

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1043

2005 HOUSE FINANCE AND TAXATION

HB 1043

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1043**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 11, 2005**

Tape Number	Side A	Side B	Meter #
1	x		36.8

Committee Clerk Signature

*Janice Stein*

Minutes:

**REP. WES BELTER, CHAIRMAN** Called the committee hearing to order.

**JOHN WALSTAD, ATTORNEY, LEGISLATIVE COUNCIL** Stated he was not in favor of or opposed to this bill. He served as council for the interium taxation committee, that is where the bill originated. He gave a background of how this originated, stating the economy has changed a lot, and there is billions of dollars in revenue, which the state would like to be collecting, but are unable to because of interstate commerce concerns and constitutional issues. The impetus for the whole streamlined sales tax agreement is the recognition that a lot of the economy is going untaxed.

**GARY ANDERSON, DIRECTOR OF INCOME, SALES AND SPECIAL TAXES**

**DIVISION OF THE OFFICE OF STATE TAX COMMISSIONER** Testified in support of the bill. See attached written testimony plus amendments to the bill. Mr. Anderson explained the amendments.

**REP. KELSH** Under section 1 of the bill, there is a reference to the home rule charter, do any changes to a home rule charter or ordinance, require public vote?

**GARY ANDERSON** It is my understanding that the provision is ruled invalid. From a review of this information by legal staff of the Attorney General's Office, this can be legislatively applied.

**REP. KELSH** As I understand it, in order to enact a home rule charter, you require a public vote, and if there are any amendments to that charter or any changes made to that charter, it would require a vote of the population of that local jurisdiction.

**GARY ANDERSON** Stated he couldn't answer that.

**REP. WEILER** If we pass this bill and we are in compliance and a year and a half later some things happen which we don't like, does it take legislative action to get out?

**GARY ANDERSON** If there are additional changes made to the streamlining agreement, the states would have to look at their laws and determine if they are compliant. If they decided not to initiate that change, because of some disagreement, or it is not suitable for their state, the question would be, did that create a situation where you are not potentially compliant any longer. The decision would be made by the governing board of states. If they determined you weren't compliant, you would no longer be part of the streamlined process.

**REP. IVERSON** Would we still be liable for any financing of the group, how much would it cost to get out of this agreement?

**GARY ANDERSON** Right now, the committee is looking at a fee structure of about \$20,000 for the first year, and after that, it will be based on a population basis.

**REP. WRANGHAM** Related to subsection 5, regarding a twenty five dollar cap on the amount of city sales tax which can be collected. If I would buy a rather large item in Bismarck, and they charged fifty dollars, then I would have to somehow apply to the tax department for the refund of twenty five dollars. Who is responsible for the paperwork?

**GARY ANDERSON** The way this will work is much like our other refund program with the Canadians. The example you pointed out would be correct. We have a twenty five hundred dollar cap in Bismarck. He gave an example of a five thousand dollar purchase, the customer would then complete the exemption form, which would be at the retailer's store, and mail it to the tax department, who would then refund the money back.

**REP. BELTER** You would envision the consumer would file for a refund on each individual purchase?

**GARY ANDERSON** We would set a small threshold, possibly at least five dollars in value, during a calendar year or a six month period. If you had a purchase in excess of five dollars, you could file it at any time, if it was less, we would probably say wait six months.

**REP. DROVDAL** Gave an example of someone buying five thousand dollars of furniture, could I as a merchant say, you owe fifty dollars to the city sales tax, but you get twenty five dollars back if you sign your sheet right now for the refund, I won't charge you twenty five, and we could have the refund come to me?

**GARY ANDERSON** It is not something we have looked at, we could have our attorneys have a look at it. We do have situations with automobile rebates.

**REP. SCHMIDT** What is the difference in the way you do it now?

**GARY ANDERSON** The only change we did, the 2003 legislation created a farm machinery gross receipts tax and an alcoholic beverage gross receipts tax, both of those taxes would go to the general fund, but they would be subject to the same allocation as sales tax, in the fact, a small portion would go to the revenue distribution formula. We had to incorporate those statutes.

**RICK CLAYBURG, STATE TAX COMMISSIONER** Testified in support of the bill. He stated a lot of work has gone into this project. The legislature can be proud, not only of the employees of the tax department, but the four members of the legislative assembly, including Rep. Weiler and Rep. Drovdal, along with Sen. Urlacher and Sen. Cook. We are starting to achieve the fruits of their labor. We hope the legislature will continue to support the streamlining. He stated he supported the streamlining and the effect to the business community.

**JERRY HJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES,** Testified in support of the bill. See attached written testimony. He was also in support of the amendments presented by the tax department.

**REP. KELSH** Does the change in the home rule charter require a public vote?

**JERRY HJELMSTAD** North Dakota has what is called a limited home rule. In some states they have unlimited home rule where a political subdivision can do anything that is not specifically prohibited by state law. Here we have limited home rule where the political subdivision can only include in their charter those things that the legislature has authorized them to include. Our approach here would be that if this would be a situation where the legislature would be limiting what they could include in the charter and said if they went beyond that, it would not be permitted.

