nonsalaried officers and staff"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1334

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1334
3/14/2011
Job Number 15359

Conference Committee

A. Ritter

Explanation or reason for introduction of bill/resolution:

Relating to a sales tax exemption for memberships, admissions, and entrance fees for nonprofit 501C7 social and recreation clubs

Minutes:

Written Testimony Attached

Chairman Cook opened discussion on HB 1334.

Representative Belter – I introduced HB 1334 as more of an exploratory type bill to deal with this issue. There are many issues around private clubs. You pay sales tax on certain items, and certain items you don't pay sales tax. This was the language we came up with in our committee for membership in nonprofits social and recreational clubs that fall under the 501C7 that the gross receipts from these would not be subject to sales tax if they are solely operated by non salaried officials.

Rick Jorgenson, Officer in the North Dakota Shooting Sports Association, Lake Region Shooting Sports Association, and North Dakota Hunter Education Instructor
– (See attached testimony A in favor of HB 1334)

Tom Thompson, Own Behalf – (See attached testimony B in favor of HB 1334)

Chairman Cook asked for testimony opposed to HB 1334. No one came forward.

Chairman Cook asked for neutral testimony for HB 1334.

Bonnie Steiger, Steiger Consulting Group – If 501C3's and 36's are not exempt then I'm probably in a lot of trouble. The Steiger Consulting Group you know as representing a variety of clients in our function as lobbyists. We help with continuing education, conferences, and a variety of events around the state. I would hope that I'm not exposing myself as being in violation of the current law. This will be a huge burden if we find ourselves not in compliance.

Chairman Cook – Lions Clubs, membership fees, are they taxable? Service organizations.

Blaine Braunberger, Tax Department – No those types of membership fees are not taxable. Under the sales tax imposition chapter it is gross receipts from memberships and admissions to an amusement or forms of entertainment that are taxable.

Senator Oehlke – If you're not a 501C3, 36, 7 or 4 your just a nonprofit organization then you have filed a charter and bylaws with the Secretary of State's Office, would that be correct?

Blaine Braunberger, Tax Department – I believe that would be the case.

Senator Oehlke – They must be organized somehow otherwise how would you know to send them a bill for taxes or how would they know to file a tax return?

Blaine Braunberger, Tax Department – It would be based on the fact of their activities and whether they are conducting some form of amusement or entertainment and either taking admissions as mentioned in previous testimony or having membership fees where a portion is considered for being able to participate in their facility.

Senator Oehlke – But they would be organized under the state law somehow.

Blaine Braunberger, Tax Department – That would be correct.

Vice Chairman Miller – Lets say a Devils Lake group for example, they are also contributing back to their community in some sense by allowing the cops to come in and use their shooting range or perhaps some other group has some property and they are having some sort of youth education thing, would it be possible to exempt these groups based upon their contribution back to community?

Blaine Braunberger, Tax Department – When we worked with the sponsor in regards to this we felt that the intent was to address it in this manner. Previously it was broader as far as the membership and admission area and potentially could include golf courses that are run under nonprofit status where they would also have membership fees and that was not the original intent of the sponsor so we tried to narrowly restrict it.

Chairman Cook – They way it's presented right now, could that not allow certain golf courses not to be exempt?

Blaine Braunberger, Tax Department – We don't believe it would provide for golf courses. If you look at the C7 category that would not include this type of activity.

Chairman Cook – What does it include?

Blaine Braunberger, Tax Department – It's more of the clubs, nonprofit social and recreational clubs.

Chairman Cook – But it could be the golf club.

Blaine Braunberger, Tax Department – You could have a golf club, but the organization that would actually operate and collect the fees and admissions would be responsible for the tax under the current law as well as if this exemption went in to place.

Senator Dotzenrod – If there is a car club, and there are some fairly big ones, they put on a show and charge admission, should there be sales tax collected?

Blaine Braunberger, Tax Department – That's correct.

Senator Dotzenrod – If I'm a member of the American Legion and I pay my annual dues, there is no sales tax there because we are not talking about an event, where just being a member.

