

2009 HOUSE FINANCE AND TAXATION

HB 1268

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1268

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: #8325

Committee Clerk Signature

Marilyn Kienle

Minutes:

Vice Chair Drovdal: Opened the hearing for HB 1268.

Rep Belter: Explained the bill to remove the sales tax on clothing. This session has focused on property tax, rebates and there have been arguments as to what do people who rent get or people who don't pay income tax get out of tax reductions.

That is what brought this bill forward as I feel clothing is something that all the people of ND are purchasing. I feel we as legislatures can step forward and if we are going to reduce taxes this would benefit a large section of North Dakota.

If you look at the bill I did not change the law at all. All I did was remove the tax from the current list of taxed that are taxed.

I do think it could stimulate the sales in North Dakota since Minnesota and Montana do not have a sales tax on clothing, this would help our border towns for sales.

Rep Grande: Where did this list come from?

Rep Belter: This is in the current code. I would suspect that if we would go through the past history, this would go into what is taxed and what is not taxed.

Rep Weiler: I have two questions. One is, on page 1 line 19 it says costumes. Page 2 line 25 it states costumes and masks sold separately, does that mean that if the mask is sold separately it does not go with the costume?

Rep Belter: It is best to ask by the Tax Department this question.

Rep Weiler: On page 1 line 10 it says clothing includes pants and shirt etc., should it say something including but not limited to. It seems to limit to these items and I think it should not limit.

Vice Chairman Drovdal: I think we will have the Tax Department discuss this.

Rep Belter: These are good questions. I did not look at the various items because I did not think legislators should be picking and choosing on which items should have a tax reduction.

Rep Froseth: I think that it is stated page 1 line 8-9 which includes all human use apparel.

Sen Fischer: I feel this bill is long overdue. Many people go to Minnesota to do their shopping. They will buy school supplies as coats etc.

Rep Boehning: Many of the constituents will come and ask why we need to reduce this sales tax as more people shop in West Fargo than in Moorhead. What is the answer to that?

Sen Fischer: For example, a bridal store moved over to Moorhead since there was no sales tax. If you buy a bridal gown for \$500 or \$600 it will cost you additional \$60 for taxes. If you do the same for school clothing you will have a savings by going to Minnesota.

Rep Pinkerton: I was wondering if that is why Cabella's developed there store in East Grand Forks rather than Grand Forks?

Sen Fischer: I wouldn't know if that is why.

Mike Rud: President of the North Dakota Retail Association.

Attached Testimony # 1

Rep Froseth: Most of the cities have a 2% sales tax. Would that be exempt?

Mike Rud: I do believe so. Yes.

Christopher T Dodson: ND Catholic Conference.

Attachment # 2

In addition only 11 states have tax on clothing.

Dustin Gawylow: North Dakota Taxpayers Association

Attachment # 3

Vice Chairman Drovdal: Is there anyone in opposition to HB 1268?

Connie Sprynczynatyk: North Dakota League of Cities.

I rise to be in oppose the chairman has his name on it. I do have to express the concerns that the cities have on this bill. Our exemptions have to mirror the states exemptions. This would be a significant loss in revenue for cities that collect sales tax. The principle use of the tax dollars that come back to the cities are economic development, infrastructure replacement and infrastructure repair and some tax reduction.

The cities are asking for me to come back and impress upon you that this would be a large impact on the cities and these taxes could keep the property taxes low.

Rep Belter: Was there any input from the border cities?

Connie Sprynczynatyk: Surprising enough the border cities were in agreement with the rest of the cities. Perhaps the reason why is that the shopping menu opportunities are much greater in the eastern border cities, as West Acres verses Moorhead etc.

Also many of the cities have a cap amount that can be collected. When you get to \$2000 /\$2500 you stop paying taxes.

Myles Vosberg: North Dakota Tax Commissioners Office:

If I could just explain the bill on the number of questions as to what is taxed and what isn't.

Rep Froseth answered the question on lines 8-9 with all human wear apparels for general use,

would be exempt from the tax. The items listed below are items that would be included to clarify if these items would or would not be taxable.

Rep Grande: So going through the list you are saying costumes are not taxed but protective equipment would be? This seems odd to me!

Myles Vosberg: That is correct. What was attempted is to put in definitions as to what other states were doing. There is nothing that states we could not make those exempt, it is a carve out group. When this definition was written you can except or not except these definitions.

Rep Kelsh: Is there an income tax credit if they provide protective gear for their employees or does the employee itemizes do they get a credit? Do the on line sales pay city taxes?

Myles Vosberg: If the employer would pay they are able to use this as a deduction. If they collect taxes they will collect city taxes also.

Rep Froelich: I see on page 3 line 12 that sunglasses non prescription. What about regular glasses?

Myles Vosberg: They already are exempt.

Rep Belter: About Protective Equipment, those are business expense.

Rep Pinkerton: In Section 3, Jewelry watch and all cosmetics would be that be taxable?

Myles Vosberg: This would be taxable

Vice Chairman Drovda: Closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1268

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/04/09

Recorder Job Number: 8625

Committee Clerk Signature

Lou Engleson

Minutes:

Chairman Belter: HB 1268 has to do with sales tax exemptions for clothing.

Rep. Grande: I'll move a **do pass**.

Rep. Brandenburg: Second.

Chairman Belter: Seconded by Rep. Brandenburg. Motion by Rep. Grande for a do pass. Is there committee discussion?

Rep. Winrich: I would just like to say that I will support this somewhat reluctantly. My preference would be an idea that has been proposed from time to time and that is to start eliminating sales tax exemptions and reduce the overall rate of the sales tax by a considerable amount. But I don't think that's likely to happen politically and so I will support this.

Chairman Belter: Other comments?

Rep. Schmidt: I'm going to support this but I did have some concerns. Are we going to find an increase in property taxes by decreasing this. I am a little concerned, but I am going to support it. I was hoping maybe we could amend it, some of these items down to eliminating half, but I'm not going to do it today. I am going to support the bill, but I have some reservations about it. I hope we don't raise property taxes.

Chairman Belter: Other comments on HB 1268? Hearing none I'll ask the clerk to call a roll call for a do pass on HB 1268.

A roll call was taken by the clerk.

13 yes, 0 no, 0 absent. Rep. Brandenburg was assigned to carry the bill. The bill will be rereferred.

FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: HB 1268

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$34,960,000)	(\$3,040,000)		
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1268 creates a sales and use tax exemption for clothing.

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 1268 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$34 to \$42 million during the 2009-11 biennium. (The midpoint of \$38 million is shown in 1A above.)

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/30/2009

Date: February 4, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1268

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Brandenburg

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

Refer to Approp.

REPORT OF STANDING COMMITTEE (410)
February 4, 2009 3:31 p.m.

Module No: HR-22-1665
Carrier: Brandenburg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1268: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1268 was rereferred to the Appropriations Committee.

2009 SENATE FINANCE AND TAXATION

HB 1268

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1268

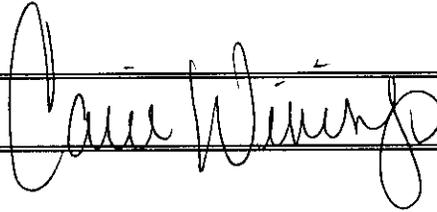
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 03/03/2009

Recorder Job Number: 10046

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on HB 1268.

Representative Wesley Belter, District 22: Testified as sponsor and in support of the bill.

The clothing Sales tax affects all citizens of North Dakota, unlike the property tax relief bill from last session. This is one tax would be a positive for the people and the economy of North Dakota. It would be an attraction for businesses to come to the state.

3.27 Senator Dotzenrod: If this bill passes, what would happen to the city sales tax?

Representative Belter: It will not apply to clothing.

Chairman Cook: Their tax base will be reduced as well.

