

FISCAL NOTE
Requested by Legislative Council
01/08/2015

Bill/Resolution No.: HB 1140

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(662,000)	\$(63,000)		
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 1140 provides a sales tax exemption for bowling, billiards, and dart game fees.

- 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, HB 1140 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$725,000 in the 2015-17 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/16/2015

2015 HOUSE FINANCE AND TAXATION

HB 1140

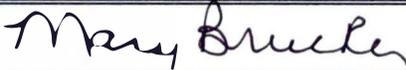
2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1140
1/19/2015
22117

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to a sales tax exemption for receipts from bowling, pool, and darts.

Minutes:

Attachment #1, 2

Chairman Headland: Opened hearing. Clerk read the title of the bill.

Representative Porter: Introduced bill. This is a bill I was asked to put in by a constituent who owns a bowling alley in Mandan. The main purpose of the bill is to level the playing field and include bowling, billiards, and other non-coin operated type amusement games in the existing sales tax exemption. The fiscal note determines it to be about \$330,000 a year. If you take an existing bowling alley all they would have to do in order to exempt themselves out of this would be to put a coin or credit card type machine right at the bowling lane. This bill asks us to look at leveling the playing field inside of the industry.

Chairman Headland: Are there any questions? Is there any testimony in support of HB 1140?

Charlie Jones, President for North Dakota Bowling Proprietors Association: When you come to my bowling center and bowl there is no tangible exchange of good; it's just your labor and my bowling center. I feel this bill should pass.

Jim Mellon, Midway Bowling Lanes: We look at quality of life. We are seeing a lot of our smaller communities are losing their bowling centers. There's a tax on bowling that makes a lot of difference to us but size wise or money wise it's not a whole lot of loss to the state. The tax on bowling alone runs about \$350,000 total for the state. To the state it's not a lot of tax money but to these smaller communities it the difference between buying new equipment, upgrade the facilities, having a better quality of life for themselves, and whether or not they can stay in business. We're trying to find some way to cut some of these expenses and this is one we could do it on because we have to pay that sales tax that could be put on upkeep of the bowling center and a reason to stay in business. There were 110 bowling centers back in 1966 and are now down to 42 centers. We are trying to keep these centers in business and this is one way we can divert some of this money and keep them in business. We ask that you remove the sales tax on bowling itself and that

would make a big difference to a lot of our bowling centers who are finding a reason to stay in business. We hope we can encourage you to look at this favorable and remove the tax on bowling in North Dakota.

Chairman Headland: You mentioned that if we allowed this exemption to move forward you would take that money and apply it in different areas. I'm wondering how you would accomplish that.

Jim Mellon: In trying to stay in business and meet the inflationary costs and all that, every couple years we look at the value of our product and have to raise it from the minimum wage to the cost to operate the business. We have primarily blue collar industry and we don't have the luxury of our customer base being highly qualified. We have a small percentage of people who have high incomes; most are working for minimum wage. Every time we throw a raise in there to help us stay in business the eyes go up and a few more people quit bowling. We're trying to figure out some way to divert any type of income at all to cut to help us stay in business without having to raise the prices higher than we have to. We still pay taxes on our bowling balls, liquor sales, food, products we buy, machine parts, lane equipment and any improvements. The only tax we are looking at to remove is the actual tax on bowling. Billiards and darts don't pay tax because they are coin operated. They just come and put their machines in our place and we get a small percentage of the revenue.

Chairman Headland: What does it cost to bowl a game?

Jim Mellon: \$4.25 per game in my facility. At the end of the month we figure out how much sales tax we owe on bowling itself. I understand the sales tax is around \$600,000 some collected on bowling centers that goes to the North Dakota sales tax department. Out of that \$330,000 or so is bowling itself. The rest of it is from the goods and things.

Chairman Headland: Further testimony in support?

Jim Flynn, Operates Red Ray Lanes in Grand Forks and West Acres Bowl in Fargo: We used to give vouchers to kids so they could have a free game of bowling a day in the summer. We had an audit and had to pay sales tax on the free games we gave to kids. I don't think that's fair. When we get to pricing and the sales tax on our product we figure what our market can bare and factoring the sales tax into that price. Without that sales tax it could mean enough money to get through the summer comfortably. While this is not a lot of money in North Dakota it could mean a huge difference in every bowling center throughout the state. We offer a venue to the citizens of our community that they can find no place else. My fear is that a lot of the centers over the next 5-10 years may not be able to stay in business and the community will lose an asset. Bowling is a good family activity.