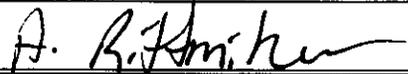
Chairman Cook closed the hearing on HB 1334.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1334
3/29/2011
Job Number 16146

Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to a sales tax exemption for memberships, admissions, and entrance fees for nonprofit 501C7 social and recreation clubs

Minutes:

Committee Work

Chairman Cook opened discussion on HB 1334.

Senator Oehlke – The problem with changing it strictly to just nonprofit it just opens the door so wide that it would bury the Tax Department trying to find everybody and where they are and how to track it. You saw the long list of 501 possibilities that there are out there on a federal basis.

Senator Triplett – The fiscal note on this is really pretty minute given that it's limited to the C7's and I think because they are the social and recreation clubs and are basically volunteer groups and really not run as serious businesses in the way that many of the other exempt organizations are I think that there is an argument to separate them out so I would move a Do Pass.

Seconded by **Vice Chairman Miller**.

Chairman Cook – Does non-salaried officers and staff place any burden as far as administering this sales tax exemption?

Donnita Wald, Tax Department – It would not. It would be an additional question that we would have to ask the organization that is asking for the exemption.

Senator Hogue – I think probably what holds the fiscal note down is when you add that operated solely by non-salaried officers and staff because obviously the fiscal note if you excluded all the country clubs it would be quite a lot so I guess I was wondering whether on line 10 whether we should add "and operated solely by non-salaried officers and staff". I can't figure out why there isn't either a comma or the word "and" after that C7.

Senator Hogue – I will move on line 10 after 501C7 we add the word "and".

Seconded by **Senator Triplett**.

Chairman Cook – All in favor say yea, opposed? (7-0-0)

Senator Triplett – I will move a Do Pass as Amended.

Seconded by **Vice Chairman Miller**.

Chairman Cook – Ask the clerk to take the roll. (7-0-0)

Carried by **Senator Oehlke**.

FISCAL NOTE
 Requested by Legislative Council
 02/09/2011

Amendment to: HB 1334

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$32,200)	(\$2,800)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1334 creates a sales tax exemption for dues and fees received by specific nonprofit clubs and organizations.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, engrossed HB 1334 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$35,000 in the the 2011-13 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/14/2011

11.8200.02001
Title.03000

Adopted by the Finance and Taxation
Committee

March 29, 2011


3-29-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1334

Page 1, line 10, after the underscored closing bracket insert "and"

Renumber accordingly

Date: 3-29-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1334

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Hogue Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman			Jim Dotzenrod		
Joe Miller - Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 3-29-11
 Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1334

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Triplett Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod	X	
Joe Miller - Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

HB 1334, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1334 was placed on the Sixth order on the calendar.

Page 1, line 10, after the underscored closing bracket insert "and"

Re-number accordingly

2011 TESTIMONY

HB 1334

Testimony #1 HB 1334

North Dakota House of Representatives Finance and Taxation Committee

Members of the committee,

My name is Rick Jorgenson from Devils Lake, ND. I was born and raised in Devils Lake, ND. I have been actively involved in the shooting sports for over 35 years now. I am an officer in the North Dakota Shooting Sports Association as well as in our local Lake Region Shooting Sports Association. I am an active North Dakota Hunter Education Instructor and have been since 1988. I am personally familiar with the operation of most of the shooting clubs in North Dakota and the benefit that they provide to the State. I am here to testify in favor of this bill because I believe that the clubs that will be affected by this bill provide a very substantial public benefit to everyone in the state of North Dakota.

None of the clubs and organizations is operated for profit. All of them are managed by volunteers who receive no salary for their efforts on behalf of the clubs.

These clubs and organizations act as unpaid agencies of the State to provide facilities and skilled labor for such state mandated purposes as Hunter Safety, Peace Officer Training and Concealed Weapons instruction. They also provide facilities and skilled labor for such worthwhile efforts as 4-H achievement, Boy Scout achievement.