4.15 Representative Randy Boehning, District 27: Testified as sponsor and in support of the bill. I believe that it would not be a loss of revenue to the state because I believe the money they save on clothing sales tax will be put back into the economy on other items by the consumers. It would give them money to spend on other items that do collect sales tax. It would be good for my area of Fargo and bring others from around into North Dakota to shop.

6.25 Mike Rud, President, North Dakota Retail Association: See Attachment #1 in support of the bill.

9.08 **Brad Schlossman, CEO of West Acres Development:** See Attachment #2 for testimony in support of the bill.

14.26 **Senator Hogue:** Could you walk the committee through how this would work for one of your tenant's stores. How does the store make the distinction?

Brad Schlossman: This is a similar situation that grocery stores have dealt with for some time. The point of sale system normally keeps track of that. The machine would do that automatically.

Vice Chairman Miller: If for some reason you were given a choice of lowering the sales tax all together or would you rather see a clothing sales tax exemption?

Brad Schlossman: Since this bill is on the table right now, I would like this bill. I think the stores might in the futures decide to pull out and go over state lines to offer a tax free item. It is not something that I expect to happen in the next couple of years, but it is something that down the road there could be a tipping point that could cause that to happen.

Chairman Cook: I remember when West Acres mall was built, and I think that the people from Minnesota shop in North Dakota despite the taxes. If you look in the parking lot you see a lot of Minnesota plates. You still feel that that there is a fear and someday you might have to compete with Minnesota and all the stores will relocate there?

Brad Schlossman: I referred to it as an Achilles heel to us and that is because we have no control.

Chairman Cook: Doesn't Minnesota have a bill to take away the sales tax exemption?

Brad Schlossman: I think it is in the discussion stages.

Chairman Cook: There economic climate is certainly very different than ours. You talked about your property tax being your largest expense; we have a bill going through here that my

guess would reduce your property tax by 15%. If you had a choice between getting that 15% reduction and eliminating sales tax on clothing, what would your choice be?

Brad Schlossman: For our short term success, the 15%, the long term, we would rather have the level playing field with the tax exemption. We believe the customers will determine our future more so than being able to control the property tax expense.

Senator Anderson: I don't hear anyone complaining about sales tax on clothing. Do you get a lot of comments and how would you describe the comments that you get?

Brad Schlossman: We don't get written comments, we mostly hear the verbal antidotes. It is the risk of losing the core.

Senator Dotzenrod: There has been more of a shift of population to the larger areas – does that have any bearing on our decision? If we are going to try and decide whether to exempt closing or not, would it be relevant whether the clothing sales are distributed evenly across the state or whether they are concentrated in population?

Brad Schlossman: It is the shift of sales that is our concern.

23.10 **Chairman Cook:** So this isn't going to shift it back it is just going to remove the tax that is being shifted from the winner?

Brad Schlossman: That is right.

Vice Chairman Miller: Does Moorehead have a sales tax?

Brad Schlossman: No they do not.

23.51 **Christopher Dodson, Executive Director, North Dakota Catholic Conference:** See Attachment #3 for testimony in support of the bill.

26.45 **Chairman Cook:** Doesn't South Dakota have clothing tax?

Christopher Dodson: I do not believe so.

Senator Anderson: I have a copy of a news article from the eastern part of the state, and it says that South Dakota has a sales tax on clothing.

Christopher Dodson: I was referring to general sales tax.

Senator Triplett: How much clothing does it take for a person to have a sense of human dignity? Is there some limitation on your argument in that regard? Maybe we should exempt more expensive clothing somehow.

Christopher Dodson: I am not sure how that could be done and how to determine where it could be done.

Chairman Cook: There is undue burden that cannot be placed on the retailers. When we look at tax burden as a whole and to what degree it should be regressive, don't we kind of balance that out with the three legged stool of property tax, income tax, and sales tax?

Christopher Dodson: That is why I said in my testimony that this is one step toward and you have to look at the entire system. When you look at the entire system you have to ask if there were a regressive tax on an essential item. Within that three legged stool, how much of that is the best way to adjust it somewhere else to adjust that factor.

Vice Chairman Miller: How much clothing does a person has to buy in a year, I mean have to buy?

Christopher Dodson: I think that there is no disagreement that people obtain more than they need. It is not just a matter that it is a necessity, but it is a matter of fairness and justice.

32.31 John Risch, United Transportation Union: Testified in support of the bill. It is a progressive thing. Clothing is a necessity of life. See attachment #4 for article on states that charge tax.

34.13 Chairman Cook: The workers you represent have no problem paying the clothing tax, correct?

John Risch: There is not a question on that they can, but there are a lot of people out there that struggle to pay for them.

34.40 **Robert Harms, Self:** Testified in support of the bill. See Attachment # 5 for information passed out to the committee. We can afford this, so why wouldn't we do this?

37.35 **Chairman Cook:** So you think the state should absorb the loss of revenue from the state share of the sales tax plus the loss of revenue from the city sales tax?

Robert Harms: I don't think that that is a given. I think that that would be debatable. I don't think that should be the reason that we fail to reduce the sales tax for the people that need it.

Senator Anderson: Your statement is fair, but I think that we all realize that the state is well to do right now and they certainly can absorb this but I think we are going to hear testimony that it will be a big hit to the cities.

38.47 **Connie Sprynczynatyk, North Dakota League of Cities:** Testified in opposition to the bill. The cities would love to support something like this but we feel obligated to tell you what the impact would be on the locals. There are three things. One is mix, one is obligations, and the other is rate. (See Attachment #6 regarding mix and what each city's impact would be.) We have to find a way to fund all of the things that we need to accomplish. Property tax relief has been accomplished significantly since the late 80's when the cities were beginning to use the capability of local property tax. Uses example of Bismarck to explain how the property tax relief has started to take place. See Attachment #7 for figures from the city of Bismarck.

44.30 **Chairman Cook:** Can you walk through the chart #7 attachment.

Connie Sprynczynatyk: Does that.

47.00 **Senator Anderson:** I am looking at your listing of some of the cities that utilized their city sales tax for certain purposes. A lot of those are smaller cities. I remember that when bonds are sold in cities and sales tax is backed up to pay for that, do not the bond companies

require that there be other things in there that has to go to property tax if there isn't enough money from the sales tax?

Connie Sprynczynatyk: I believe you are correct and we have experts that can address that.

Chairman Cook: The best thing about your testimony is I think you made a great argument about why you are taking a lot of sales tax dollars from Mandan residents and reducing Bismarck property taxes.

Connie Sprynczynatyk: We would love a healthy retail sector in Mandan.

Senator Dotzenrod: You are testifying in opposition, but if we amended the bill and put an appropriation of three million forty thousand dollars on to cover the revenue loss to the cities and counties, you would no longer oppose the bill.

Connie Sprynczynatyk: Not exactly. The 3 million dollars that you see, that is the deficit coming out of the state aid distribution fund. State aid is based on 4/10 of one cent of state sales tax. You are changing the base here and the cities will be affected twice. I only wish that appropriation would take care of the problem.

51.00 **Brad Wimmer, Fargo City Commission:** See Attachment #8 for testimony in opposition to the bill.

55.25 **Chairman Cook:** This five million dollar figure, is that what you think that you are going to lose from the state aid distribution fund?

Kent Costin, Director of Finances, City of Fargo: The analysis was prepared simply for the locally collected sales tax; the 1.5% that we have locally. It was not an attempt to quantify the loss of the state aid distribution monies.

Chairman Cook: What is the 2, 700,000?

Kent Costin: That is the per year loss. That is our best estimate of the loss of the locally collected sales tax based upon the clothing sales. This is a big issue because of the draw into the cities. This is only a 50 mile radius draw. I think this is a conservative estimate.

Chairman Cook: Would you say that the tax department fiscal note is too low?

