

FISCAL NOTE
Requested by Legislative Council
01/29/2015

Amendment to: HB 1150

- 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			\$7,760,000	\$740,000		
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).*

Engrossed HB 1150 eliminates the sales tax exemption for purchases made by residents of Montana, except certain farm machinery sales.

- 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 1150 is expected to increase state general fund and state aid distribution fund revenues by an estimated \$8.5 million 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

FISCAL NOTE
Requested by Legislative Council
01/08/2015

Bill/Resolution No.: HB 1150

- 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			\$7,760,000	\$740,000		
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 1150 eliminates the sales tax exemption for purchases made by residents of Montana.

- 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 1150 is expected to increase state general fund and state aid distribution fund revenues by an estimated \$8.5 million 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 1150

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1150
1/19/2015
22118

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to elimination of the sales tax exemption for purchases by residents of an adjoining state that does not impose a retail sales tax; relating to elimination of the sales tax exemption for purchases by residents of an adjoin state that does not impose a retail sales tax.

Minutes:

Attachment #1, 2, 3, 4

Chairman Headland: Opened hearing.

Representative Dockter: Introduced bill. This bill is to repeal the sales tax exemption that is currently in statute for Montana residents. I had several comments with the oil activity out west. Under current statute Montana residents can come over to the state of North Dakota and show an ID and receive a sales tax exemption. In the oil patch construction companies are coming to North Dakota to purchase their goods and are staying in North Dakota using those goods and are competing against contractors from North Dakota. I feel this is unfair for our contractors in North Dakota. Every time you have bills that exempt certain people it puts the burden on the rest of the citizens of North Dakota. It basically comes down to residency. Montana residents don't have a lot of places to go to buy their goods so they would still come to North Dakota to shop even if this bill passes. Sales tax helps pay for roads and everything that helps the state of North Dakota. The fiscal note indicates the impact could be estimated at \$8.5 million over the biennium. I think it's a fairness issue. When you look at tax policy in helping out a few it puts the burden on the rest of the citizens of North Dakota.

Chairman Headland: Are there penalties for a contractor who does what you just said? What type of penalty would there be?

Representative Dockter: I do not know. We can find that out.

Representative Klein: Is there allowance in your bill for the Montana resident to come back later and get his credit after he shows he has a valid Montana residence?

Representative Dockter: No. Mine is cut and dry. Mine is a repeal so this would just eliminate the exemption.

Representative Steiner: Would you be open to making some kind of provision to the contractor piece so that is applied legally so a contractor who is using materials in North Dakota would pay?

Representative Dockter: Yes I'm open to it. I submitted this bill to bring up the discussion to pass this bill and to make exceptions to make it more palatable for passage.

Chairman Headland: Is there any testimony in support to HB 1150? Is there any opposition to HB 1150?

Representative Hatlestad: Opposition. Submitted written testimony. See attachment #1.

Chairman Headland: Are there any questions? Further opposition to HB1150?

Representative Sukut: The part of the bill that eliminates the exemption for Montana residents is very detrimental to our retail community. I would surely hope the committee would support a do not pass on this bill.

Chairman Headland: Are there any questions? Further opposition to HB 1150?

Senator Brad Bekkedahl: I'm also the finance commissioner for the city of Williston. The city of Williston enjoys a great relationship with the Montana residents surrounding our community. Northeast Montana has very few services. Montanans is a state with 0% sales tax. Most of the Canadian provinces have a 7% GST as well as 7% PST so they are coming from a 14% sales tax rate to North Dakota with a 5% or 6% sales tax rate plus they also have the opportunity to get a credit back if they spend enough money while they are down here. That's an incentive for them to come down besides the fact that we deal with the exchange rates at times and also incentivize that. It is an incentive the Montana residents to come trade in North Dakota. When it comes to the idea of the contractors I had the same question as Representative Steiner and that was the possibility to craft a resolution or an amendment that would deal with the contractors. If I come into North Dakota because I'm a contractor and I buy my supplies and build my product in North Dakota and use that exemption, there should have been a use tax paid at some point in that process. I think the rules and regulations are already there to take care of that issue. I don't even think we need an exemption here. The issue is compliance. If they are using the products they purchase in North Dakota with the exemption and the product stays in North Dakota it's my understanding that they should be paying a use tax on that. If this downturn significantly affects our economy in Williston as 65% of our jobs are oil related we have very little diversification because of our placement in the center of the Bakken then we will see a decline in our retail trade. Please don't give us a double whammy on our merchants and pass this bill.