**REP. GRANDE** When we are talking about streamlining, does that mean that Fargo's city sales tax has to equal to Grand Forks' city sales tax, or Minot?

**JERRY HJELMSTAD** No, they only have to have a uniform rate within the city. At this point, there is one city that does not have a uniform rate. The city of Grand Forks has a quarter percent and one and three quarters, they would have to have one rate within the city. All the other cities vary from one to two cents.

**REP. GRANDE** How is Grand Forks working it, is it on certain purchases where they have two different rates?

**JERRY HJELMSTAD** I believe there are certain items taxed at different rates. I believe the higher rate was put in for flood control.

**REP. WRANGHAM** If we were to assume that this law does circumvent what they really want in the home rule, and we have already heard that all but one city has established a cap, and this removes the cap, do any of your auditors have heart burn with that or are they willing to accept the windfall?

**JERRY HJELMSTAD** The important thing was to allow for a refund.

**REP. BELTER** If a taxpayer does not file for a refund, then that would be a windfall to that city?

**JERRY HJELMSTAD** I believe that would be the case. It would be administered through the tax department and how they would handle it.

**REP. IVERSON** The legislature can go to a city and define what their home rule charter is, we can just tell them, this is how it is, and if they don't want it, the people don't have a chance to vote on it?

**JERRY HJELMSTAD** The legislature has the ability to limit what a city can include in their charter. In the legislative session before, the legislature removed the ability for a local income tax provision. The legislature can put things in and take things out.

**GARY ANDERSON** Answered more questions and explained how the caps would work as requested by Rep. Belter. He used the city of Bismarck as an example. Bismarck has a one percent sales tax and a twenty five dollar cap, which is pretty much the standard. Gave an example of going to a local furniture store and buying five thousand dollars worth of furniture, the city ordinance indicates, I would only pay tax on the first twenty five hundred dollars of that transaction, but the retailer would charge five percent sales tax on that whole transaction and would charge only one percent of the first twenty five hundred, up to twenty five dollars. Under the provision being proposed here, what would happen to that same transaction, the retailer would instead, apply a full six percent upon the total five thousand dollars, and the customer would then be able to come to the tax department to obtain a refund of the additional twenty five dollars which they paid beyond what they would have under existing city ordinance.

**REP. BELTER** The cities that don't have caps, there is no effect?

**GARY ANDERSON** That is correct. Grand forks has a one and three quarter percent tax as well as a quarter percent tax on entertainment, food and alcohol issues, that is where the secondary tax comes in, otherwise their one and three quarters is their standard rate. They have a \$43.75 cap. Minot has a two percent tax, they have a \$50 cap. It is the discretion of the city. We have cities that have increased their percentage but not the cap.

**REP. BELTER** In the most cities that have a cap, were those caps put in as part of a public vote for a sales tax or was a cap put in as an administrative action on the part of the city council?



**GARY ANDERSON** We don't usually get too involved in the purpose of the sales tax, we offer assistance to them. Most cities have typically copied ordinances from fellow cities and used that as their basis for developing their ordinance.

**REP. WEILER** Grand forks has a one and three quarter percent tax and a quarter percent, under the laws of the streamlined sales tax, they can only have one rate, what are they doing about the two rates?

**GARY ANDERSON** It is my understanding, that they have looked at options, one is to simply initiate a two percent tax in their community, or just simply remove the quarter percent, but I haven't heard any specific approach.

**REP. WRANGHAM** As the streamlined process was moving forward, the group recognized that each city would like their own tax rate, was there discussion as to why each city couldn't have a distinct cap as well as a distinct rate, and if so, was there some opposition?

**GARY ANDERSON** Actually, the group who voiced the biggest concern for the cap was the business community, during discussion. There is only one other state, that I am aware of, where their cities initiate caps, and that is the state of Arkansas.

**REP. WRANGHAM** Why would the business community oppose it, if they punch in a zip code, the tax percentage would come up?

**GARY ANDERSON** I agree, I think with technology the way it is, they can accommodate a lot of things, however, they say the caps on an on going basis, is a difficult process, yet, if you look at the streamlined agreement and look at the holiday portion, which we don't have in our bill, at this point, they did provide an ability to apply a holiday portion.

**REP. WRANGHAM** What would happen if we were to take this section out and leave the caps in place, what would the streamlined group do?

**GARY ANDERSON** As I indicated earlier, they look at issues and determine if you are compliant, and obviously in drafting legislation, we didn't try to draft word for word, based on their review, my feeling is that this would take us out of the compliant aspect.

**REP. GRANDE** Asked what would happen with counties then relating to library tax, jail tax, would we deal with moving everything to gross receipts or how does that work?