Kent Costin: I wouldn't argue that, but I think the analysis at the local level just simply wasn't done because there are different tax rates and different regional draws depending on what part of the state you are in and it seems impractical for the state analyst to do that work. That is our work to look at our own economies and provide the answers to you.

Chairman Cook: You and Bismarck together already are almost 9 million dollars and according to testimony you represent 43% of the share of sales and this only reflects a portion. If we start adding it all up, I think the city share is as much as the state shares.

Kent Costin: Fargo's revenue stream has grown year over year and probably averages a 5% growth rate and this bill has an impact that is just reducing that rate. There are reserve requirement that have to be met at the time you issue bonds, you have to set aside 10-15% of the total bond issue as a cushion. We can't emphasize enough that we have acted on what the voters want and we cannot go back.

1.01.10 **Senator Hogue:** If you were to increase your sales tax, does that require a vote of the Fargo residents?

Kent Costin: Yes, a 60% majority.

Brad Wimmer: We have three projects that we have done.

Senator Anderson: If the income from the sales tax on clothing dries up, and other sources don't have it, how do you get the money to pay the bonds?

Kent Costin: We have to look at the bond companies and if these bonds were issued with a sales tax revenue pledge, than that means that the sales taxes are gone and the bond holder

is upside down on these bonds, we would default. We would have to refinance our debt or seek a different form of funds.

1.03.37 **Shawn Kessel, City of Dickenson Commission:** Testified in opposition to the bill. See Attachment #9 for chart presented. (Lists the services that use the tax revenue to take care of the City of Dickenson) We might have to only do projects that would service the city not the region. Maybe a compromise could be made to apply it to state sales tax only.

Chairman Cook: Cannot do that.

01.07.55 **Senator Hogue:** I was curious to know if Dickenson's property tax relief does that just buy down mills like Bismarck.

Shawn Kessel: We do not buy down mills like Bismarck does. We do certain projects and dedicate 50% of that first 1% towards direct property tax relief and we use that generally for street maintenance.

1.08.33 **Claus Lembke, North Dakota Realtors Association:** See Attachment # 10 for testimony in opposition to the bill.

1.10.00 **Pete Haga, Community/Government Relations Officer, City of Grand Forks:** See Attachment #11 for testimony presented on behalf of Mayor Michael Brown.

1.13.20 **Senator Triplett:** You look like you took a little different approach in terms of how you calculated the regional economic effect.

Pete Haga: We did just that, we did not want to take the full draw.

1.14.55 **Senator Arden Anderson, Representing City of Wahpeton:** See Attachment #12 for testimony brought on the cities behalf.

1.17.20 **Chairman Cook:** Any further testimony?

Senator Triplett: Would like to ask a couple of questions of the tax department. Can you just verify that the other funds that you have identified on the fiscal note are just the state aid distribution piece and not their local sales tax?

Kathy Strombeck, Tax Department: That is exactly correct. That is just to 92 and 8%. That is the 8% that goes to state aid distribution fund. There are 123 of the cities that have a sales tax on clothing, and this bill would remove that from all 123 cities.

Senator Triplett: Do you think that their analysis is reasonable in terms of how they have come up with the numbers?

Kathy Strombeck: I believe so. I work with these cities and provided them my source of national expenditure data. I did make a few adjustments to come up with our figures. What I did not know is their market reach and how much of a draw their cities have.

Chairman Cook: Somewhere they thought that the average savings to the consumer would be a \$50 savings a year.

Senator Dotzenrod: There is something that I have been thinking about; one of the most appealing things about passing this bill would be that it would benefit those with lower income. I am not so sure anymore that a sales tax on clothes is regressive as we think.

Kathy Strombeck: Sales tax is still a regressive tax, but your point is well taken.

Chairman Cook: Closed hearing on HB 1268.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1268

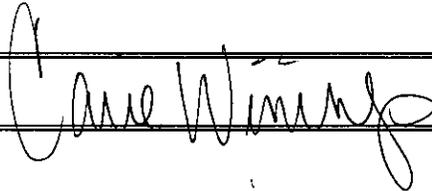
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 03/11/2009

Recorder Job Number: 10732

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on HB 1268.

Senator Oehlke: Moved a Do Not Pass.

Senator Anderson: Seconded.

Senator Triplett: I don't know how other people feel about this, but would this be an opportunity to put back in Senator Heckaman's bill taking off the sales tax off of thrift store clothing. Maybe would could modify it a bit. Does anyone care about this?

Senator Oehlke: If there was going to be a clothing sales tax relief that is the only one I could consider voting on.

Chairman Cook: I would rather put this bill to rest instead of some other form; your suggestion would take it to a conference committee and a chamber that has already passed this.

Senator Triplett: You are right.

Senator Dotzenrod: We are spending less on clothing than we used to, and it is less regressive than it used to be. There is one area where I would say there is an expense that needs assistance is raising young families, especially things like diapers, but it is not worth getting into that.

Chairman Cook: There are black line tests that will define a product that gets carved out of the sales tax code.

Senator Anderson: Mentions an e-mail that was sent to everyone in the committee regarding the fact that the figures can't be what the cities are saying. It is hard to know what the impact would be to the cities.

Chairman Cook: Any further discussion? (no)

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Senator Oehlke will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 11, 2009 3:24 p.m.

Module No: SR-44-4626
Carrier: Oehlke
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1268: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1268 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1268



ND Petroleum Marketers Association
ND Retail Association

Testimony H.B. 1268

February 2, 2009- House Industry, Business and Labor Committee

Testimony 1
HB 1268
February 2, 2009

Mr. Chairman and members of the House Finance and Taxation committee:

For the Record, my name is Mike Rud. I'm the president of the North Dakota Retail Association. On behalf of NDRA's nearly 400 members and the thousands of people these businesses employ, I'm here today recommending a "DO PASS" on H.B. 1268.

The retail sector of North Dakota does not appear immune to the national recession. What started out as a potentially strong Christmas shopping season in our state quickly fizzled against the backdrop of a slumping national economy and financial crisis. The lack of consumer confidence combined with near blizzard conditions to create very lack luster and disappointing 4th quarter sales numbers for many of the state's retailers, both large and small alike.

NDRA members have reviewed the numerous sales tax exemption bills being brought Forward this session. NDRA feels HB 1268 would go a long way to restoring consumer confidence. HB 1268 will help jump start the retail sector in 2009 by giving residents a tax exemption on items they use on a daily basis, such as shirts and pants and shoes and socks.

HB 1268 will also allow for a fair playing field for state retailers on the eastern border of North Dakota who have been forced to compete against retail outlets in Minnesota which to date feature sales tax exemptions on clothing and other items.

In addition, H. B. 1268 will hopefully bring more people out shopping and in turn get



ND Petroleum Marketers Association
ND Retail Association



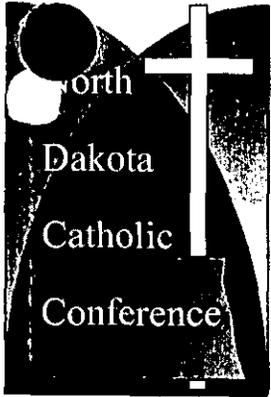
them into other retail stores besides those that sell the exempted items.

This bill will not only benefit the retailers, but will help keep the state's retail workforce

Intact, in turn keeping the state's economy moving in the right direction.

Again, NDRA recommends a **"DO PASS"** on HB 1268.

Thank you for your time and consideration.



Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

Testimony 2

Same to
given to
Senate.

To: House Finance and Taxation Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1268 - Eliminate Sales Tax on Clothing
Date: February 2, 2009

The North Dakota Catholic Conference supports House Bill 1268 as a step toward a more fair and just system of taxation.

Several principles should guide questions of taxation so that systems of taxation conform to principles of justice, further the common good, and fulfill our moral obligations to the poor and vulnerable. First, taxation should be based on one's ability to pay. In this respect, Catholic teaching supports a more progressive, rather than regressive, form of taxation, especially when it comes to taxation on goods and services essential to human dignity.