Representative Klein: What would your response be to collect the tax then having to apply to get their money back afterwards?

Senator Bekkedahl: I really think that's doing the same thing almost. I understand the Canadians do it and it works well for them but you have to look at the tax environment they

are coming from. This is a 0% tax coming in to a taxable state. There's a convenience factor for them doing what they're doing. I can't say that it will shut off their trade but I can tell you that it will have a negative effect on the trade that our retailers see.

Representative Trottier: Would a contractor from Montana have an advantage if they stay in North Dakota and do their business versus a North Dakota citizen that pays the sales tax?

Senator Bekkedahl: I understand what the concept is and I may be totally wrong in my interpretation of that but if they use the Montana exemption at the point of purchase and the product stays here I still think there should be a compliance issue on paying that use tax then which would be the same rate as the sales tax. It would be helpful if we could get that clarification from Myles or somebody from the tax department.

Chairman Headland: Do we see a lot of residents from North Dakota go to Montana to make purchases because they don't have to pay sales tax?

Senator Bekkedahl: Absolutely, my parents would go to Sidney, Montana to buy their groceries. I know it does happen.

Chairman Headland: Further opposition to HB 1150?

Karissa Kjos, Williston Downtowners Association: Provided written testimony and testimony from two business owners. See attachment #2.

Vice Chairman Owens: You said 15-20% of Montana residents. Where did you get that number from?

Karissa Kjos: I talked to a lot of our retailers downtown and some of them were 15, some were 20%, and some were 18 percent and that is where I got that range of percentages.

Vice Chairman Owens: So it's based on their actual sales, not just their opinion?

Karissa Kjos: Not just their opinion. I talked to them personally.

Vice Chairman Owens: It wasn't just their opinion; it was based on their records.

Karissa Kjos: Yes, correct.

Chairman Headland: Further opposition to HB 1150?

Tim Ritter, retail jeweler and diamond cutter in Williston and Devils Lake: I'm here representing Williston's retail body, the western North Dakota Bakken community, and the friends and neighbors from Montana. We have a 3-6% margin of profit on our gross. In my 40 years in retail 18-20% is a solid figure for my Montana customer base. If I cut that my margin is deficit. Without this incentive businesses will close and be damaged. I feel it is imperative to maintain the sales tax exemption and level the playing field. They have 0% sales tax. We've heard the construction industry is voicing concern and that lease law is in

place for that very situation. If you enforce it I believe the situation will be taken care of and will reduce the alleged abuses. For the last 20 years we've had the highest property taxes in the United States to pay off those specials. I believe what the state will gain with the Montana sales tax revenues is insignificant to the damage it will bring with ill will, lost customers, and failing businesses. Please amend or recheck the bill.

Chairman Headland: Williston has seen tremendous growth, retail opportunities and business offerings to residents of North Dakota and Montana. From my experience if my wife wants to go shopping at a retail opportunity in Jamestown where I live we go to Fargo or Minneapolis where the opportunity to purchase what you're looking for is there. We really don't look at the sales tax as a factor in that decision. Isn't there a little bit of overemphasis on this?

Tim Ritter: Do you know any Montanans? They're a different sort. Why do you think Montana doesn't have a sales tax? I've had customers tell me they won't be here if this goes through.

Chairman Headland: Have you ever had a North Dakotan ask you why they have to pay sales tax and Montanans don't?

Tim Ritter: Nope.

Vice Chairman Owens: How come Montanans get this advantage and North Dakotans have to pay the sales tax?

Tim Ritter: You are the people making laws for our residents. Montana has a different tax structure. They live it their way and we live it our way. We're living in western North Dakota trying to make a living the best way we can. We need our friends in Montana to make it. I don't know any other way to put it. If you want to move to Montana then move to Montana. We love North Dakota. We want a level playing field.

Representative Trottier: Is there anything preventing me from coming in to your store to buy a beautiful diamond ring for my wife for \$250 and have my cousin from Montana buy that ring for me?