**GARY ANDERSON** At this point, the streamlined sales tax specifically applies to sales tax application, it does not apply to gross receipts nor is the intent at this point, to move in that direction. Cities have other taxes, lodging taxes, etc., none of those taxes are affected.

**REP. GRANDE** Asked what the city of Fargo sales taxes are.

**GARY ANDERSON** Fargo has two different tax applications, they are both half cent. One half percent was specifically developed for the dome, and the library was another aspect. You can increase the tax as long as the base stays equal to the rest.

**REP. GRANDE** When the jail tax comes off line, it doesn't matter about the amount, just how the process is?

**GARY ANDERSON** The Cass County tax which is initiated to cover the jail, it had a time span to sunset, however, if you have taken enough sufficient funds earmarked for that, it would clear early, it did in 2003, you no longer have a half percent county tax. There were only two counties that applied for a sales tax, one was Pembina County and Cass County.

**REP. BELTER** If a city decided to change it to gross receipts tax, they can't do that?

**GARY ANDERSON** There would be some difficulty in moving everything over. We did the farm machinery and alcoholic beverages to maintain multiple rates for those particular taxes, the reason that the streamlined group was accepting us is that, farm machinery and alcohol are not items that are important to out-of-state retailers. The alcohol is placed on pretty strong restrictions, in selling to direct customers, so the amount of activity, is not a major problem as with farm machinery, which is agriculturally based and a good share is based through local dealers.

**REP. IVERSON** Are we giving up our sovereignty, when we let people in Iowa, Indiana, Kansas, Kentucky, Michigan, etc., determine what it is we are going to tax, such as what is prepared food, what is computer software, because they determine it. We are giving our sovereignty up to a group who has no interest in North Dakota.

**GARY ANDERSON** Related to Sen. Cook's testimony, where he pointed out that the purpose is that we have a uniform definition so retailers can operate the same. Part of the application of tax on the products, that still remains with each state, whether it is taxable or not. The only thing the streamline act is doing, is giving uniformity.

**REP. JIM KASPER, DIST. 46, FARGO** Testified in opposition of the bill. Had concerns with the streamline committee which is outside of our state, and the implication that our legislative body, may not be able to do what we wish to do, and will have to defend a policy which we might like to take, to someone outside of our state. He felt it was a terrible thing to do to this legislative body. He felt this was a terrible thing to do to the people of our state. It will be thousands of transactions per year to North Dakota citizens.

With no further testimony, the committee hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1043**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 25, 2005**

Tape Number	Side A	Side B	Meter #
2		X	26

Committee Clerk Signature

Minutes:

**COMMITTEE ACTION**

**REP. DROVDAL** Made a motion to adopt amendments which were presented.

**REP. OWENS** Second the motion. Motion carried.

**REP. DROVDAL** Made a motion for a **do pass as amended**.

**REP. WEILER** Second the motion. **Motion carried.**

7 Yes      5 No      2 Absent

**REP. DROVDAL** Was given the floor assignment.

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/01/2005

Amendment to: HB 1043

**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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds

Revenues  
Expenditures  
Appropriations

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1043 continues to modify the language in the sales tax law to be consistent with the streamlined sales tax project. There is no new fiscal impact to Engrossed HB 1043.

**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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**Name:** Kathryn L. Strombeck  
**Phone Number:** 328-3402

**Agency:** Office of Tax Commissioner  
**Date Prepared:** 02/02/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/17/2004

Bill/Resolution No.: HB 1043

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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					
Expenditures					
Appropriations					

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1043 continues to modify the language in the sales tax law to be consistent with the streamlined sales tax project. There is no new fiscal impact to HB 1043.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Kathryn L. Strombeck  
Phone Number: 328-3402

Agency: Office of Tax Commissioner  
Date Prepared: 01/10/2005

Date: 1-25-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1043

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended

Motion Made By

Rep Drowdal

Seconded By

Rep Weiler

Representatives	Yes	No
BELTER, WES, CHAIRMAN		✓
DROVDAL, DAVID, V-CHAIR	✓	
BRANDENBURG, MICHAEL		✓
CONRAD, KARI	✓	
FROELICH, ROD	A	
GRANDE, BETTE		✓
HEADLAND, CRAIG	✓	
IVERSON, RONALD		✓
KELSH, SCOT	✓	
NICHOLAS, EUGENE	✓	
OWENS, MARK	✓	
SCHMIDT, ARLO	✓	
WEILER, DAVE	✓	
WRANGHAM, DWIGHT		✓

Representatives	Yes	No
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Total (Yes)

7

No

5

Absent

2

Floor Assignment

Rep Drowdal

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

**REPORT OF STANDING COMMITTEE**

**HB 1043, as amended, Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1043, as amended, was placed on the Sixth order on the calendar.**

Page 1, line 6, after the comma insert "subsection 26 of section 57-39.2-04,"

Page 1, line 7, after the first comma insert "section 57-39.2-26.1,"

Page 2, line 25, after the first underscored comma insert "except for" and remove the second underscored comma