Second, taxation should be fair and just in its treatment of the poor. Those who are poor should not pay a disproportionate amount of income in the sum total of taxes paid. This is especially true in the case of a sales tax, in which low- and moderate- income people tend to pay in higher percentages of their total income.

Lastly, taxation must ultimately serve the human person, not the state or the economy. In this respect, tax policies should, in concert with other laws, ensure the best environment to allow people to obtain those goods and services essential to human life and dignity. Among those goods is clothing, which like food, shelter, and medicine, is a basic human right.

For these reasons, House Bill 1268 is the right thing to do. It would eliminate a regressive tax on an essential item. At the same time, it would make our tax system more fair and just, and help relieve the tax burden on the poorest among us.

We request a **Do Pass** recommendation on House Bill 1268.

North Dakota Taxpayers' Association - PAC

Monday, February 2nd, 2009

HB 1268

Mr. Chairman, and Members of the Committee,

House Bill 1268 provides much needed tax relief to working families.

There simply are some things that should not be taxed. Clothing is one of those things.

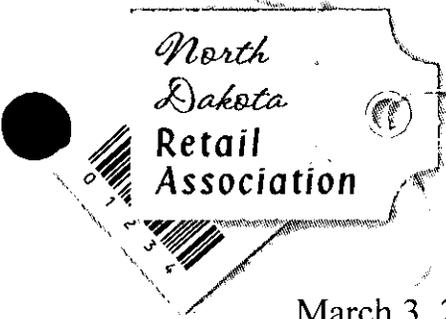
North Dakota already exempts food, adding clothing to that will bring the state closer to tax policy that does not tax the necessities of life.

This tax exemption also has one more feature – it makes us more competitive with Minnesota's sales tax exemption for clothing.

With the current economic climate, and the state's budgetary health, this is a slam dunk common sense tax cut for working families.

-Dustin Gawrylow, Executive Director (Lobbyist # 198)

#1



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BISMARCK, ND 58502 • 701-223-3370
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Testimony H.B. 1268
March 3, 2009- Senate Finance and Taxation Committee

Mr. Chairman and members of the Senate Finance and Taxation Committee:

For the record, my name is Mike Rud. I'm the president of the North Dakota Retail Association. On behalf of NDRA's nearly 400 members and the thousands of people these businesses employ, I'm here today recommending a **"DO PASS"** on H.B. 1268.

The retail sector of North Dakota does not appear immune to the national recession.

The buzz words we hear on a daily basis are: consumer confidence.

NDRA feels HB 1268 would go a long way in helping to restore consumer confidence. This tax exemption puts all consumers on an equal playing field. It's especially beneficial to those struggling to make ends meet in these worsening economic times. HB 1268 will also help jump start the retail sector in 2009 by giving residents a tax exemption on items they use on a daily basis, such as shirts and pants and shoes and socks.

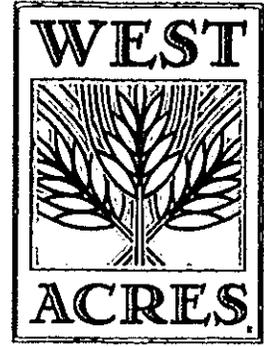
In addition, H. B. 1268 will hopefully bring more people out shopping and in turn get them into other retail stores besides those that sell the exempted items.

This bill will not only benefit the retailers, but will help keep the state's retail workforce intact, in turn keeping the state's retail economy moving in the right direction.

Again, NDRA recommends a **"DO PASS"** on HB 1268.

Thank you for your time and consideration.

#2



3902 13th Ave S
Suite 3717
Fargo, ND 58103-7512
www.westacres.com

701.282.2222
Fax: 701.282.2229

Chairman Dwight Cook
Senate Finance and Taxation Committee

Draft of Testimony on HB 1268, March 3, 2009

Mr. Chairman, members of the committee, my name is Brad Schlossman, a resident of Fargo. I serve as the CEO of West Acres Development, the owners of Fargo's West Acres Shopping Center.

I am also a CPA and Member of NDSCPA. Throughout my career I have had an interest in the impact of tax law changes from a variety of perspectives. From a West Acres operations perspective, taxes are a big deal. Property taxes are our largest operating expense. I believe we are the largest property tax payer in Cass County. Meanwhile our facility is possibly the largest collector of sales taxes in the state. Accordingly, the health of retail properties is a big deal to state and local governments.

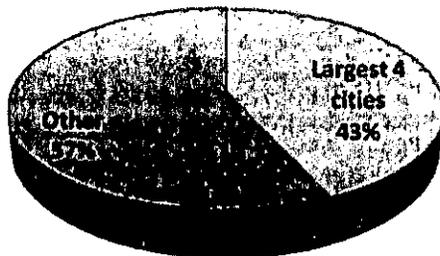
From my CPA perspective, I have been a long-time observer of how tax laws and changes to them have impacted various segments of our society. So what is the impact of this bill? For starters, the reduction of sales taxes has the greatest benefit to lower income citizens of the state as sales taxes are the most regressive of the primary taxes used in ND. That is the reason that groceries and other necessities have been excluded and why several other states, including Minnesota, exclude clothing as well.

The impact of this bill has been broadened by the increased use of municipal sales taxes which are based on the state's taxable sales definition. The dollar amount of taxable sales available to municipalities varies substantially between the larger cities and the rest of the state. On per resident basis, the four largest cities (Fargo, Bismarck, Grand Forks and Minot) average about \$20,000 in taxable sales for every resident while the rest of the state is under \$6,000.

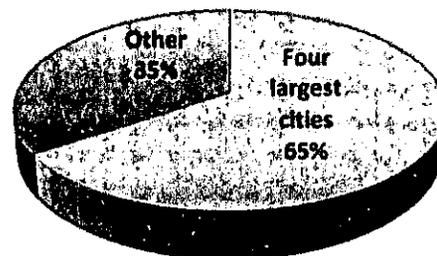
TAXABLE SALES: (in thousands)	2007				
	Population	Share of Population	Total (000)	Share of Sales	Sales per Capita
Fargo	90,599	14%	1,906,147	27%	21,039
Bismarck	55,532	9%	1,145,970	16%	20,636
Grand Forks	49,321	8%	880,782	12%	17,858
Minot	36,567	6%	704,125	10%	19,256
All Other	410,181	64%	2,442,728	35%	5,955
	642,200	100%	7,079,752	100%	11,024

This sizable disparity has grown steadily over the past 3 decades. When I started tracking sales tax collections in the early 1980's, which is near the time that the state enabled the collection of municipal sales taxes, the four largest cities recorded about 43% of the state's taxable sales, but that has grown to about 68% of the total today. On the flip side, the smaller cities in ND collected about 57% of the ND total in 1981, but that number has dropped to 32%. I do not know the amount of taxable sales attributable to clothing, but I would assume that the disparity is wider. There are few clothing choices in our smaller communities. People come to town to shop for clothes. At West Acres in particular, our non-Fargo customer base is about 60%. By removing clothing from the tax base, the fairness of municipal sales taxes moves in the right direction while preserving this tool for local governments.

Share of Taxable Sales 1981



Share of Taxable Sales 2007



The last perspective I would like to present is that of our customers. They are the reason I am here. They are the ones who pay the sales tax, not us, we just collect it. While it might appear that we are better off by fighting property taxes, our largest operating expense, our future lies in the hands of our customers.

Does the sales tax on clothing impact where customers shop? The answer to that is yes, but the extent isn't known. One piece of data we find puzzling is the fact that our Minnesota customer base is underrepresented. Our last survey done in 2007 showed that Minnesota spending at West Acres was only 21% of our total when that total should be between 30-37%.