Tim Ritter: No.

Representative Trottier: How would you know?

Tim Ritter: He's putting it in his name if he's coming in and buying it. He's putting his driver's license on the line and putting it in his name. What he then does with it I don't know but I'm assuming he's buying for his fiancé and not for you. In Williston we are in a time of reassessment. North Dakota is under \$30 a barrel. We've been through some booms and busts. None of us knows what's going to happen in the next 6-12 months. We just want to keep everybody happy and keep things the way it is.

Chairman Headland: Further opposition?

Chuck Wilder, Books on Broadway in Williston: I would suggest not fixing this situation as it is working now. About every 12-15 years we are revisiting this issue and that's why there's some group or person that wants to eliminate the Montana sales tax exemption. It's a piece of legislation that's been in effect for a number of years and it has worked well so I don't see any reason why we should change that. Williston is the closest major city to Montana. Our trade area in Williston goes to about 70 miles to the east but in Montana it goes approximately 140 miles west. Elimination of a sales tax exemption would detrimentally affect the sales in Williston. If we lose a lot of that Montana trade we're eliminating jobs and that sort of thing. I heard contractor complaints are a main reason for this legislation. Will they still be in Williston when the oil boom settles down? I imagine our small contractors in eastern Montana will still be there. I think eliminating the Montana sales tax exemption will be detrimental. I urge you to vote no on this.

Chairman Headland: Further opposition?

Howard Klug, Mayor of Williston: Williston collects the most sales tax of any city in North Dakota. We not only collect 5% for the state but we also have a cent the city puts on, a cent that the park district puts on and also a cent that we put on for public safety. Williston lives by sales tax. The Montana exemption is so important to our retail people that we're willing to forgo that small part of what we collect. Over the last few years Williston has been number one or number two in sales tax collection. The contractor complaints are an enforcement issue. If I was a contractor and ship in some trusses from Montana at the end of the day the use tax has to be paid in North Dakota. The same thing with the building construction materials; if a Montana resident bought those in North Dakota he claims an exemption but under enforcement he would be made to pay that. With the 9% we charge on a meal, beverages, or anything Montanans use while they're in the city, they pay that tax. If they stay overnight they are also charged 11% on that hotel room.

Chairman Headland: I don't hear a lot of objections from people of Montana on paying sales tax on a service and I also don't hear anyone from Montana here objecting to this. Is there any concrete evidence to suggest that if there is a retail opportunity that's not available in Montana that it's going to keep them from coming here just because we charge a sales tax?

Howard Klug: In my mind the concrete evidence was when Senator Bekkedahl said yes. That's the same mentality that the folks from Montana have; they will not come to Williston and buy anything other than what they have to. They have to eat and stay overnight somewhere but given the choice I believe they are Montanans and they will find somewhere else whether it's the internet or going to Billings or Glendive or one of those centers rather than Williston.

Chairman Headland: I heard the senator say his folks went to Montana to buy groceries but we don't have sales tax on groceries in North Dakota. I think we understand your point here.

Representative Klein: What would your response be if we amended this to say you have to reapply to get your sales tax back?

Howard Klug: I think what we're doing now is the correct way. As long as they spend over \$50 and prove that they are Montana residents and it's going back to where it's going to be used in Montana then it should be left alone. We have a \$25 cap on anything for our one cent for the city and if you pay anything higher than \$25 you can apply for those but a lot of people don't take the time to do that.

Chairman Headland: Is it also a fact that Montanans who come to Williston to shop puts wear and tear on the roads and some of the infrastructure that the city provides? The city needs revenues and here's an opportunity for some additional revenue that some on this committee believe would level the playing the field between Montana and North Dakota. I'd like your response to that.

Howard Klug: I believe the Montanans that come over and the taxes they pay pays for what they use in Williston. Another thing they do is keep the retailers in business. I can charge them property tax for the property for the full building rather than something sitting empty.

Representative Froseth: What's the gas tax in Montana? Is it equal to ours?

Howard Klug: Living in Williston I've never noticed a difference in gas prices. It was mentioned earlier that Montana has a different tax structure but I believe they have a person property tax. They just collect their revenues in a different way.