As an example, in my home city of Devils Lake, the police practice range is now flooded by Devils Lake. Our local club currently offers the City Police Department, the North Dakota Highway Patrol, the Ramsey County Sheriff Department, the US Fish & Wildlife Department and the North Dakota Game & Fish Department a place to perform their qualification practice and actual qualification firing. If our Lake Region Shooting Sports Association range was not available, these agencies would have to travel many miles, at a substantial added expense, in order meet their firearms qualification requirements at some other range. Certainly, our local officers would not be able to practice at all between their mandatory firearms qualification dates. The Lake Region Shooting Sports Association provides their range to this public purpose at no charge to the agencies.

It is wrong that our state of North Dakota has been charging clubs and organizations which provide similar public benefit with the collection of sales tax for their club dues and activity fees.

I realize that nothing is free. At the same time, the value of these facilities and the skilled volunteer labor provided by all of these clubs and organizations to our North Dakota citizens is truly substantial. I believe that it is many times more valuable to the State of North Dakota than the sales tax revenue collected from these clubs and organizations each year.

Further, the recordkeeping burden on the volunteers is not insignificant. Rather, it is a substantial burden.

Please support the passage of House Bill 1334.

Rick Jorgenson
4931 81st Ave NE -
Devils Lake, ND 58301

Telephone: 701-662-5301 work or 701-739-7456 cell

Testimony # 2

Testimony in Support of House Bill Number 1334
House Finance and Taxation Committee
January 25, 2011

Chairman Belter, Members of the House Finance and Taxation Committee, my name is Tom Thompson. I am here today appearing on my own behalf. However, I am involved with the Bismarck/Mandan Rifle and Pistol Association, and I am also involved with several clubs that would benefit from this legislation. I am here to support HB1334.

As a volunteer, I am the Junior Marksmanship Coach for the Bismarck/Mandan Rifle and Pistol Association (Association). I have been volunteering in this capacity since 1992. In addition, I recently took over the position of the Association's Treasurer.

The intent of the bill is to provide a sales tax exemption for membership dues and activities of nonprofit corporations - like our club here in Bismarck - the Bismarck/Mandan Rifle and Pistol Association.

Many folks don't realize that, according to the interpretation of the State Tax Commissioner, a portion of our membership fees is subject to sales tax. Also - if someone comes in for a night to shoot at the range - the fee they pay is also subject to sales tax. Funds we take in for matches and just about any other activity we sponsor is also subject to sales tax. For example, we also help out the Boy and Girl Scouts with a firearms safety and marksmanship program and this activity (with the Boy and Girl Scouts) is also subject to sales tax. We don't end up generating a lot in sales tax revenue for the State - on the order of \$1000 - \$1500 for the year.

However, it does take a lot of time and effort on the part of the volunteers of these organizations (and we are volunteers doing this stuff - not paid staff) to go back through the organization's records at the end of the year and figure out how much State sales tax we owe. Again, it would be different if there was paid staff doing this work - but as stated, we are volunteers.

It's becoming increasingly harder to find volunteers to do the stuff we do. And it makes it much more of an effort to use more of our volunteer time to go through a year of income records for an organization, and file the necessary State sales tax forms. As stated - we're just volunteers.

In addition, I think there are a lot of small clubs and organizations in the State that don't know that they may be required to pay sales taxes on their memberships or activities. I don't believe it's worth the effort for the State to go after these other organization to collect sales taxes from them. I think this bill would help clean this up and make it fair for everyone.

One final note, we would still pay sales tax for items purchased either locally or through the mail or internet. Which is fair - but it makes the record keeping of sales tax items on the part of the organizations much easier.

I thank you for your time and I respectfully request a "do pass" recommendation and encourage you to support HB No. 1334.