Comparison of FM Area Counties Populations vs. West Acres Customers

Population Percentages	State		Population Total
	MN	ND	
Cass / Clay	29%	71%	100%
Next 3 nearest	55%	45%	100%
Population Total	37%	63%	100%
Shopping Proportions	21%	79%	

Next 3: Richland, Barnes and Traill, ND, Wilkin, Becker & Norman, MN

We have heard plenty of anecdotes that customers don't like paying our sales taxes on clothing. It's a 6.5% incentive to shop Minnesota. You might then wonder why Moorhead doesn't have a stronger retail presence. The answer to that is shopping occurs where the stores are. Retail stores make location decisions based on co-tenancy more than any other issue. They want to be where other stores have been successful. The good news is that momentum continues to bring strong retail to the North Dakota side of the river. The bad news is that reliance on that business model is risky. We cannot afford to provide motivation for stores to leave the state. I have learned from the website deadmalls.com that we cannot afford to ignore our Achilles heel. Neither can state or local government because both rely on retail properties for substantial revenue.

Thank you for your consideration,

WEST ACRES DEVELOPMENT, LLP

A handwritten signature in black ink, appearing to read 'G. Bradley Schlossman', written over the printed name.

G. Bradley Schlossman
CEO

#4

Saturday, February 28, 2009

Calls to tax clothes grow

Longtime Minn. exemption may fall victim to budget woes

By Martiga Lohn
Associated Press Writer

BLOOMINGTON, Minn. — The search for the perfect eighth-grade graduation dress brought the Hulberts to the Mall of America.

Stores such as Charlotte Russe and Jessica McClintock were the draw for 13-year-old Chelsea. Her parents had another reason for making the three-hour drive from their home near La Crosse, Wis.: Minnesota doesn't tax clothing or shoes.

"It's another reason to come here," Lynn Hulbert said, as his wife and daughter shopped.

At least for now.

Calls to tax clothing in Minnesota are expected to grow as state leaders confront a nearly \$5 billion deficit. Extending the state's 6.5 percent sales tax to clothing would bring in about \$400 million a year.

Clothing, food, prescription drugs and supplies such as diapers and tampons aren't taxed in Minnesota because they're considered necessities. That case is hard to make for \$1,795 one-shoulder dresses at Nordstrom, \$225 flare jeans at Burberry or \$138 Hawaiian silk shirts at Tommy Bahama.

Ann Rest, a Democrat from New Hope, favors a clothing tax with a credit for lower-income buyers. People have discretion over what they buy, she said.

"The affluent spend more on their clothes, and they buy more clothes," said Rest, who pushed last year for the tax.

Even GOP Gov. Tim Pawlenty's business-friendly tax commission recommended expanding the sales tax to most consumer goods and services as a way to cut business taxes, although the group shied away from directly calling for a clothing tax — something Pawlenty opposes.

"People are hurting right now," Pawlenty said. "The last thing they

What other states do

States that exempt clothing from their sales taxes:

Minnesota, New Jersey, Pennsylvania, Rhode Island, Vermont

States that have no sales tax:

Alaska, Delaware, Montana, New Hampshire, Oregon

States that tax clothing only over a certain amount per item:

Connecticut (\$50), Massachusetts (\$175), New York (\$110)

States that tax clothing:

Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming

Source: National Conference of State Legislatures

the tax will fly without Pawlenty. But Sen. Keith Langseth, a Democrat from Glyndon, said it's the kind of revenue-raiser that could come up in the usual end-of-session negotiations for a final budget.

"It's something that nobody particularly wants their fingerprints on," Langseth said.

Another complication: North Dakota is considering dropping its sales tax on clothing. That could mean extra pressure from merchants in northwest Minnesota against the tax, for fear they'd be at a disadvantage to Fargo and Grand Forks competitors.

Minnesota's untaxed clothing is a selling point for the Mall of America, whose 500-plus stores get half their sales from tourists.

"It's easier to sell it to out-of-state (shoppers) once they find out there's no tax," said Shawn Ashtiani, who sells \$19.99 and \$29.99 puffy slippers at the Happy Feet kiosk next to LEGOLand on the mall's ground floor.

The giant mall and its stores aren't the only ones capitalizing on the tax exemption. Buzz Anderson with the Minnesota Retailers Association said regular malls, outlet malls and border stores compete better without a clothing sales tax. All four states bordering Minnesota tax clothing.

"It would hurt them all — outlet stores and all the rest," Anderson said.

Back home after the Mall of America visit, the Hulberts were contemplating a return trip. Vickie Hulbert said her daughter found a graduation dress she wants to buy if it's still there next time. Hulbert said the family crosses the border for tax-free school clothes and to enjoy the mammoth mall, but would shop less in Minnesota if they had to pay tax on clothing.

"We would probably buy more here," Hulbert said. "We have a nice mall here."

need is a tax increase on their basic supplies in life like food and clothing."

Minnesota is one of five states that exempt clothing from their sales tax. No serious move is afoot to tax clothing in the other four: Pennsylvania, New Jersey, Rhode Island and Vermont. Three other states tax clothing only above certain limits, and five other states don't have state sales taxes.

Minnesota is due for another budget forecast Tuesday that's expected to be even worse. Sen. Tom Bakk, a northern Minnesota Democrat who is chairman of the chamber's tax committee, said he expects a clothing tax to get plenty of talk.

Bakk — himself a possible candidate for governor — said he doesn't think

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#5

ESTIMATED RESERVE BALANCES - JUNE 30, 2011

General fund	\$63,891,964
Budget stabilization fund	311,092,167
Permanent oil tax trust fund	<u>602,668,814 *</u>
Total estimated general fund and reserve fund balances	<u><u>\$977,652,945 *</u></u>

- * The November 2008 revenue forecast included an alternative oil price scenario based on a conservative production forecast and oil prices remaining at \$40 per barrel for all of fiscal years 2009, 2010, and 2011. This conservative alternative scenario provides for an estimated June 30, 2011, ending balance in the permanent oil tax trust fund of \$428.0 million, resulting in total reserves of **\$803.0 million**.

After \$300 M P=OP. Tax
\$100 M inc. Tax

#U

Dedication of Local Sales Tax to Infrastructure - HB 1268
Compiled by North Dakota League of Cities
March 3, 2009

We have a dedicated amount of city sales tax to pay a portion of bond payments.

Lesley Connelly
Auditor
City of Hillsboro

The City of Minot uses 50% of one cent for infrastructure. Part of that 50% is used for debt payments. Another 10% of the one cent is used for direct property tax reduction, which is payment of bond obligations.

Cindy Hemphill
Finance Director, City of Minot

We have dedicated our sales tax to bond payments.

Jim Brownlee
City of West Fargo

Currently the City of Hazen dedicates city sales tax to (3) infrastructure projects. We have bonded indebtedness on these projects, some projects have 17years left, were the city uses city sales tax to make the bond payment.

Sandra K. Bohrer - City Auditor
City of Hazen

**CAVALIER DEDICATES LOCAL SALES TAX TO INFRASTRUCTURE
REPAIR AND THE SALES TAX PAYS BONDS.**

KATIE WERNER
AUDITOR
CITY OF CAVALIER

Valley City has 2 % city sales tax of which 1/2% is dedicated for infrastructure renew & replacement fund to reduced the amount assessed out to property owners and 1/2% is dedicated towards bond indebtedness for the schools gymnasium. The balance is dedicated for property tax relief and economic development.

Avis Richter
Auditor
City of Valley City

80% of our sales tax is used for infrastructure projects

Kim Nunberg
City of Beach

The City of Oakes uses 1/3 of our sales tax to pay towards the Swimming Pool Bond, 1/3 towards economic development, and the remaining 1/3 is used in the general fund and other project to alleviate property taxes. The remaining 1/3 is also used to provide grants for organizations in town for various projects.