Page 2, line 26, remove "or alcoholic beverage gross receipts tax"

Page 5, line 8, after "57-39.2" insert ", 57-39.5, 57-39.6,"

Page 5, line 19, after "purposes" insert ", except for farm machinery gross receipts tax"

Page 7, line 14, replace the first underscored comma with "and" and remove ", and gross receipts"

Page 15, after line 15, insert:

**"SECTION 7. AMENDMENT.** Subsection 26 of section 57-39.2-04 of the North Dakota Century Code, as effective after December 31, 2005, is amended and reenacted as follows:

26. Gross receipts from sales of prosthetic devices, durable medical equipment, ~~or~~ mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:

a. "Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:

- (1) Can withstand repeated use;
- (2) Is primarily and customarily used to serve a medical purpose;
- (3) Generally is not useful to a person in the absence of illness or injury; and
- (4) Is not worn in or on the body.

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction.

b. "Mobility-enhancing equipment" means equipment, not including durable medical equipment, including repair and replacement parts for mobility-enhancing equipment, which:

- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;



- (2) Is not generally used by persons with normal mobility; and
- (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

- c. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for such a device, worn on or in the body to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct a physical deformity or malfunction; or
- (3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

- d. "Prosthetic device" and "durable medical equipment" include "Supplies for ostomy care or bladder dysfunction" includes:

- (1) Artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual. Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
- (2) Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body. Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

- (3) Artificial teeth sold by a dentist.
- (4) Eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
- (5) Crutches and wheelchairs for the use of disabled persons.
- (6) Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.
- (7) Equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.
- (8) Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.
- (9) Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
- (10) Supplies, equipment, and devices to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction."

Page 15, after line 25, insert:

**"SECTION 9. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-26.1. Allocation of revenues among political subdivisions.** Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to forty percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

- a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
  - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
  - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
- b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
  - (1) Forty percent of the amount must be allocated equally among the counties; and
  - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period as provided in this subsection.
  - a. Nineteen and four-tenths percent of the amount must be allocated among cities with a population of eighty thousand or more, based upon the proportion each city's population bears to the total population of all such cities.
  - b. Thirty-four and five-tenths percent of the amount must be allocated among cities with a population of twenty thousand or more but fewer than eighty thousand, based upon the proportion each such city's population bears to the total population of all such cities.
  - c. Sixteen percent of the amount must be allocated among cities with a population of ten thousand or more but fewer than twenty thousand, based upon the proportion each such city's population bears to the total population of all such cities.
  - d. Four and nine-tenths percent of the amount must be allocated among cities with a population of five thousand or more but fewer than ten

thousand, based upon the proportion each such city's population bears to the total population of all such cities.

- e. Thirteen and one-tenth percent of the amount must be allocated among cities with a population of one thousand or more but fewer than five thousand, based upon the proportion each such city's population bears to the total population of all such cities.
- f. Six and one-tenth percent of the amount must be allocated among cities with a population of five hundred or more but fewer than one thousand, based upon the proportion each such city's population bears to the total population of all such cities.
- g. Three and four-tenths percent of the amount must be allocated among cities with a population of two hundred or more but fewer than five hundred, based upon the proportion each such city's population bears to the total population of all such cities.
- h. Two and six-tenths percent of the amount must be allocated among cities with a population of fewer than two hundred, based upon the proportion each such city's population bears to the total population of all such cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution."

Page 22, after line 27, insert:

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction."

Page 23, after line 6, insert:

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person."

Page 23, after line 12, insert:

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled

person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser."

Page 23, line 13, replace "'Prosthetic device" and "durable medical equipment" include:" with  
"'Supplies for ostomy care or bladder dysfunction" includes:"

Page 23, line 14, remove "(1)" and overstrike "Artificial devices individually designed, constructed, or altered solely for"

Page 23, overstrike lines 15 through 17

Page 23, line 18, remove "(2)" and overstrike "Artificial limbs, artificial eyes, hearing aids, and other equipment worn"

Page 23, overstrike line 19

Page 23, line 20, remove "(3)" and overstrike "Artificial teeth sold by a dentist."

Page 23, line 21, remove "(4)" and overstrike "Eyeglasses when especially designed or prescribed by an"

Page 23, overstrike lines 22 and 23

Page 23, line 24, remove "(5)" and overstrike "Crutches and wheelchairs for the use of invalids and crippled persons."