Chairman Headland: Any other opposition to HB 1150?

Matthew Larsgaard, Automobile Dealers Association of North Dakota and North Dakota Implement Dealers Association: Provided written testimony in opposition. See attachment #3.

Chairman Headland: Questions? Further opposition to HB 1150?

Mark Taylor, Plains Ag: I asked our store owners what the impact would do if we had a sales tax on farm equipment on people in Montana and they said there would be a 40% reduction. Farm Equipment magazine estimated that in the last quarter of 2014 sales were down 30 percent. I've asked farm dealers in Montana and there was a question about rebates. He said they aren't going to ask for a rebate back. I ask you to take a strong action and oppose this bill. It will be a significant impact on our locations on the western border.

Chairman Headland: I appreciate the fact that you've brought us a legitimate concern that is based on fact. I agree with you as a farmer myself; I'm not going to go purchase a piece of equipment in another state that I border with if there's going to be this financial burden placed on it. I don't think I would go along with having to submit a rebate. I don't know that 5-6% difference in a purchase would be a deal buster. What do you think?

Mark Taylor: I don't know that I would be an expert in that area. I think the financial situation of a person dictates that.

Chairman Headland: Further opposition?

Tom Pearson, Gooseneck Implement: Provided written testimony in opposition. See attachment #4.

Chairman Headland: Questions? Any other opposition to HB 1150? Seeing none we will close the hearing on HB 1150.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1150
1/26/2015
22555

- Subcommittee
 Conference Committee

Committee Clerk Signature

May Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to elimination of the sales tax exemption for purchases by residents of an adjoining state that does not impose a retail sales tax; relating to elimination of the sales tax exemption for purchases by residents of an adjoin state that does not impose a retail sales tax.

Minutes:

No attachments.

Chairman Headland: Let's take a look at HB 1150.

Representative Dockter: I'm still working with John Walstad on amendments.

Chairman Headland: We all need to understand that Mr. Walstad is really swamped but let's get going with this.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1150
1/28/2015
22753

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to elimination of the sales tax exemption for purchases by residents of an adjoining state that does not impose a retail sales tax; relating to elimination of the sales tax exemption for purchases by residents of an adjoining state that does not impose a retail sales tax.

Minutes:

Attachment #1

Chairman Headland: Representative Dockter, do you have amendments for 1150?

Representative Dockter: Distributed proposed amendments 15.0558.01001. See attachment #1. Explained amendments. This amendment exempts farm equipment. This was the implement dealerships big issue.

Representative Froseth: Williston is our largest collector of sales tax. That portion of the people from Montana who come to Williston to purchase supplies is at least 25% of their market area. In that direction they are limited in their market area and if this jeopardizes their market area they probably won't be producing as much sales tax as they are right now. The residents from Montana who come to North Dakota pay sales tax on lodging, food, gasoline, and whatever other than direct material purchases so we are getting quite a bit of sales tax revenue from Montana. I'm going to oppose any effort to pass this bill.

Representative Dockter: I understand your concerns. It comes down to geography. When the person said it makes 30-40% of their business as a dentist, where is the closest dentist in Montana? It could be 100 miles away so they will come to North Dakota regardless. If someone needs to go to Menards the closest store would be in Billings or Great Falls or somewhere else. I think it's a geography issue. I don't base my decisions on purchases. I don't drive to Minnesota to buy clothes because they don't have sales tax. I buy clothes locally because it's more convenient. I feel that the people from Montana come to North Dakota because it's the most convenient and the closest trade area. I don't think the amount of sales tax that we're asking for them to pay is going to deter them from not shopping in Williston. It's putting the burden on other citizens in North Dakota who actually pay the tax. There also was a comment about someone going to Montana to buy groceries but we don't have sales tax on groceries so that wasn't a very good example.

Representative Hatlestad: I support Representative Froseth. This is an economic issue. We derive anywhere from 18-20% of our business from Montana. The resulting employment and things generate a whole lot more taxes and income to the state of North Dakota than the few dollars with the sales tax that we forgive the people from Montana. Montana customers stuck with us through thick and thin. They kept the economy alive like a transfusion. To slap them in the face with this would be unacceptable. I oppose the bill completely. If it ain't broke don't try and fix it.