Thomas A. Thompson

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 2, replace "membership" with "memberships,"

Page 1, line 2, replace "dues" with "admissions,"

Page 1, line 2, replace "activity" with "entrance"

Page 1, line 3, replace "corporation clubs and organizations" with "501(c)(7) social and recreation clubs"

Page 1, line 7, replace "membership" with "memberships, admissions,"

Page 1, line 7, remove "dues"

Page 1, line 7, replace "activity" with "entrance"

Page 1, line 7, after "fees" insert "to activities and events organized and operated"

Page 1, line 7, remove "collected"

Page 1, line 7, remove "a"

Page 1, replace line 8 with "social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] operated solely by nonsalaried officers and staff"

Re-number accordingly

North Dakota Senate Finance and Taxation Committee

Chairman Cook and Members of the committee,

My name is Rick Jorgenson. I was born and raised in Devils Lake, ND. I have lived and worked in North Dakota all my life. I have been actively involved in the competitive shooting sports for over 35 years now. I am an officer in the North Dakota Shooting Sports Association as well as in our local Lake Region Shooting Sports Association. I am an active North Dakota Hunter Education Instructor and have been since 1988. I am an active coach in the NDSU 4-H youth shooting program. I am personally familiar with the operation of most of the shooting clubs in North Dakota and the benefit that they provide to the State. I am here to testify in favor of this bill because I believe that the clubs and their volunteer members that will be affected by this bill provide a very substantial public benefit to everyone in the state of North Dakota.

None of the clubs is operated for profit. All of them are managed by volunteers who receive no salary for their efforts on behalf of the clubs.

These clubs and organizations act as unpaid agencies of the State to provide facilities and skilled labor for such state mandated purposes as Hunter Safety, Peace Officer Training and Concealed Weapons instruction. They also provide facilities and skilled labor for such worthwhile efforts as 4-H achievement, Boy Scout achievement.

As an example, in my home city of Devils Lake, the police practice range is now flooded by Devils Lake. Our local club currently offers the City Police Department, the North Dakota Highway Patrol, the Ramsey County Sheriff Department, the US Fish & Wildlife Department and the North Dakota Game & Fish Department a place to perform their qualification practice and actual qualification firing. If we had not made our Lake Region Shooting Sports Association range available, these agencies would have to travel many miles, at a substantial added expense, in order to meet their firearms qualification requirements at some other range. Certainly, our local officers would not be able to practice at all between their mandatory firearms qualification dates. The Lake Region Shooting Sports Association provides their range to this public purpose at no charge to the agencies.

It is wrong that our state of North Dakota has been charging clubs and organizations which provide similar public benefit with the collection of sales/use tax for their club dues and activity fees.

I realize that nothing is free. At the same time, the value of these facilities and the skilled volunteer labor provided by all of these clubs and organizations to our North Dakota citizens is truly substantial. I believe that it is many times more valuable to the State of North Dakota than the sales/use tax revenue collected from these clubs and organizations.

Further, the recordkeeping burden on the volunteer club members is not insignificant. Rather, it is a substantial burden.

The North Dakota House of Representatives amended the originally proposed bill so that it applies now only to those North Dakota Non Profit clubs that are federally recognized 501(c) (7) social and recreation clubs. Although a couple of our clubs meet that

requirement, the majority of the North Dakota Clubs are not so recognized. Some are recognized under federal non profit code 501(c) (4) or another similar federal code, but many are simple small North Dakota non profit clubs.

House Bill 1334 was introduced to provide a North Dakota sales/use tax exemption for small North Dakota non profit clubs whose members are volunteers. These volunteers formed these clubs in order to provide a social, recreational and educational service to the citizens of North Dakota that would not otherwise be available in North Dakota. The clubs survive on their member dues, donations and fund raising efforts by these same volunteers. At the end of my written testimony, I offer an amendment to broaden the scope of House Bill 1334 to apply to these smaller North Dakota non profit clubs and organizations as well as those that are federally recognized 501(c) (7) social and recreation clubs so long as they are completely operated by unpaid volunteers and have no employees.

Again, I hope that you can agree that these small non profit clubs provide a significant public benefit to the State of North Dakota. Again, it is wrong to burden them with the collection of sales/use tax for their club dues and activity fees.

Please support the passage of House Bill 1334 with the amendment language offered below.

