HB 1310

Madame Chairman and Members of the Committee, my name is Rep. Ben Koppelman and I represent District 16. Thank you for the opportunity to introduce this bill to you committee.

HB 1310 is a bill that would take the burden of *Sales and Use Tax* off the backs of consumers, including small businesses, on purchases of less than five thousand dollars. It would leave the responsibility to collect and remit sales and use tax primarily with the *Retailer/ Seller* where it belongs.

Since the **South Dakota v. Wayfair** decision came down from the U.S. Supreme Court, essentially reversing most of the restrictions of the previous precedent **Quill Corp. v. North Dakota**, North Dakota has seen a significant increase of sales tax collected from out-of-state retailers. This is due to a trigger law for collecting sales tax from out of state retailers that was passed during the 2017 session which went into effect in 2018 after the court decision. This law requires most out-of-state retailers to collect and remit sales tax.

Retailers are best suited to collect and remit *Sales Tax*, since they have sales tax permits that require reporting and remittance on a regular basis. They also own or lease software and hardware that can easily calculate the many different local tax rates that apply to various cities and counties within the state. This is a far cry from the time and ability the average citizen or small business (who may only have one or two employees working in the office) has to comply with current law.

Although I am told that sales and use tax audits are not typically conducted for individual taxpayers by the Tax Department, the **law technically requires all individuals to "audit" all receipts, for all purchases**, to not only ensure that sales tax was paid to the retailer, but that it was paid at the appropriate rate based on where it was purchased or delivered. If *Sales Tax* was not charged, then the individual must remit *Use Tax* in the amount of the sales tax that should have been paid. Especially for everyday purchases, this is impractical and unfair to expect this of our citizens, especially since most don't possess the software that retailers have to keep track of and calculate such tax.

Unlike individuals, **businesses, both large and small alike, that are not retailers or sales tax permit holders _DO_ get routinely audited for Sales and Use Tax.** Just like individuals, they too are expected to "audit" each receipt to see if the proper _Sales Tax_ was paid properly based on the tax jurisdiction, and if not, they must remit the tax due to the state as _Use Tax_. This can include thousands of receipts that the small business must "audit" for proper sales tax payment even though they may only have a couple of employees. Like individuals, they also likely do not possess the technology to determine proper sales tax due based on the jurisdiction for every purchase other than manual inspection and recording.

This bill attempts to balance the need to collect Sales/ Use Tax with the need to reduce the burden placed on taxpayers. By limiting the requirement of self-auditing and submittal of use tax to purchases over $5,000, we significantly reduced the amount time and expense needed to properly comply with the law while limiting the potential loss of tax revenue to $250 or less per transaction. This threshold also ensures that there is not an incentive to travel out of state in order to avoid the responsibility to pay _Sales or Use_ Tax on large purchases

The current _Sales and Use Tax_ provisions date back to the early 1980's to a time when the political tax climate was much different, and I believe that reform is long overdue. In the aftermath of _South Dakota v. Wayfair_ decision, this reform comes at a much smaller potential cost. I believe now is the time to reduce the burden on our citizens and small businesses by creating policy that would focus the efforts of the Tax Department on proper retailer collection of sales tax rather than auditing use tax submission on everyday purchases of our citizens. Thank you for your time and I request a _Do-Pass_ recommendation.