Chairman Headland: The bill sponsor indicated the need for this bill was to level the playing field with the coin operated machines. It don't believe there are a lot of coin operated machines out there in different businesses. If we're going to compare a service type game like bowling as entertainment wouldn't it be fair to allow it for going to a movie as well?

Jim Flynn: That's not in my arena. I'm not able to make that judgment.

Chairman Headland: Is there any more support for HB 1140? Is there any opposition to HB 1140?

Bill Wocken, City Administrator for City of Bismarck, appearing on own behalf today: Provided written testimony in opposition. See attachment #1.

Representative Kading: Are golf courses taxed with sales tax?

Bill Wocken: I'm not familiar with the golf courses.

Chairman Headland: Further opposition to HB 1140? Seeing none we will close the hearing on HB 1140.

*Written testimony in opposition provided by **Blake Crosby, Executive Director of the North Dakota League of Cities** although he did not testify verbally at the hearing. See attachment #2.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1140
1/26/2015
22554

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to a sales tax exemption for receipts from bowling, pool, and darts.

Minutes:

No attachments.

Chairman Headland: Is anyone working on anything for this particular bill?

Representative Froseth: I would move a do not pass.

Representative Dockter: Seconded.

Chairman Headland: Discussion on a do not pass?

Representative Klein: I believe that with so many of these coming in we need to take a look at what is happening and what's happening in the oil field. We just can't keep giving away taxes.

Chairman Headland: I tend to agree with Representative Klein, however, I don't think that's the argument. Coin operated machines are exempt from sales tax and that doesn't necessarily mean we should extend that exemption to other games just because they are presented in a different fashion. I'm going to support the do not pass motion.

Roll call vote: 12 yes 1 no 1 absent

Motion carries for a do not pass.

Representative Kading will carry this bill.

Date: 1-26-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1140**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Froseth Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN		✓	REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	AB				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Kading

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

REPORT OF STANDING COMMITTEE

HB 1140: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO NOT PASS (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1140 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1140

HB 1140
1-19-15
#1

January 19, 2015

House Finance and Tax Committee

HB1140

Mr. Chairman and members of the House Finance and Tax Committee;

My name is Bill Wocken. While I am City Administrator for the City of Bismarck I am appearing on this bill on my own behalf since the Bismarck City Commission has not yet had opportunity to consider this bill specifically.

However, the Commission has a long history of opposition to bills seeking tax exemptions. It has almost without exception expressed its concern for measures that advantage one group of taxpayers over another. The city has a concern that exemptions to taxes can, if not carefully considered, become the rule.

HB 1140 seeks to exempt from the sales tax expenditures for billiards, darts and bowling activities. If granted, it is not hard to imagine subsequent requests for exemptions for bowling balls, golf clubs and perhaps four wheelers. The requests that follow will use the exemption proposed in this bill as a logical "jumping off" point.

The more exemptions that are allowed the more those in the non-exempt group will pay and the stronger the temptation will become to request another exemption for themselves. Decreasing proceeds from the tax may even drive some to suggest raising the tax to recover revenue lost to the exemptions. Perhaps the items meant to be funded by the tax may even need to be subsidized by another funding source, like property taxes.

Please carefully consider all requests for exemptions from taxes like the proposal contained in this bill. I would ask you for a "Do Not Pass" recommendation on this measure.

Bill Wocken

HB 1140
1-19-15
#2

January 19, 2015

House Finance and Taxation Committee
HB 1140

CHAIRMAN HEADLAND AND MEMBERS OF THE COMMITTEE:

For the record my name is Blake Crosby. I am the Executive Director of the North Dakota League of Cities representing the 357 cities across the state.

Sales tax exemption bills come up every session and the League's position continues to be in opposition to those exemptions. This is the proverbial Pandora's box. If you single out one business activity or one type of organization, where does it end? What makes that business or organization any more special than another? You start down this path and there will be no end in sight. The fairest sales tax is one where everybody pays.

On behalf of the North Dakota League of Cities, I ask for a Do Not Pass on HB 1140.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.