

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1228

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1228

2007 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions

Bill No. HB 1228

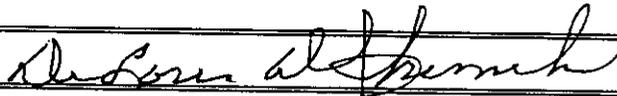
House ~~Human Services~~ Committee

Check here for Conference Committee

Hearing Date: January 19, 2007

Recorder Job Number: 1452,1457

Committee Clerk Signature



Minutes:

Chairman Herbel opened the hearing on HB 1228.

Rep. Lawrence Klemin: I introduced this to try to take care of problem I have observed as a result of a reduction in the streamline sales tax compact of 2005. Many of the cities and counties that levy sales tax locally in ND have a cap on the amount they charge. For example In Bismarck there is a one percent sales tax; the cap is \$2500. But starting October 1, 2005 that changed and at that point in time all retailers were required to collect the local sales tax from their customers regardless of the cap and they would then collect the excess amount and remit it to the tax department and if the consumer than wanted money back over the cap they would have to file a claim for a refund and the tax commissioner has a form for that along with instructions on how to claim the refund. The problem is that I have found that probably most consumers and retailers don't know that you can get a refund. Discussed a personal experience regarding buying furniture here. I had purchased over \$25 in furniture so when it came time to pay for it do you have a form I can use to file for the refund for the amount over the \$25. The clerk and manager did not know anything about getting the refund. He did not hear any thing back from them yet. Feels that people should have to be informed that they are eligible for this refund so this is why I have put this bill forward. (See Attached handout #1)

Went over the handout and discussed the form and that it would be great just to hand this out at the time of a sale and just have to follow the instructions on the form. Shows the customer has up to three years to file for this refund. Jewelry is probably another common situation where you have paid more than \$2500 and want to get it back. If you do not ask for it the city of Bismarck will keep it.

Chairman Herbel Do you have any idea how many dollars have gone unclaimed?

Rep. Lawrence Klemin I asked that question of the tax department and was not able to get an answer.

Chairman Herbel On large ticket items like cars where there is a \$40,000, is that the same thing?

Rep. Lawrence Klemin No that is an excess tax so that doesn't apply. Cities don't charge an excess tax, they just charge sales tax. Not the extra 1% excess tax.

Rep. Chris Griffin: What are the consequences?

Rep. Lawrence Klemin There are no consequences in this bill. Poor customer relations, I suppose. There is probably something in the tax code somewhere, but this bill doesn't say that there is a penalty. My intention was to not make a penalty.

Rep. Kim Koppelman It is one of the issues that troubles me. This tax has always bothered me. You would think no matter what the bill does, it still puts the burden onto the consumer. Still have to do something like a rebate. Even with your bill I think the consumer will be short changed. I would be very interested to Chairman Herbel question about how much tax has been collected that has been left on the table because people are not aware of this law. Is there any way to have solved this problem without going through this cap?

Rep. Lawrence Klemin I don't know if there is another way to do this? Rep. Dwight Wrangham put in the bill relating to the cap about not collecting over the cap, but as far as

putting the burden on the consumer. That is the way it is set up now in Subsection 5 is in regard to in line with inline sales tax and you will notice the Senator Cook, who is a co-sponsor on this bill, was very much involved in the streamline sales tax. It is true that the burden is with the consumer to get the refund and I don't think I can do anything about that. At least here the consumer would be in a position to say whether they would apply for the refund or not. How many of you here knew that you could apply for this refund?

Rep. Dwight Wrangham Thank you very much for bring this forward. HB 1450 will reinstall the caps and remove the burden from the retailer and from the citizen so we will have to see how that goes. As far as the amount of taxes that were taken from the taxpayers and the answer I got is there is no reporting for the amount over the cap so they have no idea. They only know if someone sends in and asks for a refund. I did ask for the streamline sales tax issue and for some reason they would not recognize my caps and I did request for information before I voted on the streamline bill last session and was told it was talked about allot and the rest of the states did not go along with recognizing the cap. I did request minutes of the meeting where that was discussed and I did not ever receive those minutes. Voters in each city can put a cap in place. Maybe the streamline sales committee should re-evaluate recognizing caps. They certainly recognize if one zip code has a ¼ percent more sales tax than another entity.

Rep. Nancy Johnson The caps now on the second page, if that one purchase on one day or not.

Rep. Lawrence Klemin In Bismarck it is a purchase. Minot seems to have a little different slant on how they do that.

Rep. Kari Conrad Minot has a problem with the computerization with the streamline. The computer would have to be calibrated. Did you get any information from the tax department on how many requests there were for the refund?

Rep. Lawrence Klemin I don't have that information.

Rep. Louis Pinkerton: As a merchant, it just seems like the consumer should take some responsibility and take care of this on line. I am trying to imagine a retail operation or a jewelry store and trying to get this form, but just seem like one more thing to do.

Rep. Lawrence Klemin The point is the customer does not know about it. This bill would require that the message got to the consumer. It is probably an extra burden on the retailer, but unfortunately we are the one that have charged them with the responsibility of collecting the tax and so we already have a burden on us. All this bill is doing is putting into law what the tax commission told them to do in September, 2005.

Rep. William Kretschmar That sales tax on farm machinery.

Rep. Lawrence Klemin that is sales tax on used equipment and parts and 3% on

Rep. William Kretschmar That sales tax on farm machinery, is that sales tax or excess tax?