Page 23, line 25, remove "(6)" and overstrike "Equipment, including manual control units, van lifts, van door opening"

Page 23, overstrike lines 26 and 27

Page 23, line 28, remove "(7)" and overstrike "Equipment, including elevators, dumbwaiters, chair lifts, and bedroom"

Page 23, overstrike lines 29 through 31

Page 24, line 1, remove "(8)" and overstrike "Equipment, including manual control units, for attaching to or modifying"

Page 24, overstrike lines 2 and 3

Page 24, line 4, replace "(9) Devices and supplies" with "(1) Supplies"

Page 24, line 8, replace "(10)" with "(2)" and remove ", equipment, and devices"

Page 28, line 18, replace "11" with "13"

Renumber accordingly

2005 SENATE FINANCE AND TAXATION

HB 1043

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1043**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 16, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		25.9 - 45.7

Committee Clerk Signature



Minutes:

**CHAIRMAN URLACHER** CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1043.

**SEN. COOK:** this bill came out of the tax interim committee that I chaired that many of you had you input on it then it's simply clean up for the streamline sales tax puts our existing laws into compliance and we have the experts here from the tax dept. To answer you questions and to walk you through the bill.

**GARY ANDERSON:** Tax Dept. Appeared in support with written testimony.

**SEN. COOK:** we have two options, two ways that we can correct this, one is to change it here, put this one in conference committee but we could also make the changes in 2050.

**ANSWER:** yes, in 2050 we just have to include and we could certainly in the tax dept. Would be glad to work with the conference committee in terms in drafting the appropriate amendment to 2050.

**SEN. COOK:** what kind of challenges would it create if we passed this bill as is and then made the implementing dates change in 2050 and for some reason lost 2050, so that we would have different implementing dates in this bill and. At our 4-16-05 meeting that's coming up of the implementing states with the amendments that are on the table, if any of them pass, you have no by no work done possible amendments that we would need to our sales tax law in ND through them be in compliance. Do we need to keep this around to offer those amendments on here if we would find that that would be the right thing to do, or could we make those amendments on 2050?

**ANSWER:** really there is nothing on 1043 that would necessarily, I mean we wouldn't have to keep 1043 available, we could use any of the streamline legislation, technically we could any legislation that's really available out there to us, but the obvious choices would be to use something like 2050 or one of those. Most of the changes if they were to occur are going to affect Century Code Chapter 57-39.4 which is actually the streamline sales tax agreements, the section that speaks to the agreement, its not actually section 57-39.2 which is the sales tax clause, again these are simply changes to modify or better I think set out certain areas in clarification of how it works

**SEN. URLACHER;** so we could pass this out and still move it into the other bill wherever we need it in. CORRECT.

**SEN. WARDNER:** we need to amend something so it can be kept in conference committee.

**ANSWER;** I believe the alternative here would be to pass out 1043, with 2050 if we do move the date, we can amend 2050 to include anything that's in 1043 as well, so we should be okay.

**JERRY HJELMSTAD:** ND League of Cities appeared in support with written testimony.



Page 3

Senate Finance and Taxation Committee

Bill/Resolution Number HB 1043

Hearing Date March 16, 2005

No further testimony, closed the hearing.

**SEN. COOK:** made a **MOTION FOR DO PASS**, seconded by Sen. Wardner.

**SEN. COOK:** the League of Cities has been very involved in this whole process and they are at the meetings all the time and I just wanted to make that point, that as we move forward, that was probably our biggest challenge is cleaning up the local tax laws and we've come to a place where everybody is happy and I'd like compliment them on their contributions too.

**ROLL CALL VOTE:** 5-0-1

Sen. Cook will carry the bill.

Date: 3-16-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1043**

Senate

**Finance and Taxation**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

*Do Pass*

Motion Made By

*Cook*

Seconded By

*Wardner*

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson					

Total (Yes)

*5*

No

*0*

Absent

*1*

Floor Assignment

*Cook*

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

**REPORT OF STANDING COMMITTEE (410)**  
March 16, 2005 12:46 p.m.

**Module No: SR-48-5136**  
**Carrier: Cook**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1043, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1043 was placed on the Fourteenth order on the calendar.

**2005 TESTIMONY**

HB 1043

TESTIMONY BEFORE THE HOUSE  
FINANCE AND TAXATION COMMITTEE

HB 1043

Gary Anderson

January 11, 2005

Chairman Belter, members of the committee, my name is Gary Anderson. I am the director of Income, Sales & Special Taxes Division of the Office of State Tax Commissioner, and I am here to testify in support of HB 1043.

The 2003 North Dakota Legislature passed much of the legislation necessary to bring North Dakota into compliance with the Streamlined Sales Tax Agreement. HB 1043 addresses the remaining changes to the North Dakota sales and use tax law.

Before addressing these changes, I would like to provide a brief overview of the Streamlined Sales Tax Project.

The Streamlined Sales Tax Project was organized in March 2000, and is an effort created by state governments, with input from local governments and the business community, to simplify and modernize sales and use tax collection and administration through the development of a voluntary multi-state sales and use tax collection system and by developing uniform definitions and rules among participating states, so as to reduce the burden of tax compliance for all sellers. Forty-two states and the District of Columbia are involved in the Project. Forty-five states and the District of Columbia impose a sales and use tax. As a result of this effort, the Streamlined Sales and Use Tax Agreement was adopted in November 2002.

In addressing House Bill 1043, I would note that at the conclusion of my testimony, I will be submitting a proposal for amendments to House Bill 1043.