April Haring
Oakes Auditor

Williston's 1% is presently allocated 75% to Infrastructure Replacement and 25% to Economic Development/Community Enhancement. The enhancement portion is capped at \$50,000 per year. We of course have our school 1% going directly to the school for bond payments on the new junior high and the county is receiving ½ % which goes to pay the new jail bond issue.

John Kautzman

Williston

Wahpeton has 45% of sales tax collections dedicated to debt repayment for infrastructure improvements related to flood control. The payments are amortized out to 2026 and we still have 2 phases of flood control projects yet to be completed. I spoke to John Quinlan at the State Tax Dept. he suggested using the national per capita spending on clothing to estimate sales tax revenue generated: Wahpeton's population is 7,700 x \$600 = \$4,620,000 x 1.5% local option sales tax = \$69,300 in estimated revenue lost by elimination of sales tax on clothing. I am concerned this may understate the potential revenue loss especially because of the regional nature of clothing retailers in ND – but it is a start.

Darcie Huwe

Finance Director/Interim City Coordinator

City of Wahpeton

Harvey uses its sales tax for infrastructure and has a current bond.

Kim Moen

City of Harvey

Stanley gives economic development 65%, the city has 25% and Park District 10%. The Park District would probably fold up if they didn't get that extra money.

The city's portion is used for street work so that we do not have to assess property. We have also given to several entities including our Hospital to keep it going in our small town and have given it to small businesses to get them started.

Bev Gleave

City of Stanley

Jamestown has 1% dedicated to economic development and infrastructure for economic development and also 1% dedicated to the repayment of bonds issued to fund the construction of our new high school.

Jeff Fuchs

City of Jamestown

The City of Rugby has a 1% sales tax, of which 25% is used for infrastructure. We are looking at using a portion of our infrastructure fund for bonded indebtedness for a possible \$5 million citywide street project.

Karla Harmel

Rugby City Auditor/Administrator

Mandan 1% local sales tax:

40% - Direct offset of property tax

35% - Infrastructure projects (bonded)

25% - Economic development

Jim Neubauer

City Administrator

City of Mandan

We have pledged sales tax revenues to the Community Center in town and a bill like this may jeopardize the bond covenants.

Shawn Kessel
City Administrator
Dickinson

A good portion of our local sales tax makes payments on infrastructure needs.

***Renae Arneson
City of McVile***

The City of Langdon uses 1/3 of one percent for infrastructure and another 1/2 of an additional one percent for infrastructure. We also have dedicated amounts from other sales tax funds toward payments on existing bonded infrastructure projects.

Tina Gustafson
Auditor
City of Langdon

The City of New Rockford has a 2% local sales tax. 32% is dedicated for economic development, 32% is for street, sewer and water infrastructure improvements, 17% dedicated for the Park District, 4% for fire dept equipment and 15% for the general fund.

George Ritzke
City of New Rockford

1999 First 1% = 50% economic development, 40% infrastructure and 10% parks. Our second was voted in 2007 and 100% of that goes for infrastructure
City of Velva

Park River has a 2% local sales tax. 25% is for infrastructure and other capital improvements, 25% if for economic development, and 50% goes toward paying the bonds on our recent \$7 million clinic/hospital construction/renovation project.

Tom Larson
City of Park River

Lakota's 1% sales tax is split 50%/50% between economic development and infrastructure improvements.

Lakota City Auditor

The bulk of our sales tax (2%) goes towards paving. We have significantly reduced special assessments for our property owners. The rest goes to economic development & some minor infrastructure. We currently do have a bond issue against our sales tax. It is for paving as the city did not have enough of their share for the last paving project but still wanted to proceed with it.

Penny Nosdahl
Bottineau

Grafton has bonds outstanding with sales tax revenue pledged for the payment.

Mylo Einarson
City Administrator

Casselton splits its 1 %sales tax 1/3, 1/3, 1/3, to infrastructure, economic development, and property tax relief. In the past, the money has been spent on different projects throughout the town from grandstands at the school, to a portion of the water tower, to the swimming pool. Our collections right now are "spoken for" by the pool.

Brandy Pyle
Casselton City Auditor

Hettinger City has dedicated 95% of their sales tax revenue to infrastructure. We do not have any bond issues at this time.

Patricia Carroll
Hettinger City Auditor

We have pledged sales tax revenues to the Community Center in town and a bill like this may jeopardize the bond covenants.

Shawn Kessel
City Administrator
Dickinson

A good portion of our local sales tax makes payments on infrastructure needs.

***Renae Arneson
City of McVille***

The City of Langdon uses 1/3 of one percent for infrastructure and another ½ of an additional one percent for infrastructure. We also have dedicated amounts from other sales tax funds toward payments on existing bonded infrastructure projects.

Tina Gustafson
Auditor
City of Langdon

#7

City of Bismarck
Sales Tax on Clothing Exemption - HB 1268
Summary of Negative Fiscal Impact on Sales Tax Revenue

US Bureau of Labor Statistics							(100 Miles)		
Consumer Expenditure Tables							Regional		
Per Household Spend/ Year	Per Person Spend / Year	Bismarck Households	Bismarck Population	Bismarck MSA Population	Regional Economic Draw Pop.	Local Tax Rate	Tax Revenue Loss Per Year	Tax Revenue Loss Per Biennium	
\$ 1,874	\$ 721	24,117	60,403	104,460	212,444	1%			
Gross Sales Estimate Based upon Bismarck Households (US Standard)				45,195,258		1%	\$ 451,953	\$ 903,905	
Gross Sales Estimate Based upon Bismarck Population / 2.32 per household				40,327,729		1%	\$ 403,277	\$ 806,555	
Gross Sales Estimate Based upon Bismarck-Mandan statistical area				75,291,554		1%	\$ 752,916	\$ 1,505,831	
Gross Sales Estimate Based upon Bismarck's Share of Statewide revenue				78,280,000		1%	\$ 391,400	\$ 782,800	
Gross Sales Estimate Based upon Regional Economic Draw				153,123,098		1%	\$ 1,531,231	\$ 3,062,462	

Bismarck's 2009 Projected Sales Tax Collection	\$ 12,000,000
Estimated Tax Loss Due to Proposed Tax Exemption on Clothing	\$ (1,531,231)
Total Revenue Loss Percentage of Bismarck's Total Collections	-13%

Testimony Notes:

Bismarck's sales tax is currently dedicated to: property tax reduction of 25 mills (\$5,207,533 in 2009 Budget)
 match for federal and state grants for DOT street improvement projects
 subsidy for special assessments for construction local hard surface streets
 mandated snow gating activities
 economic development

Exemption impact will directly affect our local infrastructure resources and curtail projects

#8

Senate Finance Committee Testimony on HB 1268

Proposed Sales Tax Exemption on Clothing

City of Fargo

Honorable Chair Cook and members to the Senate Finance and Taxation Committee my name is Brad Wimmer and I am here on behalf of the Fargo City Commission to oppose this bill based upon the negative fiscal impact it has on our community. It is also important that you know how Fargo uses its local sales tax resources before you make a decision on this bill.

Where does Fargo currently spend its sales tax?

Fargo's sales taxes are currently dedicated to infrastructure projects. Current authorizations include water, wastewater, flood control, street construction and traffic control. It is important for you to know that 100% of Fargo's sales taxes go toward capital projects.

What is the taxpayer impact created by using sales taxes for infrastructure?

- Sales tax revenues help to reduce or eliminate special assessments levied against property owners.
- Fargo intends to use sales taxes for water supply, flood control and street construction projects. Reduction of revenue will increase costs borne by our taxpayers.
- Sales tax revenues currently stabilize water and wastewater rates because homeowners and businesses do not have to pay for expensive infrastructure funded by sales tax. Taxpayers understand the need for infrastructure and recently passed a twenty year authorization by a wide majority. This helps to keep utility rates stable.
- Sales tax revenue allows the Cities to reduce or even curtail they need to borrow for expensive infrastructure projects saving millions of dollars that would otherwise be paid by taxpayers.
- Economic activity is enhanced locally by having sales tax revenue in place. Taxpayers derive direct benefits from the projects paid for with sales tax.