Rep. Lawrence Klemin That is a sales tax and it is a smaller amount. Parts are less for used equipment and parts. Rep. Wrangham does have that bill so if his passes we can tear mine up.

Rep. Kim Koppelman Do any cities have an aggregate cap so they could just mail in once a year?

Rep. Lawrence Klemin I don't know that?

Sandy Clark ND Farm Bureau. I just want to stand in support of this bill. There is a 3% on new machinery and it does go into gross receipts tax; however on the local level this does have an impact. Just consider a one percent on \$250,000 tractor. You are talking about a whole lot of money and are consumers aware of that. There are some cities and counties that have a

home rule tax; however, they have chosen to exempt machinery from their local tax. Farmers and ranchers would have lumber or fencing involved so this bill should be to help farmers and ranchers.

Mike Rud: ND Retail Association. We are in support of HB 1228.(see attached testimony #2) In visiting this tax department in the year 2006 they showed over 2,000 refunds was filed and about 400 of those came during Christmas season so I think there are some retailers out there that are using this form and getting it to the purchaser when they need it.

Rep. Kari Conrad Is there an exemption for Montana and Canada?

Mike Rud: I am not sure?

Rep.Dwight Wrangham Was there a break out of the 2,000 that was by consumers and by business or builder?

Mike Rud: I don't have those numbers.

Opposition: None

Hearing closed.

Chairman Herbel reopened the hearing on HB 1228. Job #1457

Do Pass Motion Made by Rep. William Kretschmar Seconded by Rep. Steve Zaiser

Discussion:

Rep. Vonnie Pietsch Would we be better off waiting until HB 1450 turns out or if we pass this is it going to have an affect on HB 1450?

Rep. Lawrence Klemin I am not sure what Rep. Wrangham's bill says; but I think this would not be necessary.

Chairman Herbel I think if this in place.

Rep. Kim Koppelman I think it is last passed governs so I think his bill is yet to be heard.

Rep.Dwight Wrangham I think this bill would not affect the other and I would like to have this bill move forward. Personally I would vote for a do pass at this time because this bill should go forward in case the other fails.

Vote: 13 Yes 0 No 1 Absent Carrier: Rep.Dwight Wrangham

Hearing Closed.

Date: 1-19-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1228

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep.Dwight Wrangham Seconded By Rep. Steve Zaiser

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	X		Rep. Kari Conrad	X	
Rep. Dwight Wrangham-V. Chair	X		Rep. Chris Griffin	X	
Rep. Donald Dietrich	X		Rep. Lee Kaldor	X	
Rep. Patrick Hatlestad	X		Rep. Louis Pinkerton		
Rep. Nancy Johnson	X		Rep. Steve Zaiser	X	
Rep. Lawrence Klemin	X				
Rep. Kim Koppelman	X				
Rep. William Kretschmar	X				
Rep. Vonnie Pietsch	x				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep.Dwight Wrangham

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

REPORT OF STANDING COMMITTEE

HB 1228: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1228 was placed on the Eleventh order on the calendar.

2007 SENATE FINANCE AND TAXATION

HB 1228

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1228**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: # 4072

Committee Clerk Signature



Minutes:

Sen. Urlacher: called the committee to order and opened the hearing on HB 1228.

Rep. Klemin: appeared as prime sponsor of the bill stating this relates to local sales tax that many communities in ND charge purchases made in those cities. These local sales taxes in addition to the State sales tax. In 2005 as a result of North Dakota's entry into streamline sales tax agreement the caps on local sales tax were essentially eliminated. The caps still existed but the full amount of the sales tax had to be collected and the customer could then request a refund from the State Tax Dept. of the amount in excess of the tax. That went into affect on October 1, 2005. I had the opportunity myself last year to go to a local furniture store which has several offices in the State and bought some furniture and that total amount of the furniture that I bought here in Bismarck did exceed the amount necessary for the cap, which in the case of Bismarck is 1% of \$2500.00 or \$25. So anything over \$25 would be in excess of a cap and now would be entitled to request a refund of that amount. When I asked the merchant there in their office for the form so I could request this refund, no one knew what I was talking about and I said well I think that when you collect the amount over the cap that I'm entitled to get a refund on it and that would seem to be news to the people there, in fact there were about 4 people there in that area that were working that day and none of them knew what I was

● talking about. They did tell me that they would check into it and get back to me the next day, but I never heard back from them after that.

Subsequently I did sort of an informal survey of my own talking to various people as to whether they knew they were entitled to ask for a refund if they paid any amount in excess of the local cap on local sales tax and no one that I talked to knew anything about that. Consequently it seemed to me that there was quite a bit a lack of knowledge on both part of the consumer and on the part of the merchants. I'm not saying that all consumers and all merchants don't know about this but at least a lot of them that I came in contact with didn't know that you didn't have to pay tax or that when you paid the tax in excess of the cap that you were entitled to get it back. This is kind of a convoluted procedure but its one that we're stuck with I guess because of the streamline sales tax. What this bill does is, all it does is in those situations where a person may be eligible for a refund the merchant is required to provide the purchaser with a refund claim form and instructions. What that is on the handout that I've given you. (See attached) Page 1 is the refund claim form and on the back of that is the instructions, that's page 2 in my handout. The example they use about 2/3rds the way down on the bottom of page 2 is when somebody buys the furniture in Bismarck. Well, there ya go, it shows you how you can apply for the refund, you have 3 years to actually apply for the refund and I'm informed that for those people that don't ask for the refund, the city gets to keep the money. There is no requirement on the part of anybody to process this form for the purchaser or purchaser doesn't have to send it in if they don't want to, but at least I think for this means, they will at least be notified that they have that ability to ask for a refund. In my case, when I bought this furniture the refund didn't amount to a whole lot but if you were buying a lot of furniture it's pretty easy to run up a ten thousand dollar bill on furniture or more. On a ten thousand dollar bill the refund is going to be \$75.00. Now we're starting to talk a little bit more money and there may be