#### **SECTION 1 and 2**

Sections 1 and 2 amend the home rule provision for counties and cities, providing authority to impose a farm machinery and alcoholic beverage gross receipts tax, similar to that approved previously for state sales tax.

The last paragraph of Section 1 (located on Page 2, lines 29 through 31, and Page 3, lines 1 through 9) and the last paragraph of Section 2 (located on Page 5, lines 27 through 31, and Page 6, lines 1 in Section 2) provide that any portion of the county or city charter or ordinance that does not conform to the home rule provisions is regarded as invalid but does not affect the validity of the remaining charter or ordinance. In addition, it established a city or county farm machinery and alcoholic beverage gross receipts taxes in lieu of sales tax.

#### **Section 3**

Section 3 (Page 7, lines 14 through 20) provides for the collection of local option sales and use taxes without regard to a cap or threshold, and instead provides authority to a taxpayer to claim a refund for sales and use taxes paid based upon the difference between the amount of taxes paid and the amount of taxes that would have been due by a cap or threshold provided by the city or county ordinance, resolution or charter. The refund would be administered for the county or city by the Tax Commissioner.

#### **Section 4**

Section 4 (Page 8, lines 5 through 20) provides language to clarify the definition for delivery charges and for direct mail. Page 13, line 30 amends the definition of tangible personal property to include water.

#### **Section 5**

Section 5 (Page 14, line 4) is amended to reflect computer as an item subject to sales tax.

#### **Section 6**

Section 6 (Page 15, lines 10 through 15) reinstates language removed inadvertently in the 2003 legislation that pertains to sales tax on tobacco products.

#### **Section 7**

Section 7 (Page 15, lines 24 and 25) includes a sentence omitted in the 2003 legislation that pertains to the definition of prepared food.

#### **Section 8**

Section 8 (Page 15, line 29) provides a correction to a Public Law citation.

#### **Sections 9 and 10**

Sections 9 and 10, located on page 16, provide for the application of tax on new farm machinery and alcoholic beverages brought into this state in the event these items were not previously taxed in another state. In the event taxes were paid previously to another state, these sections

recognize a credit for taxes previously paid (reciprocity provision).

#### **Section 11**

Multiple tax rates are not provided under the Streamlined Sales Tax Agreement. Therefore, it was necessary to create a temporary 1% lodging gross receipts tax, effective through June 30, 2007, to replace the 1% lodging tax in the sale tax law (known as the Lewis & Clark lodging tax). Section 11 (Page 16, lines 25 through 30, and page 17, lines 1 through 8) provide for the creation and administration of this gross receipts tax.

#### **Sections 12 through 16**

Sections 12 through 16, located on pages 17 through 28, provide for changes in the use tax law that complement or are similar to changes made by the 2003 streamlined sales tax legislation in the sale tax law.

#### **Section 17**

Section 17, located on page 28, repeals from the sales tax law the 1% sales tax on lodging (which was re-established by Section 11 as a gross receipts tax). Section 17 also provides for the repeal of an exemption provision for water that is no longer required after December 31, 2005, as water is defined as an exempt items under the food exemption 957-39.2-04.1, based on the 2003 legislation.

#### **Section 18**

As provided by the approved 2003 streamlined sales tax language, the effective date for all changes noted by HB 1043 would occur after December 31, 2005.



Before concluding my testimony, I would like to submit proposed amendments to House Bill 1043 (hand out made available to committee).

With the proposed amendments, House Bill 1043 will complete the changes necessary to current sales and use tax law to bring North Dakota into compliance with the Streamlined Sales Tax Agreement after December 31, 2005.

The Tax Commissioner recommends a "do-pass" for HB 1043. If there are any questions, I will be glad to respond.

**To: House Finance and Tax Committee**  
**From: Jerry Hjelmstad, North Dakota League of Cities**  
**Date: January 11, 2005**  
**Re: House Bill No. 1043**  
**Streamlined Sales Tax**

Mr. Chairman and members of the House Finance and Tax Committee, my name is Jerry Hjelmstad and I am here on behalf of the North Dakota League of Cities to testify in support of House Bill No. 1043 along with the amendments presented by the tax department.

The legislative changes related to the Streamlined Sales Tax passed by the 2003 North Dakota Legislature (found on page 5 of the bill, lines 5 through 21) included the following changes to the Home Rule provision in NDCC 40-05.1-06(16):

*After December 31, 2005, sales and use taxes levied und this chapter:*

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2 and 57-40.2 and may not be imposed at multiple rates with the exception of sales of electricity, piped natural or artificial gas, or other heating fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.*
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days notice to the seller.*
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes.*
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1.*

#### State level administration

The administration of local sales and use taxes is to be provided by the state tax commissioner. All cities and counties currently imposing local sales and use taxes within the State of North Dakota contract with the state tax commissioner for administration of local sales and use taxes.