Representative Mitskog: We value sales tax in Wahpeton but we value our shoppers. I can't stress enough how important it is to listen to the locals. They know their areas and their customers. In light of the recent down turn of the oil I think we should be respectful. Maybe two years from now if we recover quickly we could revisit this. I really think we should listen. There was overwhelming opposition to changing this tax.

Chairman Headland: John, for clarification purposes this is exclusive for new farm machinery? It doesn't include any other retail products; oil, lubes, etc.?

John Walstad, Legal Counsel for Legislative Council: It would apply to new farm machinery. I think repair parts are exempt for everybody anyway.

Chairman Headland: Any other questions or comments on this amendment?

Representative Froseth: Made a motion to move the amendment 01001.

Representative Klein: Seconded.

Voice vote: Motion carried.

Chairman Headland: You have amended HB 1150 before us.

Representative Froseth: Made a motion for a Do Not Pass As Amended.

Representative Mitskog: Seconded.

Representative Toman: If we're going to defend tax exemptions for out of state people then this committee should think really hard about cutting taxes for our in state residents.

Roll call vote: 8 yes 6 no 0 absent
Motion carries for a Do Pass As Amended.

Representative Hatlestad will carry this bill.

JD
1-28-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1150

Page 1, line 3, after "exemption" insert "and creation of a farm machinery gross receipts tax exemption"

Page 1, after line 16, insert:

"1."

Page 1, line 21, overstrike "1." and insert immediately thereafter "a."

Page 1, line 23, overstrike "2." and insert immediately thereafter "b."

Page 1, line 24, overstrike "3." and insert immediately thereafter "c."

Page 2, line 1, overstrike "4." and insert immediately thereafter "d."

Page 2, after line 1, insert:

"2. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state that does not impose or levy a retail sales tax, under the following conditions:

a. The person is in the state of North Dakota for the express purpose of making a purchase.

b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.

c. The sale is fifty dollars or more."

Renumber accordingly

Date: 1-28-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1150

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0558, 01001

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. Klein

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					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote = Motion carries.

Date: 1-28-15
Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1150**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0558.01001

- 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. Mitskog

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	✓				
REP KLEIN		✓			
REP KADING	✓				
REP TROTTIER		✓			

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

HB 1150: Finance and Taxation Committee (Rep. Headland, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (8 YEARS, 6 DAYS, 0 ABSENT AND NOT VOTING). HB 1150 was placed on the Sixth order on the calendar.

Page 1, line 3, after "exemption" insert "and creation of a farm machinery gross receipts tax exemption"

Page 1, after line 16, insert:

"1."

Page 1, line 21, overstrike "1." and insert immediately thereafter "a."

Page 1, line 23, overstrike "2." and insert immediately thereafter "b."

Page 1, line 24, overstrike "3." and insert immediately thereafter "c."

Page 2, line 1, overstrike "4." and insert immediately thereafter "d."

Page 2, after line 1, insert:

"2. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state that does not impose or levy a retail sales tax, under the following conditions:

a. The person is in the state of North Dakota for the express purpose of making a purchase.

b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.

c. The sale is fifty dollars or more."

Renumber accordingly

2015 TESTIMONY

HB 1150

HB 1150
1-19-15
#1

FINANCE AND TAX

HB 1150 and 1243

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

My name is Patrick Hatlestad and I represent District One-City of Williston.

I stand before you to strongly oppose HB 1150.

The key concern is the economic impact caused by the elimination of the Montana sales tax exemption. It will have a serious NEGITIVE impact on the businesses in Williston. I have three representatives from the business community that will give you the specifics as it relates to their business.

Montana residents have had a very positive economic impact on the community of Williston and Western North Dakota. We have had and continue to have great respect for our Montana customers. They have stayed with us thru thick and thin. I don't think feel this is the time to change our policy

If it isn't broken, please don't try to fix it.

Thank you and I will stand for questions. However our local business people can give you hands on information.

HB 1150
1-19-15
2 p. 1

Williston Downtowners Association

8 East Broadway
PO Box 133
Williston, ND 58802-0133

January 19, 2015

Mr. Chairman and members of the Finance and Tax Committee,

My name is Karissa Kjos and I represent the Williston Downtowners Association. Today, Tim Ritter, owner of Ritter Brothers, and Chuck Wilder, owner of Books on Broadway, will be speaking on behalf of our association.