some interest in getting your \$75 back that you really weren't should have taxed. The other materials that I've got attached to the handout is page 3 is the sales tax newsletter that came out from the State Tax Commissioner in Sept. of 2005 informing the parties that get this, mostly merchants I think. The city and county caps were eliminated that they had to collect the whole amount and that they could, the customer could then apply for a refund. I know on my particular case that's all programmed into the cash register they don't really have to be thinking extra, it all gets calculated automatically. The last 2 pages are the form the merchant would then send into the Tax Dept. when they do report the collection of the sales tax and on the last page, the reason there is 2 pages is that some cities and counties provide compensation to the merchant for collecting the local sales tax and some don't so the first page of this form is for cities and counties without compensation allowance and the second page of that form is for cities and counties with the compensation allowance. For example in Bismarck, they get to keep, the merchant would get to keep 3% of that sales tax that they collect from you. Personally I think in returns that are 3% they at least ought to tell me that I can get a refund. So that's the whole point of the bill I don't think it's a burden on anyone just a matter of letting our citizens know that when they pay extra tax because of the way it was structured the elimination of these caps that they are entitled to a refund. This is merchants that particularly sell items that are in excess of these amounts, they know who they are. They should know that with the tax ___ with respect to that, furniture is a good example, jewelry is another good example, farm machinery, I'm sure there's other examples. This is not going to apply to the situation where you go into the local dime store and buy a candy bar because that's not a situation where someone is going to be eligible for a refund. In most of the cases the caps are set at amounts above \$2500, not all of them but on the instruction form it tells what the cap is. To most merchants this is not going to fly at all.

Sen. Cook: I am a co sponsor of this bill and I support any effort to make it easier for ND customers to get their refund but without placing undue burden sellers or taking us out of compliance with streamline. Rep. Klemin, I have one question though to make sure I understand what your intent is with this bill. There is a company down in TX that sells computers called Dell would it be your intent with this bill that every time Dell Computer sells a computer and ships it in to ND and collects and remits not only our state tax but the local tax that is applied to that, that if that transaction takes them over the \$25 cap that Dell computer would have to send a claim?

Rep. Klemin: I guess I was not thinking about that type of situation I was thinking about the kind that described that happened to me with the local merchants, so may be that it would apply that way I'm not sure.

Sen. Cook: I think the way the law is written right now it would apply to Dell Computer and the whole purpose of streamline sales tax is to kind of bring us into the 21st Century and understand that there's a lot of econgress that's going on and would you be objective if it did not include Dell Computer? I'm using Dell as an example.

Rep. Klemin: I guess I don't have any problem with that I was trying to get at the situation where people are making purchases here in the State and where the merchant or should have easy access to these forms. If you want to put on here somewhere that this only applies to sales made in ND or something like that, I'm sure exactly what the language would be.

Mike Rud: President of the ND Retail Association appeared in support stating we don't see it as a big issue for our marketers. I think there was during our first hearing on the bill, it seemed like there's a lot of concern about whether our marketers knew everything about streamline and what was going on certainly we can work with the Tax Dept. on that and get some more memos out to our marketers to make sure that we are all on the right page here

and as long as the burden is not placed on retail to file this on behalf of the purchaser we don't see any trouble with this and we will do all we can to support the bill and support the process.

Sen. Cook: have you looked at this as a great sales tool?

Mike: that is correct. Those are big ticket items that are going to utilize that form. Our marketers out there who are selling big ticket items I don't where they would have any problem with that knowing its going to be that kind of a sale.

Sen. Horne: if I got into a situation and was buying something that qualified me for this refund that I would need to send in the form that you as the merchant wouldn't do that? So it would be up to the buyer as the purchaser to send in the form? Is that correct?

Mike: that correct, that's my understanding as well.

Sen. Horne: so your roll would be to provide the form as merchant, I would have to take the initiative to fill it out and get it in.

Mike: Yes that would be our roll to simply provide the form.

Sen. Urlacher: but it would be an option that you could send it in for them

Mike: yes, I think that could be an option, I mean that's something a marketer would have to look at I guess and see if they'd want to go through that process. I think a lot of our places are mom and pop operations and if they were doing this it might add a lot of undue hard ship in terms of bookwork and making sure the form go to the right places at the right time I guess. But yes, that's out there for our marketers to do, no question.

Sen. Urlacher: and in other cases it might be just customer service?

Mike: exactly, it might be a great customer service tool and it might be something that each individual store would have to take a look at doing at their own discretion.

Sen. Urlacher: I am also on the bill and I strongly support directive.