How does this bill integrate with our National economic strategy?

National leaders are just starting to release federal stimulus funding to aid, especially in the area of infrastructure financing. Fargo's existing capital plans are funded by sales taxes and this bill will reduce resources locally at a time when our national leaders are attempting to increase resources and help improve our economic conditions vs. reduction of a solid revenue stream already in place.

Does Fargo have any financial obligations already backed by sales tax revenues?

Yes. Current debt outstanding backed by sales tax is about \$113 million. Fargo leaders chose to ask voters to approve a twenty year sales tax dedicated to infrastructure. They understood the importance of our infrastructure needs and approved it by a wide margin. The City of Fargo has already implemented a twenty year infrastructure plan based upon the sales tax revenues approved by our citizens. These bonds mature in 2029. It is very important to maintain existing revenues stay in place so that we can make the bond payments already promised to existing bondholders.

How big is the fiscal impact of the exemption on clothing on North Dakota Cities?

The fiscal note attached to HB 1268 shows an estimate loss of State sales tax revenue of \$38 million per biennium. Putting this into perspective is important as this is a minor loss of revenue to the State as compared to a significant loss to Cities.

We have analyzed existing economic data and would conclude that the local impact of this bill is \$4 - \$5 million per biennium for Fargo. Our analysis is included as an attachment to our testimony. This is a significant blow to our resources and will cause City leaders to curtail projects due to a reduction in sales tax revenues.

How big is the fiscal impact of the exemption on clothing to the average taxpayer?

The average taxpayer benefit of HB 1268 is about \$40 per year.



Closing Comments -

The Fargo City Commission recommends a DO NOT pass vote on this HB 1268. It has serious and significant financial consequences to our citizens. We would be happy to answer any questions that you may have about this testimony.

City of Fargo

Sales Tax on Clothing Exemption - HB 1268

Summary of Negative Fiscal Impact on Sales Tax Revenue

U\$ Bureau of Labor Statistics							(50 Miles)		Tax Revenue	Tax Revenue
Consumer Expenditure Tables							Regional		Loss Per	Loss Per
Per Household	Per Person	Fargo	Fargo	F-M SMSA		Economic	Local	Year	Biennium	
Spend/ Year	Spend / Year	Households	Population	Population		Draw Pop.	Tax Rate			
\$ 1,874	\$ 721	43,000	97,000	192,417		257,900				
Gross Sales Estimate Based upon Fargo Households (US Standard)				80,582,000			1.5%	\$ 1,208,730	\$ 2,417,460	
Gross Sales Estimate Based upon Fargo Population / 2.0 per household				62,048,140			1.5%	\$ 930,722	\$ 1,861,444	
Gross Sales Estimate Based upon F-M statistical area				138,688,253			1.5%	\$ 2,080,324	\$ 4,160,648	
Gross Sales Estimate Based upon Fargo's Share of Statewide revenue				131,480,000			1.5%	\$ 986,100	\$ 1,972,200	
Gross Sales Estimate Based upon Regional Economic Draw				185,886,385			1.5%	\$ 2,788,296	\$ 5,576,592	

Fargo's 2009 Projected Sales Tax Collection Per Year	\$ 30,000,000
Estimated Tax Loss Due to Proposed Tax Exemption on Clothing	\$ (2,788,296)
Total Revenue Loss Percentage of Fargo's Total Collections	-9%

Testimony Notes:

- Fargo's sales tax is currently dedicated to infrastructure funding
- A portion of the existing sales tax is already pledged to outstanding bond issues
- Exemption impact will directly affect our local infrastructure resources and curtail projects
- Will also reduce our overall sale tax revenue coverage ratios on outstanding bonds
- The tax savings per person using the State fiscal note is \$39 per year

**City of Dickinson
Sales Tax on Clothing Exemption - HB 1268
Summary of Negative Fiscal Impact on Sales Tax Revenue**

US Bureau of Labor Statistics								
Consumer Expenditure Tables		(1)			(2)		Tax Revenue	Tax Revenue
Per Household Spend/ Year	Per Person Spend / Year	Dickinson Households	Dickinson Population	Stark County Population	Local Tax Rate	Loss Per Year	Loss Per Biennium	
\$ 1,874	\$ 721	5,220	18,000	22,636				
(1) Source: US Census Bureau								
(2) Source: US Census Bureau								
Gross Sales Estimate Based upon Dickinson Households (US Standard)				9,782,280	1.50%	\$ 146,734	\$ 293,468	
Gross Sales Estimate Based upon Dickinson-Stark County				16,315,332	1.50%	\$ 244,730	\$ 489,460	
Gross Sales Estimate Based upon Regional Economic Draw				16,315,332	1.50%	\$ 244,730	\$ 489,460	

Dickinson 2009 Projected Sales Tax Collection	\$ 4,100,000
Estimated Tax Loss Due to Proposed Tax Exemption on Clothing	\$ (244,730)
Total Revenue Loss Percentage of Dickinson's Total Collections	-6%

Testimony Notes:

A portion of the Dickinson sales tax is currently dedicated the West River Community Center Bond
 A portion of the existing sales tax is already pledged to construct the Badlands Activities Center; a joint project with Dickinson State Univ.
 Exemption impact will directly affect our local infrastructure resources and curtail projects
 The City's distribution of the initial 1% of sales tax collections is as follows:
 -50% to infrastructure, debt reduction, & property tax relief (street maintenance & improvement)
 -30% to capital purchases which enhance the economic vitality of Dickinson & the region
 -20% to Job Development & Senior citizens (Grants to Sr. Citizens Centers & Community development in the 8 southwest counties)
 The City also collects another 1/2%. The revenue is allocated to fund the West River Community Center, property tax relief & infrastructure
 -includes grants for domestic violence, persons with disabilities, animal shelter, public transportation & street projects
 The above just references the losses that would be incurred in City Sales Tax - negative impact to the share the City receives in State Aid.



North Dakota Association of REALTORS®

318 West Apollo Avenue -- Bismarck, ND 58503-1412
Phone: 701-355-1010 or 800-279-2361 -- Fax: 866-665-1011
www.ndrealtors.com info@ndrealtors.com

2009

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Lyn Dwyer, GRI
Mark Mason, ABR, CRS, GRI
Stephanie Sarabakhsh, ABR, GRI

Grand Forks:

Cindi Kouba, CRS, GRI
Mavis Winkels, CRS, GRI

Jamestown:

Diann Loper

Minot:

Flint Forsberg, CRS, GRI
Wade Williamson, ABR

Wahpeton-Breckenridge:

Donna Keogh, CRS

Williston:

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March 3, 2009

Testimony on HB 1268

To: Senate Finance & Taxation Committee

From: Jerry Schlosser, Broker/Owner of Century 21 Morrison Realty,
Bismarck, ND

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Jerry Schlosser. I am the Vice Chair of the Political Affairs Committee for the North Dakota Association of REALTORS®. Our Chairman, Steve Lunde from Fargo, is at a National real estate training session this week and he asked me to address our concerns and opposition on HB 1268.

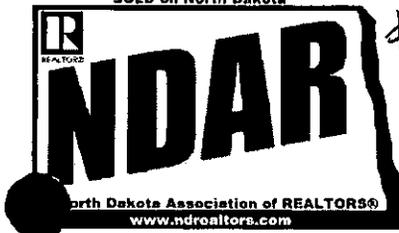
At our weekly conference meetings we discussed the perhaps unintended consequences if this law were to be adopted. The loss of sales tax could not be accurately defined by most tax experts and collectors. Many cities' losses would have to be made up from the only other source of income and that is property tax.