Small Businesses are what make up Downtown Williston and by eliminating the Montana Sales Tax completely or issuing a rebate system, Downtown Williston retailers will be impacted the most. Our Montana customers make up 15% - 20% of business and by changing the exemption, that could easily change the success of our small businesses and affect our western North Dakota tourism greatly.

We ask that you please consider our viewpoints below prior to your vote.

Thank you,



Karissa Kjos
Executive Director

- In Downtown Williston alone, the average Montana sales are between 15% - 20% yearly. Changing the tax exemption is going to bring a negative impact to western North Dakota, primarily the retail industry.
- First and foremost the Williston Downtowners Association supports the Montana Sales Tax exemption to remain as is. Customers from Montana will be exempt, with proof of Montana ID, once their total purchase is \$50 or more.
- We do not support the proposed rebate system because it will cause an increase of workload for our customers and business owners, and in return North Dakota will have to make use of more state dollars to process each and every voucher. More severely, small businesses do not have the resources compared to large corporations to add another staff person to cover the rebate workload.

- We understand there is a unique situation happening in the construction industry and that is why we whole heartedly support reform in that one specific industry, similar to the automotive industry. North Dakota has never been a state to create legislative bills for the minority that will negatively impact the majority of industries.
- One industry issue verse the remaining industries.
- If you vote yes, you are saying the minority issues drives policy for the majority of the state. North Dakota should not be setting this precedence for future policies regarding taxing and revenue for other state bills i.e. transportation, licensing or funding structures.
- Unique policies already exists in other industries i.e. automotive, oil and transportation.
- Similar to the automotive registration policy, the construction industry could rebate or tax at the time of closure to receive occupancy license.
- North Dakota has invested thousands of dollars over the 2 bienniums to increase tourism. This vote will isolate North Dakota from Montana tourism since they are so passionate about the tax percentage.
- While Montana residents don't pay sales tax they do pay gas tax, lodging tax, restaurant tax and alcohol tax while visiting our towns. Many of them also utilize our entertainment and medical facilities that are all driving additional revenue for the city, counties and state. Do we want to risk these other funding mechanisms for a small minority of the problem i.e. retail sales tax?
- The issue with Montana residents who live in North Dakota and use there Montana License? This can't be avoided at the retail side but there are very few incidents since the small businesses are very familiar with their own clients. If the state feels this is a larger concern, then the fines and policy around updating your license upon moving into the state need to be reviewed. This isn't a Montana tax issue but policy and compliance issue with licenses.
- We cannot compare to the Canadian vouchers because the rebate is driven by different incentives. Montana currently gets 0% retail tax in North Dakota and Montana. Canada taxes are much higher so the incentive to fill out a voucher for them is to save money verse shopping locally in Canada. That incentive doesn't exist for Montana because they will just choose to shop in Montana verse coming to North Dakota. No additional benefit for Montana residents unlike Canada residents
- Reminder, the average small business only net profits 3% - 5% in a given year. Removing 18% of their gross sales will cost some small business their livelihood.

#2 p.3

JCPenney

403 Main Street
Williston, ND 58801

January 19, 2015

Mr. Chairman and members of the Finance and Tax Committee,

I do not think eliminating the tax is the answer. We have many Montana customers who shop with us because we do this for them. It is really not that hard for us to take the tax off and fill out the paper work our store requires. We do check their ID to make sure that they are from Montana. We need to keep doing this to encourage the Montana customers to shop our community instead of them going to larger city in Montana.

I do not think the answer is the form of a rebate. If we can keep it easy for the customer we are going to have happy customers who shop our community, and once they are shopping they will use our other resources that we have to offer in our community.

Thank you,

Cathy Roberson
Cluster Store Manager

#2 p. 4

Cooks on Main

224 Main Street
Williston, ND 58801

January 19, 2015

Mr. Chairman and members of the Finance and Tax Committee,

As the owner of Cooks on Main, I have Montana customers shop in my store daily. They depend on the tax exemption, to the point where they will purchase additional items to reach the \$50 minimum. They are motivated by the tax exemption to travel to Western North Dakota versus a longer road trip to Billings or Miles City. Without the tax exemption, North Dakota *will* lose customers, sales and traffic. While Montana residents receive the sales tax exemption, they do pay for a multitude of other local and state taxes including gas, lodging, restaurant and alcohol taxes. I would hate to see our state loose these valuable customers since they add to our states every day economy.

