2011 HOUSE FINANCE AND TAXATION

HB 1309

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1309
January 25, 2011
Job # 13345

☐ Conference Committee

Committee Clerk Signature Marilyn Knigge

Explanation or reason for introduction of bill/resolution:

Relating to an income tax deduction for certain Social Security benefits and to provide an effective date.

Minutes: *See attached testimony #1,#2,#3*

Chairman Wesley R. Belter: Opened the hearing for HB 1309

Representative Bellew from District 38 in Minot: I am here to introduce HB 1309 and to support passage of the Bill. Please refer to attached testimony #1.

Representative Scot Kelsh: I think this idea has been around for a while and I was talking to a clothing retailer from Fargo, my home town, who said that the sales tax may have an impact on their sales but a lot of times back to school sales will offer 50 to 60% off on clothing which is much greater that the 7.5% off on sales for a day. So what do you think the effect will on the sales?

Representative Bellew: That will be an additional 7.5% off, especially the poor people who are buying cloths for their children.

Chairman Wesley R. Belter: In reading this bill, is it saying it would be a complete sales tax exemption including the city's share?

Representative Bellew: That is what I would like.

Chairman Wesley R. Belter: Has there been any conversation with the cities on this?

Representative Bellew: I spoke with the City Auditor in Minot and they are opposed to this bill the way it is written, because it would affect their budget process somehow.

Mike Rud, President of the North Dakota Retail Association: On behalf of our 400 member we are here to seeking a do pass on HB1309.
Please refer to attached testimony #2.

Representative Dave Weiler: What is the sales tax in Minnesota?

Mike Rud: There is no sales tax on clothing in Minnesota.

Representative Dave Weiler: I don't know are the people going to across the border because lack of sales tax or because there is more variety there?

Mike Rud: We don't have data on how much money but we do have information that indicates we are losing sales to Minnesota when it comes to the school shopping season because of sales tax. These are our concerns.

Representative Steven L. Zaiser: I have talked to several residents in Fargo. They say they shop where they are comfortable. If they are more familiar with the stores in Fargo, that is where they go to shop.

Mike Rud: I think they are feeling they are losing a fair share of business. We feel we could bring back some of these people

Representative Glen Froseth: Who is going to police this to make sure items that are not exempt and are not included, really are not included?

Mike Rud: I guess the bill as reads, HB 1309 is a little far reaching for a back to school 3 day holiday period. If you look at what the city of Des Moines has done, it nails it down a lot tighter as to what you actually can purchase during the season. Most point of sales systems (tills) right now would have a tax exempt key that is keyed in. I don't think it would that big of an issue right now.

Representative Lonny B. Winrich: If I take your position at face value about this is pushing up sales in Minnesota. It is not just during a sales tax holiday where our merchants compete with the merchants in Minnesota. It is all year long. If this was a way to attract customers, why are there more merchant in Grand Forks and Fargo than in East Grand Forks and Moorhead?

Mike Rud: I really can't speak to why there is more building in Grand Forks and Fargo rather than East Grand Forks and Moorhead, but it is a good point. It might be because of the amount of population in those cities.

Chairman Wesley R. Belter: As far as your retailers handling this situation, I am assuming everything is computerized. So now if you have this holiday, how are they going to handle this?

Mike Rud: I think in your larger retail outlets your equipment is so sophisticated that I don't see a problem. Even with an older system, the cash register, has a free key that can be turned into a tax exempt key.

Jerry Hjelstad ND League of Cities: We have I25 cities that have a local sales tax. HB 1309 would impact local revenues because local sales are required to follow this tax pole of exempt items under the state sales law. Although the state has a surplus of revenue the

great majority of local governments do not. The actual fiscal impact of this bill is unknown. There is no maximum exemption per item or transaction and any purchases that are normally made during a month or longer may be shifted into a 3 day period. We would ask for a Do Not Pass on HB 1309.

Jerry Hjelstad passed out written testimony from the Minot City Auditor. Refer to attached testimony #3.

Representative Lonny B. Winrich: In many case the sales tax revenue that a city collects is done in support of some bond issue to finance a specific project. Can you comment on how a reduction would affect the bond ratings of cities?

Jerry Hjelstad ND League of Cities: Any city that has a local sales tax has to have a home rule charters. These charters spell out how that money is used locally. If they did have it tied to a bond issue it would be very important it would very important to maintain that adequate funding to maintain those bonds.

Representative Roscoe Streyle: Couldn't this potentially be a neutral on the revenue loss? If you are you draw more people into the city you are going to have more people eating, sleeping in motels and using other facilities and retailers that do not qualify?

Jerry Hjelstad ND League of Cities: Our stand from the cities is that this bill is a real negative impact because they really don't see that they would make up the differences with the revenue from other business. They see that the sales during this period of time would be sales during a different time of the month.

Chairman Wesley R. Belter: Myles, I have a question from the Tax Department. Under our stream line tax agreements, could this bill be amended that clothing is exempt but the cities can still collect their city sales tax.