Sandy Clarke: I represent ND Farm Bureau, we also are pleased to support 1228, we think it's a good bill and we have a couple of times in our publications to inform our members of this cap and urging them to participate in the process to get their refunds but we also would concur that there's probably a lot of the consumers out there that aren't aware, this would certainly take care of that problem. Farmers and ranchers obviously purchase the same kind of household items as everybody else does but for farmers and ranchers, new machinery is certainly a big ticket item, some home rule cities and counties where are aware do exempt new machinery from their 1 cent city sales tax or their local sales tax, but Ag producers also purchase a lot of other large ticket items. As an example any kind of fencing, lumber, wire, gates all of those types of things, on large ticket items for farmers and ranchers so we do urge a do pass on HB 1228.

Sen. Cook: Sandy, I know Rep. Klemin mentioned farm machinery and you mentioned farm machinery, I'm going to ask Miles when he testifies just to verify this, but farm machinery is not in our sales tax code any more, I don't believe this even affects farm machinery.

Sandy: I guess I would hope that's true, I guess when I asked the question early on about the 1 cent part of it that it too goes into the gross receipts but I would like clarification on that also.

Miles Vosberg: Tax Dept. I don't have any written testimony but I can answer some questions regarding the farm machinery. Farm machinery is now in our gross receipts tax rather than the sales tax, the local taxes do still apply in some cases a number of cities have exempted farm machinery but they do not cap. I'm sorry, they do cap, the refund provision doesn't apply to the farm machinery, if a farmer would take possession of a piece of farm machinery within the city, the retailer should still cap if there is a provision for cap in the ordinance.

Sen. Cook: we apparently cities and counties to offer compensation to their local merchants or the collection of local sales tax?

Miles: that's correct, some do and some don't

Sen. Cook: if I'm looking at this compensation that they allow for the collection of the local tax, it appears to me to be substantially more than what we allow our retailers to collect the State tax.

Miles: they all have a maximum for a reporting period and so there are some 3% and 5% but they are larger that is correct, even with the cap.

Sen. Cook: so in Grand Forks the local merchant that is filing quarterly would get \$85 from the State and would get \$500 from the City of Grand Forks?

Miles: up to \$500 correct.

Sen. Cook: how much have you refunded from October 1, 2006 until to date?

Miles: we ran a report through last week and we have issued refunds of a little over 1 1/2 million dollars and that was for 2565 refund requests. We do allow retailers that file sales tax returns to take a credit on their return rather than go through the refund process. A good example of what we see all the time is contractors that are reporting use tax on their purchases are allowed to just take a credit and if the credit ends up being a negative for the whole return, we'll issue them a refund check or it will offset the payment that they are making with their return.

Sen. Cook: then this 1.5 million only reflects credits, checks that have been issued?

Miles: yes, that is the amount of checks that we have issued. We did some research on our data base of the credits that show up on the returns but there are other reasons there could be

credits and credits also offset tax as being reported but we found credits from another 1.4

million dollars out on the returns and that's a true number of the actual local tax refunds but gives us a good idea of there's a lot of activity there as well.

Sen. Cook: the words "shall provide" are we in substantial compliance if we put that, would that require remote sellers to have this form and send it with an invoice that exceeded the cap in your mind?

Miles: that's a good question, as you pointed out earlier the idea was to relief responsibility and efforts on the retailers part so there may be some that oppose that, we don't think it will put us out of compliance but I don't know that for sure.

Sen. Anderson: walk me through this when it's received at the Tax Dept, how is the money refunded and how does it get charged against money that's due the cities?

Miles: when the application comes in we do review the documentation with it and make sure the calculations are correct, we enter that information into our system, we issue a check and that check just offsets any incoming receipts for the city for that period. So all the returns that are being reported to us, it just gets netted against that and the net tax collected then gets remitted to the State.

Sen. Oehlke: out of those 2500 plus checks, how many are, are a lot of them to the same people, businesses and they file more than one of these forms?

Miles: a lot of these purchases are business purchases and probably the most common what we see is contractors that are buying materials all the time. So we do repeat refunds and even though we allow them to take credit on the returns, a lot of them send them in frequently so they get cash flow back in, they don't want to wait.

Sen. Oehlke: so they don't want to wait until the end of the year and get one check for every or all the various things they've done, they'd rather get it monthly or.

Miles: correct, although they have monthly or quarterly filing in some cases, but some of them don't want to wait 3 months.

Sen. Cook: could we turn this into a bill that permissive? But what it permits to happen is it would permit a retailer, if the retailer so choosed as a marketing advantage to somehow give the customer the refund right there and then once a month the retailer send a form to the State to get their money back.

Miles: there was a house bill originally it would have reversed the caps but it was amended to allow the retailer to provide a credit or refund at the time of a purchase. Not require but allow with the idea that we are not mandating additional work for the retailer but allowing them to do if it would be a customer service and an advantage for them. That is HB 1450.

Sen. Cook: retailers comfortable with HB 1450?

Mike Rud: Yes

Sen. Triplett: HB 1450 is amending the exact same section. That doesn't help those who choose not to do it could still ignore the rule and not have any forms around that we are trying to get to here, right?

Miles: if they both pass I would read that as they would have to provide the form but they may as an option provide the credit. If you limited 1228 to companies with Nexus you would still have out of state companies involved. If you limited it to only in state companies, I don't know if there would be a claim of discrimination there potentially, I don't think they could make the claim that it would hinder interstate commerce if you only required the in state businesses to do it. However they may make claims of discrimination.