#### States and local tax bases

All local taxing jurisdictions imposing a local sales and use tax must have a common tax base, and the tax base must be identical to the state tax base unless otherwise provided by law.

The new language on the bottom of page 5 and the top of page 6 of the bill would bring cities into compliance with this requirement.

#### Local tax rates

State and local taxing jurisdictions may levy only one sales and use tax rate after December 31, 2005. However, this section does not apply to special sales tax rates applied to natural gas, watercraft, modular homes, manufactured homes, or new mobile homes.

The new language on the bottom of page 5 and the top of page 6 of the bill would bring cities into compliance with this requirement.

#### Caps and Thresholds

State and local taxing jurisdictions may not apply a cap or threshold on the imposition of sales or use tax rates or exemptions that are based on the value of the transaction or items after December 31, 2005.

The new refund language on page 7 of the bill would bring cities into compliance with this requirement.

The Streamlined Sales Tax Agreement will help to level the playing field between small main-street businesses and larger multi-state businesses that are not required to collect taxes because they do not have physical presence in a state. Not only do these main-street businesses collect sales taxes, they also pay property taxes and support the community in many other ways. They deserve a level playing field.

We ask that you give a "do pass" recommendation to House Bill No. 1043 along with the amendments presented by the tax department.

TESTIMONY BEFORE THE SENATE  
FINANCE AND TAXATION COMMITTEE

HB 1043

Gary Anderson  
MARCH 16, 2005

Chairman Urlacher, members of the Senate Finance & Tax Committee, my name is Gary Anderson. I am the director of Income, Sales & Special Taxes Division of the Office of State Tax Commissioner, and I am here to testify in support of Engrossed House Bill 1043.

The 2003 North Dakota Legislature passed much of legislation necessary to bring North Dakota into compliance with the Streamlined Sales Tax Agreement. HB 1043 provides additional changes to the sales and use tax laws that are necessary to bring North Dakota into conformance with the Streamlined Sales Tax Agreement.

Before addressing the specific changes provided by HB 1043, I would like to provide a brief history of the Streamlined Sales Tax Project.

The Streamlined Sales Tax Project was organized in March 2000, and is an effort created by state governments, with input from local governments and the business community, to simplify and modernize sales and use tax collection and administration through the development of a voluntary multi-state sales and use tax collection system and by developing uniform definitions and rules among participating states so as to reduce the burden of tax compliance for all sellers. Forty-two states and the District of Columbia are involved in the Project. Forty-

five states and the District of Columbia impose a sales and use tax.

Since the approval of the 2003 legislation, eighteen additional states have passed legislation to bring their state into compliance with the Agreement.

When North Dakota passed the 2003 legislation, it was with the understanding that a few more changes would be necessary. House Bill 1043 is a result of the Interim Taxation Committee's review of the sales and use tax laws with the Tax Commissioner's Office and with the North Dakota League of Cities.

The changes proposed by Engrossed HB 1043 are as follows:

- Sections 1, 2, and 3 of the Bill address the authority for and administration of the local sales and use taxes, and includes authority for the Tax Commissioner to process refunds directly to taxpayers in lieu of city thresholds. The cities, represented by the North Dakota League of Cities, and the Tax Department worked together in this effort.
- Section 4 provides additional clarification to definitions for delivery charges and direct mail that was not included in the 2003 legislation.
- Sections 5, 6, 7, 8 and 10 identify corrections in language that was overlooked in the 2003 legislation.
- Section 9 provides for the inclusion of the gross receipts tax for farm machinery and alcohol to be included in the calculation of the state aid distribution fund.
- Sections 11 and 12 provide language in the gross receipts tax chapters for farm machinery and alcohol that is the same as that provided in the sales tax law regarding credit (reciprocity) for taxes paid previously.
- Section 13 changes the 1% state lodging tax to a gross receipts tax, which is to sunset after June 30, 2007.
- Sections 14 through 18 provide for changes to the use tax law that are similar to changes made in the sales tax law.

- Section 19 repeals an the 1% sales tax on lodging (and instead moves it to a gross receipts tax as noted by Section 13)
- Section 20 provides that changes identified by House Bill 1043 do not become effective until after December 31, 2005.

## **SECTION 1**

Section 1 amends the home rule provision for counties. Page 1, lines 19 and 20, and Page 2, lines 10 and 11, 14, 25 and 26 provides authority to collect farm machinery and alcoholic beverage gross receipts taxes. Page 2, lines 29 through 31, and Page 3, lines 1 through 9 invalidates for administration purposes any portion of the charter or ordinance that does not conform to this subsection and provides for the establishment of farm machinery and alcoholic beverage gross receipts taxes.

## **SECTION 2**

Section 2 amends the home rule provision for cities. Page 5, lines 3 and 4, 6, and 8 provide authority to collect farm machinery and alcoholic beverage gross receipts taxes. Page 5, lines 28 through 31, and Page 6, lines 1 through 5 invalidates for administration purposes any portion of the charter or ordinance that does not conform to this subsection and provides for the establishment of farm machinery and alcoholic beverage gross receipts taxes.