Myles from the ND Tax Department: It could not. There is a general restriction that the tax base has to be the same for the state and city purposes. So that would be a problem. There are also other provisions in tax streamlining regarding holidays and there are no issues with those in this bill but to amend to allow the tax to continue for the locals would be an issue.

Chairman Wesley R. Belter: If we put the clothing in as a used tax, could we than be allowed to do that (exempt clothing)?

Myles from the ND Tax Department: I don't know if we could do that. A general sale that takes place in North Dakota by a North Dakota retailer would fall under the sales tax previsions. Used tax is usually from a retailer located outside of the state or a tax paid by a user that wasn't charged tax when they made the purchase.

Chairman Wesley R. Belter: I will close the hearing on HB 1309.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1309
January 25, 2011
Job # 13399

☐ Conference Committee

Committee Clerk Signature Marilyn Kienzler

Minutes: No "attached testimony."

Chairman Wesley R. Belter: What are the wishes of HB 1309.

Representative Dave Weiler: I don't know if you would prefer to act on this today but speaking with Mike Rudd, from the Retailers Association, he suggested shortening this up some and taking away some of these things to make it a true back to school clothing thing and I also mentioned adding in back to school supplies. I also talked about a couple of dates. I would like to run this by Representative Bellew but if the committee wishes not to go down that road and vote on it I am fine with it either way.

Chairman Wesley R. Belter: I do not know what the committee's wishes but the chair would like to act on this bill today unfavorably. This whole list comes off our whole sales tax and if start picking and choosing the retailers are really going to have a problem choosing if it is taxed or not taxed. That would cause many problems. As far as state holiday tax goes you want sales holiday tax, from my perspective, your economy is doing poorly and you are trying to energize the economy. Under this scenario it is like a rebate on a car. You wait and hold back until the rebate or tax to buy the merchandise. So I am not a real propionate of this bill. What are the committee's wishes?

Representative Lonny B. Winrich: I'm not sure we can do what Representative Weiler suggesting because I believe most of these definitions come from the streamline sales tax agreement what constitutes closing and other things. I think we have to include them.

Speaker is inaudiable

Representative Lonny B. Winrich: It is my opinion that we have to keep the definitions consistent with the streamline sales tax. We can say if there is a tax or not but whether its on there or off is defined in the agreement.

Vice Chair Headland: Made a motion for a Do Not Pass.

Representative Froseth: Second the motion.

Vote Do Not Pass Yeas 12 Nays 0 Absent 2 Carrier Rep Trottier

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: HB 1309

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($1,150,000)	($100,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				($375,000)				

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 1309 authorizes a sales tax "holiday" for clothing sales for three days each August.

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 1309 is expected to reduce state general fund and state aid distribution fund revenues by an estimated $1.25 million in the 2011-13 biennium. Additionally, city sales taxes are expected to be reduced by an estimated $375,000.

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:	01/24/2011

Date: 1-25-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1309

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Headland Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	AB				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Trottier

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

REPORT OF STANDING COMMITTEE

HB 1309: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1309 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1309

1-25-11
Testimony #1

Rep. Bellew

Testimony for HB 1309

Mr. Chairman, members of the House Finance and Tax Committee; I am here to introduce HB 1309 which if passed would create a sale tax holiday on clothing and shoes for the weekend before school starts.

Mr. Chairman, if this bill passes, I believe that in will create large increases in clothing sales for all clothing businesses in this state. It will also save the citizens of this state money as they send their children back to school.

Mr. Chairman, this idea came from the State of Oklahoma. My family and I were in Oklahoma last summer when I found out that they had instituted a sales tax holiday the weekend before school started. After seeing firsthand the effect it had on businesses (they were very busy), I knew that this would be a wonderful benefit for the people of North Dakota. I spoke to a manager of a shoe store and he liked what the sales tax holiday was doing for his business.

I heard this quote the other day, "It is better to leave money with the people, than burning a hole in the pocket of government." That's exactly what this bill will do; leave the money with the people.

Thank you Mr. Chairman.

North Dakota Retail Association

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Testimony #2
P. 1

Testimony H.B. 1309
January 25, 2011- House Finance and Tax Committee

Chairman Belter and members of the House Finance and Tax Committee:

For the record, my name is Mike Rud. I'm the president of the North Dakota Retail Association. On behalf of NDRA's 400 members, I'm here today seeking a **"DO PASS" recommendation on H.B. 1309.**

HB 1309 is a piece of legislation many retailers in the state believe is long overdue. For years, our retailers have lost sales to bordering states such as Minnesota and Montana during the back to school shopping season. Many North Dakota residents and their families simply drive across the border to our neighboring states to shop for school clothing and supplies where their purchases are tax exempt. This means North Dakota retailers are missing out on thousands of dollars in potential sales. Passage of HB 1309 would simply level the playing field for our state merchants competing against out of state businesses for our resident's dollar.

In many states such as Iowa where the sales tax holiday for school shopping has been implemented, retailers say the 3-day period is like Christmas coming early to their bottom lines.

Chairman Belter and members of the committee, let's give our retailers and residents an early Christmas present by supporting a **"DO PASS" recommendation on HB 1309.**

Thank you for your time and consideration.