Adding a rebate form to this process, which isn't broken in the majority of the industries will add additional workload, stress, and frustration not only to our customers but will require additional payroll hours at a state/local level to process the rebates ongoing. I know the voucher system has been successful for our Canadian shoppers but the motivation is completely different since the voucher systems *saves* them money but the rebate for our Montana customers doesn't offer them any incentives since they will just stay in Montana, since their tax rate is 0%.

In your eyes, the elimination of the Montana exemption or rebate program may seem like the easiest solution to ND contractor concerns. I understand and sympathize with North Dakota Contractors frustration that arise with the illegal use of the exemption and unfair advantage Montana Contractors are getting when they *use* the exception in purchasing building supplies for projects with North Dakota. Is North Dakota willing to eliminate a very successful partnership with our Montana over a single industry issue? I am confident you can find a solution or process for the construction business that will not only eliminate the illegal use of the Montana exemption but will maintain the integrity of a very successful program in the remaining industries. For example, residents already pay their automotive taxes at the time of registration regardless where we purchase the vehicle. Can't contractors authenticate their supplies and taxes prior to receiving their occupancy license? I would hate to see North Dakota become the state where a single industry drives policy for all industries. We would be creating precedence for minority issues leading policy decisions.

Sincerely,


Angela Skogen

House Bill 1150
Testimony before House Finance & Taxation Committee
Matthew C. Larsgaard, MBA
Automobile Dealers Association of North Dakota
North Dakota Implement Dealers Association
9:15 a.m., January 19, 2015

HB 1150
1-19-15
3 p. 1

1/17/15

Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing in Opposition to Section 1 and 4 of HB 1150 on behalf of the Automobile Dealers Association of North Dakota and the North Dakota Implement Dealers Association. These two organizations represent approximately 225 of our state's franchised new car and farm equipment dealerships. Farm machinery and repair parts alone account for more than \$7 billion of sales in our state.

HB 1150 proposes to repeal a long standing sales tax exemption that was created in 1967. Since Montana does not levy a retail sales tax, this exemption was specifically designed to encourage Montana residents and corporations to come to North Dakota to make their purchases.

Reasons why the exemption exists:

1. The Montana sales tax exemption exists for the sole purpose of leveling the playing field for North Dakota companies who do business with people in Montana.
2. Our customers are not tourists, they are not "coming to town for the weekend"; they come to our dealerships with the express purpose of making a purchase.
3. When Montana purchasers come into North Dakota to do business with farm equipment and automobile dealers, they also typically do business with other retailers such as restaurants, gas stations, AG supply stores, etc.

Many of our farm equipment and automobile dealers are in direct competition with dealers from Montana who are not required to charge sales tax. If this bill were to pass, some of our dealers would be at a severe disadvantage as they compete against dealers across the border in Montana

We believe that the elimination of this exemption poses a very real and serious threat to retailers in Western North Dakota, especially our farm equipment dealers. Dealers along the Montana border do a significant amount of business with customers from Montana. If the exemption is eliminated, a large percentage of those sales would be lost

For example, three of our farm equipment dealers, with 17 stores, informed us that collectively, they had more than \$32 million dollars in sales to Montana customers in 2014. Repealing this exemption would have a devastating effect on those dealers.

The AG economy is currently on a downward trend. Farm equipment dealers in particular are feeling the brunt of the downturn as many farmers have tightened their spending. This decline has already resulted in a massive buildup of high value machinery on our dealers' lots. To illustrate this point, just one tractor (*Steiger Quad*) may be valued at more than \$600,000. Why would a border farmer from MT purchase that tractor from a North Dakota dealer and pay an additional \$18,000 in tax, when they could simply drive a few miles farther into Montana and avoid paying any tax on that same tractor? The reality is they won't.