Sen. Triplett: if we just left it the way it is and waited for somebody to complain, is that an acceptable way to proceeding with the stream line process and if there is a problem we would deal with it later?

Sen. Cook: I suppose if somebody complained we could probably correct it. I see that we have in 1450 the Tax Commissioner may adopt rules to implement this section, if we included the intent of 1228 into 1450 for you to adopt rules to see that retailers provide the form if they elect not to pursue this option, then its in rules and if we are found that if somebody challenges our compliance it could be fixed probably quicker than waiting for 2009 Legislative Session to begin.

Miles: yes, we could take faster action. The reason that language in there allowing the Tax Commissioner to adopt rules is put in there was because this was in the home rule statute and not in the tax law and so we felt it necessary to put a provision in there that would allow us to do rules well within the home rule statute.

Sen. Triplett: are you thinking that if we didn't do this at all that what's in 1228 whether or not you could make rules to accomplish the idea of 1228 by rule?

Miles: if we didn't actually pass 1228 but created a rule instead, administrative rule that said the retailer must or may provide.

Sen. Cook: my question is with whether we took this out of code and just instead instructed the Tax Dept. to do what is intended here by rule.

Sen. Urlacher: Sen. Cook and Sen. Triplett get together and work on.

Sen. Oehlke: does your website have this form on it?

Miles: yes it does

Sen. Oehlke: so could a remote retailer like Bell refer a customer to your website for the proper form and instructions?

Miles: yes

We will hold the bill until we hear HB 1450.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1228

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: # 5310

Committee Clerk Signature

Sharon Benfrow

Minutes:

Sen. Urlacher called the committee to order for action on HB 1228.

Sen. Cook: I'm carrying 1450 on the floor today dealing with the very same subject. I think 1450 is I think the sensible solution you can do what you want but I'd be happy whenever somebody is ready to move a do not pass on 1228.

Sen. Urlacher: any discussion on 1228 that's totally related.

Sen. Cook: 1450 and 1228 are, this deals with a \$25 cap or threshold, this one says that the seller shall provide the purchaser with a refund claim, if anything we should change the shall to a may and maybe that's what I should do first. We have a lot of retailers that are doing that right now but 1450 allows the retailer to actually give the refund and then collect the refund themselves. That's to me the right description.

Sen. Triplett: maybe we should go ahead and do the do not pass but leave it in committee until the end of the day and assuming 1450 passes does that make sense? Just to make sure that we do get one.

Sen. Cook: made a **Motion for DO NOT PASS**, second by Sen. Tollefson.

Sen. Cook: I'd like to make a **Motion to Amend** that on line 15 we change the shall to a **may**, second by Sen. Triplett.

Voice vote: 7-0-0 Motion carries

Sen. Cook: now I make a **Motion for DO NOT PASS as Amended**, second by Sen.

Tollefson.

Sen. Urlacher: any discussion?

Roll call vote: 7-0-0 Sen. Cook will carry the bill.

REPORT OF STANDING COMMITTEE

HB 1228: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1228 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "shall" with "may"

Renumber accordingly

2007 TESTIMONY

HB 1228

Instructions for Claim for Overpayment of City or County Sales Tax

WHO MAY FILE. Any person who has made a taxable purchase of tangible personal property from one of the following cities or counties in excess of the stated taxable amount. For purchases occurring on or after October 1, 2005, a retailer has a requirement to collect applicable city and county sales and use tax without regard to any cap on purchases provided by city or county ordinance, resolution, or charter. However, a taxpayer is eligible for refund from the State Tax Commissioner for the difference between the amount of the city and county sales and use taxes paid, and the amount that would have been due by application of the cap provided by the city or county ordinance, resolution or charter. (N.D.C.C. § 57-01-02.1(5))

Local Taxes and applicable taxable amounts: (Taxable amount applies to each individual purchase (invoice) unless otherwise specified.)