Testimony #2 p. 3 HB 1309

The Des Moines Register
By Johnson Pat, Staff

Stores prepare for big crowds

Consumers looking to stretch their back-to-school clothing budgets are expected to hit shopping malls, discount stores and resale shops this weekend, eager to take advantage of the state's annual two-day reprieve from sales tax on clothing, shoes and other items.

"This is going to be a big weekend," said Randy Tennison, general manager of Jordan Creek Town Center in West Des Moines. "Any opportunity for people to save money, they are going to jump on it."

This year, because of higher gas prices and other economic factors putting a strain on consumers' purse strings, discount stores may see a big benefit from the back-to-school shopping season.

"The tax-free weekend helps to drive business" especially this year, said Dave Gourley, manager of the Target store at 3414 Eighth St. S.W. in Altoona. "Typically, it's a good weekend for us," he said.

Mall merchants are bulking up their inventories in anticipation of strong sales, Tennison said. Last year, the tax-free event brought in droves of shoppers, particularly out-of-towners who came to the five-year-old mall to shop for school clothes and shoes, he said.

"It gives people a reason to come here for a weekend of shopping," he said.

The National Retail Federation has said shoppers held back a portion of their economic stimulus checks the U.S. government issued earlier this year to help pay for back-to-school items. The average family is expected to spend $594.24 this year on school-related clothing and supplies, compared with $563.49 last year. Shoppers are expected to spend $20.1 billion this year on back-to-school shopping, the federation said.

Back-to-school sales are important to shops such as Tradehome Shoes at Merle Hay Mall.

"August is our busiest month of the year, and this weekend will be the busiest weekend of the year for us," said Sam Carbajal, store manager. He has added four extra people to work Friday and Saturday to handle the expected rush.

"This is our Christmas," he said.

Back-to-school shoppers generally start buying footwear in early August, and the savings from the tax-free weekend funnels a lot of that business into two days, he said.

The state is expected to lose between $1.5 million and $3 million in tax revenues during the two-day event, said Mike Lipsman, a state revenue analyst.

The Iowa Legislature began the tax-free holiday in 2000 to give the state's retailers and economy a boost. In that first year, Iowans saved about $1.6 million in taxes on qualifying purchases. The savings increased for a couple of years before leveling out, Lipsman said.

Kim Olson said last year her resale clothing shop, Plato's Closet, in the West Glen Town Center in West Des Moines had huge sales during the two-day tax holiday.

"Last year, we doubled our normal Saturday sales," she said.

Overall sales at her two-year-old shop, which buys and sells brand-name clothing in young teen to young adult sizes, are up about 25 percent from a year ago because of the tight economy and more people are finding the store, Olson said.

Some store managers are expecting the sales tax holiday to be as good as last year.

"I expect it to be as busy as it has been in years past, which generally has been pretty good," said David Mayer, an assistant manager at the Wal-Mart Supercenter, 6365 Stagecoach Drive, West Des Moines.

Tax-free Weekend

TAX-FREE: Shoppers can buy clothing and shoes priced less than $100 and not pay sales tax in Iowa on Friday and Saturday. Purchases will also be exempt from local option sales taxes. Iowa expects to lose between $1.5 million to $3 million in tax revenues.

TAX-BREAK: Qualifying items include: bow ties, socks, boots, coats, diapers, earmuffs, fur coats, golf clothing, hats, jackets, jeans, bras, leotards, lingerie, pajamas, pantyhose, running shoes without cleats, shawls, shirts, swimsuits, underpants and vests.

TAXED: Watches, umbrellas, wallets, tap and ballet shoes, football shoulder pads, ice skates, roller skates, sunglasses, purses, shin guards and pads, fanny packs, luggage, helmets, jewelry, diaper bags, duffel bags, hair bows and clips, and blankets.

FULL LIST: For more information and a complete list of what's included in the tax holiday, visit the state's Web site at www.state.ia.us/tax/educate/holiday1.html

Testimony # 3

Testimony to the House Finance and Taxation Committee
Chairman Wes Belter
Prepared by Cindy K. Hemphill, Finance Director
City of Minot
Cindy.hemphill@minotnd.org

HOUSE BILL NO. 1309

Mr. Chairman, my name is Cindy Hemphill and I serve as the City Auditor and Finance Director for the City of Minot. I am representing the City of Minot to encourage a DO NOT PASS on House Bill 1309.

Numerous bills have been introduced in this session in both the House and Senate, which would provide for sales tax exemption for various special interest groups, charities, etc.

House Bill No. 1309 would similarly provide an exemption. This one however, is for sales on specific dates. Many North Dakota cities have adopted local sales tax as an important tool in their fiscal toolbox. The revenue generated through sales tax plays a crucial role in the budgeting process for cities. This bill, along with the other bills cited, would chip away at the revenues needed as approved by the local taxpayers.

In addition, House Bill No. 1309 goes beyond a "sales tax holiday for clothing" for families based on the many definitions included in the bill.

Again, we encourage a DO NOT PASS on House Bill 1309.