As a result, our North Dakota dealers will more than likely lose those farmers as customers. Those same customers also make purchases of other farm equipment, repair parts, supplies, tools, etc. Further, just one Montana customer can literally spend well over one million dollars per year with a single North Dakota dealer.

I leave you with two thoughts:

#1. **"Tax Policy Dictates Consumers' Purchasing Behavior"** – There is no question regarding the fact that this bill will drive business out of North Dakota. It compels residents of Montana to avoid doing business in our state.

#2. **"Was this studied? If so, where is the data?"** This exemption has benefited North Dakota businesses for almost 50 years. Any prudent business decision related to this issue would require that empirical data be collected and analyzed, in an effort to identify the likely consequences to North Dakota's businesses. We are not aware that any "due diligence" has been performed on this issue. We believe that this bill has the potential to be devastating for our border farm equipment dealers. This bill would also have another negative effect on our state's economy in that it will actually decrease North Dakota state corporate and individual income tax revenue.

Mr. Chairman, members of the Committee, we respectfully urge you to defeat this bill.

Matthew C. Larsgaard, MBA

Automobile Dealers Association of North Dakota
North Dakota Implement Dealers Association

HB 1150
1-19-15
4 p. 1

House Bill No. 1150

Written Testimony Provided By Tom Pearson

Finance and Taxation Committee

Gooseneck Implement

Chairman Headland

Gooseneck Implement, a John Deere dealership, which has locations in eight communities in central and western North Dakota. This bill would have detrimental effects on our all our dealerships, but would have most negative impact on our Williston, North Dakota location. Our organization strongly opposes the passage of House Bill number 1150.

The current Montana sales tax exemption allows North Dakota agriculture dealers to sell the same prior non-taxable part to our Montana customers at the price as competitors in Montana. If North Dakota agriculture dealers are required to start charging sales tax on the purchase of prior non-taxable parts, it would directly increase the overall cost of these prior non-taxable parts to our Montana customers. Gooseneck Implement believes that some of our 300 loyal Montana customers would look at this negatively impacting their farming operation. Every business owner is always looking for ways to reduce their cost of doing business.

Gooseneck Implement appreciates the loyal relationship we have built with our Montana customers. Having built these relationships up takes many visits and time and we do not want to lose that strong connection with them by having them purchase their prior non-taxable parts out-of-state dealerships. As any business owner can attest, this will negatively affect future machinery purchase and service opportunities. Once you start losing your loyal Montana customer's base it becomes extremely difficult to earn their trust and loyalty back.

Not having our Montana customers come to Gooseneck Implement to purchase their prior non-taxable parts could have some an unattended secondary impact on other businesses such as restaurants, hotels, gas stations and other retail sectors. When current Montana customers come to Williston purchase their prior non-taxable parts, they are also doing other business in the Williston community since this is major economic trade area for Eastern Montana. By passing the bill it could cause a trickling effect of lost revenue other businesses in this community. Less customers traveling to Williston from Montana means less eating out, shopping, etc.

The current sales tax exemption allow North Dakota agriculture dealers and other North Dakota business to extends a general goodwill message towards our Montana customer that they are welcome and we extremely value their business in our communities and in the state of North Dakota. Currently the state of North Dakota has a good reputation with our Montana customers that North Dakota is a good place to do business in. Why would the state of North Dakota want to take a chance in damaging this good reputation that it currently has? That is why Gooseneck Implement encourages a **do not** pass on House Bill number 1150.

HB 1150
1-28-15
#1

15.0558.01001
Title.

Prepared by the Legislative Council staff for
Representative Dockter
January 26, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1150

Page 1, line 3, after "exemption" insert "and creation of a farm machinery gross receipts tax exemption"

Page 1, line 16, after the period insert:

"1."

Page 1, line 21, overstrike "1." and insert immediately thereafter "a."

Page 1, line 23, overstrike "2." and insert immediately thereafter "b."

Page 1, line 24, overstrike "3." and insert immediately thereafter "c."

Page 2, line 1, overstrike "4." and insert immediately thereafter "d."

Page 2, after line 1, insert:

"2. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state that does not impose or levy a retail sales tax, under the following conditions:

- a. The person is in the state of North Dakota for the express purpose of making a purchase.
- b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.
- c. The sale is fifty dollars or more."

Re-number accordingly