City/County	Taxable Amount	City/County	Taxable Amount	City/County	Taxable Amount
Aneta	\$2,500	Hatton	\$2,500	Northwood (cont)	No Refund Cap (after October 1, 2006 and prior to January 1, 2007)
Ashley	\$2,500	Hazelton	\$2,500 (prior to January 1, 2007)		\$2,500 (after January 1, 2007)
Beach	\$2,500		\$3,500 (after January 1, 2007)	Oakes	\$1,666
Belfield	\$2,500	Hazen	\$2,500	Oxbow	No Refund Cap
Berthold	\$2,500	Hettinger	\$2,500	Page	\$2,500
Beulah	\$2,500	Hillsboro	\$2,500	Park River	\$1,250
Bismarck	\$2,500	Hoople	\$2,500	Pembina	\$2,500
Bottineau	\$2,500	Hope	\$2,500	Portland	\$2,500
Bowman	\$2,500	Jamestown	\$2,500	Powers Lake	\$2,500
Buffalo	\$2,500	Kenmare	\$2,500	Reeder	\$2,500
Cando	\$2,500	Killdeer	\$2,500	Regent	\$2,500
Carrington	\$2,500	Kulm	\$2,500	Richardton	\$2,500
Carson	\$2,500	Lakota	No Refund Cap	Rolette	\$2,500
Casselton	\$2,500	LaMoure	\$1,666	Rolla	\$1,666
Cavalier	\$2,500	Langdon	\$2,500	Rolla	\$1,666
Cooperstown	\$2,500	Larimore	\$2,500	Rugby	\$2,500
Crosby	\$2,500	Lidgerwood	\$2,500	Scranton	\$2,500
Devils Lake	\$1,666	Linton	\$2,500 (prior to October 1, 2006)	St. John	\$2,500
Dickinson	\$2,500		No Refund Cap (after October 1, 2006)	Stanley	\$2,500
Drake	No Refund Cap	Lisbon	\$2,500	Steele	\$2,500
Drayton	\$2,500	Maddock	\$1,666	Steele County	\$2,500
Dunseith	\$2,500	Mandan	\$2,500	Strasburg	\$2,500
Edgeley	\$2,500 (prior to October 1, 2006)	Mayville	\$2,500	Tioga	\$2,500
	No Refund Cap (after October 1, 2006)	McClusky	\$2,500	Tower City	\$2,500
Edinburg	\$2,500	McVie	\$2,500	Towner	\$2,500
Elgin	\$2,500	Medora	\$1,000 per single unit	Turtle Lake	\$2,500
Ellendale	\$2,500	Michigan	\$1,666	Underwood	No Refund Cap
Enderlin	\$2,500	Milnor	\$1,666	Valley City	\$2,500
Fairmount	No Refund Cap	Minnewaukan	No Refund Cap	Velva	\$2,500
Fargo	\$2,500	Minot	\$2,500 per customer per retailer per day	Wahpeton	\$1,666
Finley	\$2,500	Mohall	\$2,500	Walhalla	\$2,500
Fort Ransom	\$2,500	Mott	\$1,666	Walsh County	\$10,000
Gackle	No Refund Cap	Munich	\$2,500	Washburn	\$2,500
Garrison	\$2,500	Napoleon	\$2,500	Watford City	\$2,500
Glen Ullin	\$2,500	Neché	\$2,500	West Fargo	\$2,500
Grafton	\$2,500	New England	\$2,500	Williams County	\$2,500
Grand Forks	\$2,500	New Leipzig	\$2,500	Williston	\$2,500
Grenora	\$2,500	New Rockford	\$2,500	Wilton	\$2,500
Gwinner	No Refund Cap	Northwood	\$2,500 (prior to October 1, 2006)	Wimbledon	\$2,500
Halliday	\$2,500			Wishek	\$2,500 (prior to January 1, 2007)
Hankinson	\$2,500				No Refund Cap (after January 1, 2007)
Hannaford	\$5,000				
Harvey	\$2,500				

EXAMPLE:

Customer purchases furniture from ABC Furniture Store, located in Bismarck, ND. The selling price for the furniture as follows: \$3,000 for living room furniture, \$3,000 for bedroom set, and \$100 delivery charge. Total taxable purchase price - \$6,100.

Point of Sale:	Bismarck	Taxable Sales Amount:	\$ 6,100
Invoice Date:	10/1/2005	State sales tax (5%)	\$ 305
Invoice Number:	ZZ12345	Bismarck city sales tax (1%)	61
Seller:	ABC Furniture Store	Total Tax Paid	\$ 366

Calculation of City Tax refund:

Total Taxable Sales Amount	\$ 6,100
Less: Bismarck Taxable Amount	- 2,500
Taxable Amount Refund Due	\$ 3,600
Multiply by Bismarck Rate	x .01
City Sales Tax Refund	\$ 36.

WHEN TO FILE: A claim for refund of city or county sales and use tax may be filed within three years from date of purchase occurring on or after October 1, 2005.

WHERE TO FILE: A claim for refund must be filed with the North Dakota Office of State Tax Commissioner, Sales and Withholding Taxes, 600 E. Boulevard Ave. Dept. 127, Bismarck, ND 58505-0599.

DOCUMENTATION REQUIRED: The claim for refund must include copies of all invoices to support the claim. The invoice should provide an invoice date, invoice number, seller name and address, items or materials purchased, purchase price of items or materials purchased, and amount of city and/or county sales and use tax paid. Failure to submit copies of all invoices will result in returning the claim with a request for additional information, which will delay the refund process. The Office of State Tax Commissioner reserves the right to request additional supporting documentation as it deems necessary.



Sales Tax Newsletter

News and developments

A publication of the Sales and Special Taxes Division

Copy to
Tax Commissioner

Special Edition

CITY AND COUNTY CAPS ARE ELIMINATED

Beginning October 1, 2005, caps will no longer apply when retailers collect city and county sales and use taxes on sales transactions. For those cities that do not impose a cap on sales transactions, this *Special Edition* will not apply.

Inside this issue:

- City & County Caps Are Eliminated 1
- Customer Refund Instructions 2
- Credit Option for Businesses 2
- Taxpayer Assistance 2

Because the cap will not apply, retailers will collect the full amount of the city or county sales and use tax on all sales transactions within their taxing jurisdiction on or after October 1.

Example: Sale of jewelry to a customer by a Bismarck retailer having a selling price of \$4,000.

<u>Prior to October 1, 2005</u>	
Sale Price	\$ 4,000
State Tax (5%)	\$ 200
Bismarck City	
Sales Tax (1%)	\$ 25*
Total	\$ 4,225

<u>Effective October 1, 2005</u>	
Sale Price	\$ 4,000
State Tax (5%)	\$ 200
Bismarck City	
Sales Tax (1%)	\$ 40
Total	\$ 4,240

* City Tax capped at \$25.00

The customer may apply to the Tax Commissioner for a refund of local tax in excess of the cap for sales transactions occurring on or after October 1, 2005. The amount of local sales and use tax that may be refunded is the difference between the amount of the city and county sales and use tax paid, and the amount that would have been due by the previous application of the cap. In the example above, the customer will be able to apply for a refund of \$15.00.