There is no doubt in our mind that property taxes will have to be raised if this bill passes. I understand that you, as Legislators, have identified the high property taxes as the number one concern of North Dakota taxpayers. Being in the real estate business, I can assure you that we hear about the high property taxes almost daily from our customers and clients.

As noble as the attempt to try to lower the cost of clothing is, our members have not heard complaints about the sales tax on clothing being a problem.

We sincerely hope that you will defeat this legislation.





North Dakota Association of REALTORS®

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March 3, 2009

Testimony on HB 1268

To: Senate Finance & Taxation Committee

From: Claus Lembke, Government Affairs Director, NDAR

Chairman Cook and members of the Senate Finance & Taxation Committee, my name is Claus Lembke. I am the Government Affairs Director for the North Dakota Association of REALTORS® (NDAR). Our Trade Association consists of eight local Boards of REALTORS® and approximately 1500 individual members.

Unfortunately, we did not pay enough attention on the House side of 1268. On the surface it looks like it has nothing to do with our real estate business, but in retrospect it could have a great impact.

Our leadership is very concerned that this proposal will ultimately raise property taxes again. No one seems to know for sure what impact 1268 may have on reduced sales tax collection, but we have heard that it may be \$35 million or more on a state-wide basis.

Without a permanent and sustainable guarantee that this legislation will not reduce the amount of revenue sharing that you now provide to cities and counties, this legislation forces a shift to local property taxes. It almost looks like an unfunded mandate. A good example is how the Homestead Tax Credit is handled: the Legislature decides who is eligible for certain amounts of tax abates and then you fully fund this back to the counties.

Over the years I have seen many of tug-of-wars when cities and counties had difficult negotiations to keep their fair share of revenue sharing with the state. There is no doubt in my mind that this loss of sales tax revenue will make that process more difficult in the future. You, the Legislature, and specifically this Finance and Taxation Committee, recognized some time ago that high property taxes were a problem in North Dakota. You have worked so diligently and successfully to reduce the large property tax burden. This bill appears to add to the problem of high property taxes.

Please give this bill a do not pass.



#11

TESTIMONY ON HOUSE BILL 1268

Senate Finance and Taxation Committee

**Mayor Michael R. Brown
City of Grand Forks, ND**

March 3, 2009

Mr. Chairman and members of the Senate Finance and Taxation Committee, I am Grand Forks Mayor Michael R. Brown and I want to thank you for this opportunity to testify on House Bill 1268 on behalf of the City of Grand Forks and urge your recommendation of a DO NOT PASS.

House Bill 1268 exempts clothing from sales tax in state and local collections.

While we should all agree lowering taxes is a prime goal, we must also be very clear as to which taxes we can lower and how. It has been very clear to everyone across the state that lowering property tax is one of the top issues for all our citizens. Conversely, I can count on one hand the number of times citizens have asked me to reduce sales tax.

The unfortunate irony of this bill is that by removing a local and state revenue source like sales tax, the necessary implication in a service-neutral budget is an increase in property tax.

We project in Grand Forks that an exemption on clothing would result in an annual loss of about \$1.5 million dollars, not including additional loss attributed to the reduction in State Aid. Should this loss need to be covered in our budget, it would mean a property tax increase of \$1.5 million dollars. Again, this is NOT what our people want.

To further complicate matters, we have three distinct revenue bonds that are paid by sales tax. Any action like that proposed in HB1268 could potentially jeopardize the status of those bonds.

I appreciate all the work the legislature is doing to help lower the tax burden to all of our residents. Every idea to this end should be thoroughly discussed and deliberated to determine its true impact. Unfortunately, this bill, and this idea, ultimately runs counter to the tax relief that has been clearly called for.

It is for these reasons that I would ask for a DO NOT PASS recommendation of House Bill 1268 and I thank you, once again, for your consideration.

City of Grand Forks
Sales Tax on Clothing Exemption - HB 1268
Summary of Negative Fiscal Impact on Sales Tax Revenue

US Bureau of Labor Statistics									
Consumer Expenditure Tables		(1)		(2)	(2)			Tax Revenue	Tax Revenue
Per Household Spend/ Year	Per Person Spend / Year	Grand Forks Households	Grand Forks Population	Grand Forks Metro Population	Regional Economic Draw Pop.	Local Tax Rate		Loss Per Year	Loss Per Biennium
\$ 1,874	\$ 600	22,498	54,576	97,866	207,080				
(1) Source: US Census Bureau									
(2) Source: Bureau of Economic Analysis(ND & MN Counties in Region)									
Gross Sales Estimate Based upon Grand Forks Households (US Standard)				42,161,252		1.75%	\$ 737,822	\$ 1,475,644	
Gross Sales Estimate Based upon Grand Forks Population / 2.21 per household				35,837,064		1.75%	\$ 627,149	\$ 1,254,297	
Gross Sales Estimate Based upon Grand Forks-EGF statistical area				58,719,600		1.75%	\$ 1,027,593	\$ 2,055,186	
Gross Sales Estimate Based upon Grand Forks's Share of Statewide revenue				38,000,000		1.75%	\$ 665,000	\$ 1,330,000	
Gross Sales Estimate Based upon Regional Economic Draw (based on 70% draw from Region)				86,973,600		1.75%	\$ 1,522,038	\$ 3,044,076	

Grand Forks 2009 Projected Sales Tax Collection	\$ 17,300,000
Estimated Tax Loss Due to Proposed Tax Exemption on Clothing (based on 70% of economic draw shops in Grand Forks)	\$ (1,522,038)
Total Revenue Loss Percentage of Grand Forks's Total Collections	-9%

Testimony Notes:

A portion of the Grand Forks sales tax is currently dedicated the Alerus Center Bond
A portion of the existing sales tax is already pledged to outstanding bond issues including 2 Sales Tax Dike Bonds as well as the Alerus Bond.
Exemption impact will directly affect our local infrastructure resources and curtail projects
Will also reduce our overall sales tax revenue coverage ratios on outstanding bonds
General Fund portion of City Sales Tax lost would equate to additional property tax (49.5% of the 1% tax is allocated to our General Fund for property tax relief)
The above just references the losses that would be incurred in City Sales Tax - would also impact the share that the City receives in State Aid.

#12

**HB 1268 Repeal of Sales Tax on Clothing
City of Wahpeton
STATEMENT OF OPPOSITION
Senate Finance & Taxation Cmt. Hearing
Tuesday, March 3rd 10:15 AM**

Sales Tax Collections Dedicated to Long Term Debt Repayment.

The City of Wahpeton is repaying 3 outstanding bond issues plus levee maintenance costs totaling \$585,000 annually with sales tax dollars. Permanent flood control has 2 large sections of levees yet to be constructed and permanently financed.

Economic Stimulus Project Matching Funds.

Sales Tax revenues are an essential source of revenue and reserve for the matching dollars required in the Federal Economic Stimulus Project, the State Revolving Funds for both Drinking Water and Clean Water require 50% matches. Design engineering and matching funds for surface transportation infrastructure projects are dependent on the availability of local funding.

Local Economic Development Funding.

The City of Wahpeton has leveraged sales tax revenues very successfully for local economic development; participation in the Pro Gold Corn Sweetener site acquisition, infrastructure improvements at the Imation Manufacturing Campus, infrastructure related to a 200 acre annexation project, numerous Bank of ND PACE interest buy-downs, matching funds for Community Development Block Grants and jobs development grants to local businesses make sales tax an essential tool in maintaining and growing the economic viability of our community.

Less Sales Tax Revenue may Require More Property Tax Revenue.

Wahpeton's sales tax is dedicated to flood protection, economic development and recreation; the demands for these services are steadily increasing, decreasing sales tax funding makes it that much more difficult to meet these legitimate demands.

Local voters enacted the sales tax, determined how it will be used and for how long. Please do not usurp their political action by diminishing the effectiveness of this powerful local financing tool with a State wide repeal of sales tax on clothing.