## **Section 3**

Page 7, lines 14 through 19 provides for the collection of local option sales and use taxes without regard to any cap or threshold, and instead provides authority to a taxpayer to claim a refund for sales and use taxes paid that

represents the difference between the amount of taxes paid and the amount of taxes that would have been due by a cap or threshold provided by the city or county ordinance, resolution or charter.

#### **Section 4**

Page 8, lines 5 through 19, provide additional language to clarify definitions for delivery charges and direct mail. Page 14, line 3 amends the definition of tangible personal property to include water, which was inadvertently omitted in the 2003 legislation.

#### **Section 5**

Page 14, line 8 was amended to reflect computer as an item subject to sales tax.

#### **Section 6**

Page 15, lines 14 through 19 reinstates language that was removed inadvertently regarding sales tax on tobacco products.

#### **Section 7**

On pages 15 through 18, section 7 restates the existing exemption for durable medical equipment, mobility-enhancing equipment, and prosthetic devices.

#### **Section 8**

Page 18, lines 24 and 25 clarifies the status of containers or packaging used to transport food.

#### **Section 9**

Page 21, line 20 correct an incorrect Public Law citation.

### **Sections 11 and 12**

On pages 21 through 22, sections 9 and 10 provide for the application of tax on farm machinery and alcoholic beverages into this state where sales tax was previously imposed, yet also provide credit for taxes paid previously to another state (reciprocity provision).

### **Section 13**

Because multiple rates are not provided under the Streamlined Sales Tax Agreement, it will be necessary to create a 1% lodging gross receipts tax that would be effective through June 30, 2007. This tax is commonly referred to as the Lewis and Clark lodging tax. Page 22, lines 16 through 29 provide for the creation and administration of this gross receipts tax.

### **Sections 14 through 18**

Sections 14 through 18, located on pages 22 through 34 provide for changes in the use tax law that complement changes made in 2003 to the sales tax law.

### **Section 19**

Section 19 on page 34 repeals from the sales tax law the 1% sales tax on lodging (which was established instead by Section 13 as a gross receipts tax).

Section 19 also provides for the repeal an exemption provision that is no longer required after December 31, 2005, as water is defined as an exempt item under the food exemption 57-39.2-04.1.



**Section 20**

As provided by the approved 2003 streamlined sales tax language, the effective date for all changes noted by Engrossed HB 1043 is after December 31, 2005.

The Tax Commissioner recommends a "do-pass" for HB 1043. If there are any questions, I will be glad to respond.

**To: Senate Finance and Tax Committee**  
**From: Jerry Hjelmstad, North Dakota League of Cities**  
**Date: March 16, 2005**  
**Re: House Bill No. 1043**  
**Streamlined Sales Tax**

Mr. Chairman and members of the Senate Finance and Tax Committee, my name is Jerry Hjelmstad and I am here on behalf of the North Dakota League of Cities to testify in support of House Bill No. 1043.

The legislative changes related to the Streamlined Sales Tax passed by the 2003 North Dakota Legislature (found on page 5 of the bill, lines 5 through 22) included the following changes to the Home Rule provision in NDCC 40-05.1-06(16):

*After December 31, 2005, sales and use taxes levied und this chapter:*

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2 and 57-40.2 and may not be imposed at multiple rates with the exception of sales of electricity, piped natural or artificial gas, or other heating fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.*
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days notice to the seller.*
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes.*
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1.*

#### State level administration

The administration of local sales and use taxes is to be provided by the state tax commissioner. All cities and counties currently imposing local sales and use taxes within the State of North Dakota contract with the state tax commissioner for administration of local sales and use taxes.

#### States and local tax bases

All local taxing jurisdictions imposing a local sales and use tax must have a common tax base, and the tax base must be identical to the state tax base unless otherwise provided by law.

The new language on the bottom of page 5 and the top of page 6 of the bill would bring cities into compliance with this requirement.

#### Local tax rates

State and local taxing jurisdictions may levy only one sales and use tax rate after December 31, 2005. However, this section does not apply to special sales tax rates applied to natural gas, watercraft, modular homes, manufactured homes, or new mobile homes.

The new language on the bottom of page 5 and the top of page 6 of the bill would bring cities into compliance with this requirement.

#### Caps and Thresholds

State and local taxing jurisdictions may not apply a cap or threshold on the imposition of sales or use tax rates or exemptions that are based on the value of the transaction or items after December 31, 2005.

The new refund language on page 7 of the bill would bring cities into compliance with this requirement by establishing a refund procedure.

The Streamlined Sales Tax Agreement will help to level the playing field between small main-street businesses and larger multi-state businesses that are not required to collect taxes because they do not have physical presence in a state. Not only do these main-street businesses collect sales taxes, they also pay property taxes and support the community in many other ways. They deserve a level playing field.

We ask that you give a "do pass" recommendation to House Bill 1043.