- The 1% city sales tax equals \$40.
- The cap imposed by the city is \$25.
- The refund available is \$15 (\$40.00 total less \$25.00).

Customer Refund Instructions

To request the refund, the customer will complete a *Claim for Refund of City or County Sales and Use Tax Transmittal* form, which requires a listing of invoices on which the local sales and use tax was paid. This completed form is directed by the customer to the State Tax Commissioner along with the original invoices.

All refunds will be processed by the Tax Commissioner's office and the original invoices will be returned to the customer.



Office of
State Tax Commissioner
600 E Blvd Ave, Dept 127
Bismarck, ND 58505-0599
701-328-3470
taxdepartment.gov
salestax@state.nd.us
www.nd.gov

Enclosed with this *Special Edition* Newsletter is a copy of the *Claim for Refund of City or County Sales and Use Tax Transmittal* form. You may make copies of this form for use by your customers, or you may obtain copies from the Office of State Tax Commissioner, Sales & Withholding Tax Section at (701) 328-3470, or by e-mail at salestax@state.nd.us, or from the Tax Department's web site at www.ndtaxdepartment.gov. Retailers may also request additional copies that they can provide to their customers, as needed.

Credit Option for Businesses

For businesses holding an active North Dakota sales and use tax permit and purchasing tangible personal property or taxable services *for their own use* on which local sales and use tax was imposed, an alternative is available in lieu of filing the *Claim for Refund of City or County Sales and Use Tax Transmittal* form

Businesses that hold an active North Dakota sales and use tax permit and file periodic sales and use tax reports with the State Tax Commissioner may deduct the amount of the city or county sales and use tax that would qualify for refund directly on their sales and use tax return. The amount of the city or county sales and use tax qualifying for refund may be deducted from the appropriate city tax account in Column C (*Total Local Option Tax*).

- o For example, ABC Hardware purchases office equipment and fixtures for use in the Bismarck store. The total purchase price of these items was \$7,800. (Bismarck previously provided for a cap on local sales and use tax of \$25.00.)
 - A 1% Bismarck city sales tax totals \$78.00.
 - The eligible credit or refund is \$53 (\$78-\$25).
 - The business customer may apply the credit of \$53.00 on its sales tax return, or request a refund from the Tax Department using the *Claim for Refund of City or County Sales and Use Tax Transmittal* form.

To claim the credit on its sales tax report, ABC Hardware deducts the \$53.00 credit from the local tax it would report for Bismarck in Column C of the local tax information. If the \$53 credit is more than the Bismarck city tax due, a negative value will be reported for Bismarck. In this example, if the Bismarck city tax due before the credit was \$33, the net value of -\$20 would be reported for Bismarck city tax in Column C.

Businesses not holding an active North Dakota sales and use tax permit will use the *Claim for Refund of City or County Sales and Use Tax Transmittal* form to request this refund.

TAXPAYER ASSISTANCE

If you have questions regarding sales tax or about correspondence received from our office, the following information will be helpful in ensuring that your call or visit to our office is completed in a speedy and efficient manner:

- If you have general sales tax questions, please call our Sales Tax Compliance Section at (701) 328-3470.

This newsletter is available free of charge on our Web site at www.ndtaxdepartment.gov or in hard copy. We offer an e-mail notification service to subscribers as soon as a new issue is placed on our Web site. To join the e-mail service, simply visit our Web site and click on "Newsletter Subscription" located in the top blue bar at the right side of our home page.

ST-Local Local Option Sales, Use and Gross Receipts Taxes

Permit Number	Business Name	
Period Ending	Contact Person	Phone Number

Cities and Counties Without Compensation Allowance

A City or County		B	C1
Name	Tax Rate	Local Code	Total Local Option Tax (Do Not Enter Sales)
City Taxes			
Aneta	1%	203	
Beach	1%	156	
Belfield	1%	133	
Berthold	1%	138	
Bowman	1%	126	
Carrington	1%	124	
Carson	1%	191	
Casselton	1%	163	
Cavalier	1½%	127	
Cooperstown	1%	141	
Crosby	1%	116	
Dickinson	1½%	106	
Drake	1%	209	
Drayton	1%	157	
Dunseith	1%	204	
Edinburg	1%	176	
Elgin	1%	179	
Enderlin	1%	166	
Fairmount	1%	206	
Fargo	1%	105	
Finley	1%	167	
Fort Ransom	1%	177	
Gackle	1%	210	
Garrison	2%	139	
Glen Ullin	1%	212	
Grenora	1%	192	
Gwinner	1%	207	
Halliday	1%	143	
Hankinson	1%	158	
Hannaford	1%	202	
Hatton	1%	164	
Hettinger	1%	142	
Hillsboro	2%	168	
Hope	1%	185	
Jamestown	2%	110	
Kennare	1%	117	
Killdeer	1½%	135	
Kulm	1%	165	
Lakota	1%	213	
LaMoure	1½%	149	
Larimore	1%	128	
Lidgerwood	1%	181	
Lisbon	1%	136	