Thank you,

Rick Jorgenson
4931 81st Ave NE
Devils Lake, ND 58301 Telephone: 701-662-5301 work or 701-739-7456 cell

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1334
(Rick Jorgenson)

Page 1, line 3, remove "nonprofit 501(c)(7)"

Page 1, line 9, after "clubs" remove "organized"

Page 1, line 10, remove "under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)]"

Renumber accordingly

Testimony in Support of Engrossed House Bill Number 1334
Senate Finance and Taxation Committee
March 14, 2011

Chairman Cook, Members of the Senate Finance and Taxation Committee, my name is Tom Thompson. I am here today appearing on my own behalf. However, I am involved with the Bismarck/Mandan Rifle and Pistol Association, and I am also involved with several clubs that would benefit from this legislation. I am here to support engrossed HB1334.

As a volunteer, I am the Junior Marksmanship Coach for the Bismarck/Mandan Rifle and Pistol Association (Association). I have been volunteering in this capacity since 1992. In addition to my coaching duties, I recently took over the position of the Association's Treasurer.

The intent of the bill is to provide a sales tax exemption for membership dues and activities of nonprofit organizations - like our club here in Bismarck - the Bismarck/Mandan Rifle and Pistol Association.

Many folks don't realize that, according to the State Tax Commissioner, a portion of our membership fees is subject to sales tax. Also - if someone comes in for a night to shoot at the range - the fee they pay is also subject to sales tax. Funds we take in for competitive shooting tournaments and just about any other activity we sponsor is also subject to sales tax.

We also support firearms safety and marksmanship programs for organizations such as the Boy and Girl Scouts. From my discussions with the State Sales Tax Department last summer, my understanding was that these activities were subject to sales tax, however, from the hearing on HB1334 in the House this past January, my understanding now is that educational activities are exempt from sales tax. This is one the problems - interpretation of the tax code.

We don't end up generating a lot in sales tax revenue for the State. This year the Association paid \$1378 in sales taxes.

However, it does take a lot of time and effort on the part of the volunteers of these organizations (and we are volunteers doing this stuff - not paid staff) to go back through the organization's records at the end of the year and figure out how much State sales tax we owe. Again, it would be different if there was paid staff doing this work - but as stated, we are volunteers. For 2010, our Association used a profession tax preparer to help us with our sales tax payment because I don't want to make a mistake paying for sales tax.

It's becoming increasingly harder to find volunteers to do the stuff we do. And it's more difficult when volunteers have to spend time to go through a year of income records for an organization, and file the necessary State sales tax forms. As stated - we're just volunteers.

In addition, I think there are a lot of small clubs and organizations in the State that don't know that they may be required to pay sales taxes on their memberships dues or activities. I don't believe it's worth the effort for the State to go after these other organization to collect sales taxes from them. I think this bill would help clean this up and make it fair for everyone.

One final note, we would still pay sales tax for items purchased either locally or through the mail or internet. Which is fair - but it makes the record keeping of sales tax items on the part of the organizations much easier.

I respectfully ask that the Committee amend the engrossed HB 1334 to remove the 501(c)7 limitation of the exemption. Also, the Bismarck/Mandan Rifle and Pistol Association, has been designated a 501(c) 4 by the IRS. So the sales tax exemption in engrossed HB 1334, would not apply to our Association. As currently amended, HB 1334 would only apply limited number of sort shooting clubs in the state – probably the Minot Rifle and Pistol Club and the Forks Rifle Club in Grand Forks. There are other smaller organizations and clubs that do not have a Federal non-profit designation, therefore, HB1334, as currently amended, would not apply to these organizations. Therefore, by amending HB 1334, the sales tax exemption would apply to the smaller organizations and clubs.

I thank you for your time and I respectfully request a “do pass” recommendation and encourage you to support engrossed HB No. 1334, with the suggested amendment.

Thank You

Thomas A. Thompson

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1334
(Rick Jorgenson)

Page 1, line 3, remove “nonprofit 501(c)(7)”

Page 1, line 9, after “clubs” remove “organized”

Page 1, line 10, remove “under section 501(c)(7) of the Internal Revenue Code
[26 U.S.C. 501(c)(7)]”

Renumber accordingly