A City or County		B	C2
Name	Tax Rate	Local Code	Total Local Option Tax (Do Not Enter Sales)
City Taxes			
Maddock	1½%	193	
Mayville	2%	150	
McClusky	1%	140	
McVile	1%	188	
Medora	2½%	178	
Michigan	1½%	187	
Milnor	1½%	169	
Minnewaukan	1½%	214	
Mohall	1%	114	
Mott	1½%	153	
Neché	1%	201	
New England	1%	194	
New Leipzig	1%	174	
New Rockford	1%	145	
Northwood	1½%	197	
Oxbow	1%	189	
Page	1%	208	
Park River	2%	130	
Pembina	1%	119	
Portland	2%	151	
Reeder	1%	198	
Regent	1%	152	
Richardton	1%	159	
Rolette	1%	199	
Rolla	1½%	125	
Scranton	1%	190	
Steele	1%	147	
Tioga	1%	132	
Tower City	1%	195	
Turtle Lake	1%	182	
Underwood	1½%	211	
Valley City	1½%	113	
Velva	1%	175	
Walhalla	1%	160	
West Fargo	1%	129	
Wimbledon	1%	205	
Wishek	1%	155	
County Taxes			
Steele County	1%	503	
Walsh County	½%	502	
Williams County	½%	504	

Total Local Option Tax Due - Page 1

(Enter the total of all tax entered in Columns C1 and C2)

Schedule ST-Local, page 2

Cities and Counties With Compensation Allowance

A City or County		B	C	D Compensation Rate			E	F
Name	Tax Rate	Local Code	Total Local Option Tax (Do Not Enter Sales)	Rate	May not exceed		Compensation Allowance (Col. C x Col. D)	Net Local Option Tax Due (Column C Minus Column E)
					Month	Quarter		
Ashley	1%	162		3% (.03)	\$33.33	\$100.00		
Beulah	1%	200		3% (.03)	\$50.00	\$150.00		
Bismarck	1%	102		3% (.03)	\$83.33	\$250.00		
Bottineau	2%	122		3% (.03)	\$50.00	\$150.00		
Buffalo	1%	196		3% (.03)	\$83.33	\$250.00		
Cando	1%	161		3% (.03)	\$50.00	\$150.00		
Devils Lake	1½%	104		3% (.03)	\$83.33	\$250.00		
Edgeley	2%	148		3% (.03)	\$50.00	\$150.00		
Ellendale	1%	131		3% (.03)	\$50.00	\$150.00		
Grafton	1%	107		3% (.03)	\$83.33	\$250.00		
Grand Forks	1½%	101		5% (.05)	\$166.67	\$500.00		
Harvey	1%	112		3% (.03)	\$83.33	\$250.00		
Hazleton	1%	180		3% (.03)	\$50.00	\$150.00		
Hazen	1%	134		3% (.03)	\$83.33	\$250.00		
Hoople	1%	172		3% (.03)	\$83.33	\$250.00		
Langdon	1%	123		3% (.03)	\$83.33	\$250.00		
Linton	2%	121		3% (.03)	\$50.00	\$150.00		
Mandan	1%	108		3% (.03)	\$83.33	\$250.00		
Minot	2%	103		5% (.05)	\$83.33	\$250.00		
Munich	1%	173		3% (.03)	\$50.00	\$150.00		
Napoleon	1%	144		3% (.03)	\$50.00	\$150.00		
Oakes	1½%	146		3% (.03)	\$83.33	\$250.00		
owers Lake	1%	154		3% (.03)	\$83.33	\$250.00		
Rugby	1%	118		3% (.03)	\$50.00	\$150.00		
St. John	1%	186		3% (.03)	\$83.33	\$250.00		
Stanley	1%	137		3% (.03)	\$83.33	\$250.00		
Strasburg	1%	120		3% (.03)	\$50.00	\$150.00		
Towner	1%	170		3% (.03)	\$50.00	\$150.00		
Wahpeton	1½%	111		3% (.03)	No maximum			
Washburn	1%	183		3% (.03)	\$83.33	\$250.00		
Watford City	1%	171		3% (.03)	\$83.33	\$250.00		
Williston	2%	109		3% (.03)	\$83.33	\$250.00		
Wilton	1%	184		3% (.03)	\$83.33	\$250.00		
1. Total Net Local Option Tax Due - Column F - Page 2								
2. Total Local Option Tax Due - Page 1								
3. Total Local Option Tax Due (Enter total tax due line 1 and line 2 here and on line 12, Form ST)								



ND Petroleum Marketers Association
ND Retail Association



#2

Testimony HB 1228

January 19, 2007 – House Political Subdivisions Committee

Chairman Herbel & members of the committee:

For the record, my name is Mike Rud. I'm the President of the North Dakota Retail association. We appreciate the opportunity to offer comments on HB 1228.

NDRA supports the North Dakota Streamlined Sales Tax initiative. In fact, many of the state's retailers and businesses are active participants in this tax refund process.

retailers have said they've seen the number of individuals submitting for refunds increase as people become more aware of the refund process. The upswing in tax refund activity was extremely noticeable during the Christmas shopping season. NDRA members see no real issue with making the tax refund forms readily available to customers. We just want to make sure the burden of filling out the form and any processing work doesn't become the responsibility of the retailer.

Thank you for the opportunity to present testimony on this important issue. I would be happy to answer any questions.