

FISCAL NOTE
Requested by Legislative Council
02/10/2015

Amendment to: SB 2223

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(37,068,000)	\$(3,532,000)		
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Engrossed SB 2223 creates a sales 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, engrossed SB 2223 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$40.6 million in the 2015-17 biennium.

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

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

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

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

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/11/2015

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: SB 2223

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(37,068,000)	\$(3,532,000)		
Expenditures						
Appropriations			\$9,500,000			

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2223 creates a sales 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, SB 2223 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$40.6 million in the 2015-17 biennium.

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

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Section 2 of SB 2223 appropriates \$9.5 million to the tax commissioner for the purpose of offsetting the costs to cities and counties that impose local sales taxes. Local sales tax collections will be reduced by the clothing exemption contained in this bill.

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/27/2015

2015 SENATE FINANCE AND TAXATION

SB 2223

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2223
1/28/2015
Job #22687

- Subcommittee
 Conference Committee

Committee Clerk Signature

Emmery Brothberg

Explanation or reason for introduction of bill/resolution:

Relating to a sales and use tax exemption for clothing

Minutes:

Attachment #1, 2

Chairman Cook opened the hearing on SB 2223.

Senator Sinner: Introduced SB 2223 (see attachment #1).

Mike Rud, President, North Dakota Retail Association: (4:00) (see attachment #2).
Testified in favor of SB 2223.

Senator Triplett: (6:48) You seem to be tying your support tightly to the national internet fairness issues, do you think we should put some sort of a sunset clause on this bill or does your group support the bill without regard to the national legislation passing?

Mike Rud: (7:18) The thing that scares us a lot about a repeal is that it's hard to bring it back. Maybe a sunset is a good idea, maybe for four to six years. Chairman Cook has worked very hard on a main street fairness act on the national level; he could tell you more about that than I can. I don't think a sunset is even a good start in my estimation, I think that would be a good place to start and if we need to at some point in the state's economic situation bring it back, so be it. At least this would give us some time to try to compete with these internet sales taxes, because these people are really starting to hurt our main street businesses that are paying taxes, paying employees and keeping the economy afloat here in ND by collecting those taxes and helping all the economy, not just the business community.

Chairman Cook: You make an argument that keeping this money in the pockets of tax payers is going to generate more spending by the tax payers, I don't think I can argue with that I think you're right. If that's the case, why do we need to spend 9.5 million to hold city's harmless. Would not the cities benefit from the increased spending as much as the state?

Mike Rud: I would totally agree with you, I think that could be done. Certainly there would be enough income generated. I think when people get disposal income in their pockets,

their tendency is to spend it and it's not just going to help our retail sector, it's going to help the entire retail sector in terms of restaurants and gas stations; people are going to be out and on the move and you're likely to get an influx from western part of MN and eastern part of MT. The Canadian traffic also continues to be strong.

Chairman Cook closed hearing on SB 2225

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2223
2/9/2015
Job #23484

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Chairman Cook opened the committee work on SB2223.

It looks like a \$50 million fiscal note. \$40 million for the exemption on clothing; \$9.5 million to hold cities harmless. Committee, I don't know what your wishes are for expanding or reducing the size of our sales tax base, but I would hope that one thing we don't start doing in the state is reducing the size of our tax base and then holding political subdivision harmless. I would hope that if there is a benefit in reducing the tax base that the benefit is shared by both the state and the cities who receive sales tax from sales in North Dakota. Going down that road, I can't imagine who all would be "me too". Testimony on whether they liked the bill or don't like the bill but we heard some testimony that you leave \$40 to \$50 million of dollars in pockets of taxpayers, they are going to spend that \$40 million and there will be greater economic growth. If that is true, the cities and counties that levy sales tax will benefit from it just as much as the state. I would hope that the first thing that we do is take cities out of here.

Senator Laffen -- I would agree with that. Part of the argument, too, is that we are losing business across the border and those shoppers would stay in those border cities. Do you need an amendment?

Chairman Cook -- We just need a motion to take section 2 out of the bill.

Senator Laffen -- I would make that motion to section 2, as an amendment, out of SB2223.

Chairman Cook -- Is there a second? Senator Oehlke seconded.

Senator Triplett -- I think you would also need to take lines 10 through 14 out of section 1, also. Line 9 accomplishes the exemption and then the rest of it is making the allocations.

Senator Laffen -- I would add that to my amendment.

Chairman Cook -- Anything in the title? To provide an appropriation?

Senator Laffen -- Yes, to provide an appropriation and line 2 & 3 would have to come out.

Senator Triplett -- And renumber.

Chairman Cook -- Cole will get it all in the right form.

Roll call vote on the motion to amend out Section 2 on SB2223, 6-1-0

Senator Triplett -- Moves a do pass as amended and rerefer to appropriations.

Seconded by Senator Oehlke

Roll call vote 2-5-0.

Senator Unruh -- Moves a do not pass as amended.

Senator Bekkedahl seconded.

Senator Triplett -- I know we are not supposed to compare bills but we sit here and talk about giving out sales tax exemptions on potentially billions of dollar projects and it occurs to me that it just might not hurt us to give a sales tax exemption that will largely benefit ordinary people in North Dakota. It would be the first time, in my time here, that we would have given a sales tax exemption to the ordinary people of North Dakota, as opposed to giving it out as corporate welfare. We give sales tax exemptions to many, many, many organizations that are going to build their next projects with or without our sales tax exemptions and we just happily give it away on the theory that somehow it will come back and trickle down to the residents of North Dakota and I think every now and again just a little direct benefit wouldn't hurt us.

Chairman Cook -- They are the toughest things to evaluate: sales tax exemption, any economic development that's all done with the intention of creating nice paying jobs so people have money to spend.

Roll call vote 5-2-0.

Carrier: Senator Oehlke.

Chairman Cook closed the committee work on SB2223.

February 9, 2015

TD
2/9/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2223

Page 1, line 2, remove "to provide an"

Page 1, line 3, remove "appropriation;"

Page 1, line 7, remove "- Allocation of replacement revenue to cities and"

Page 1, line 8, remove "counties - Continuing appropriation"

Page1, after line 8, insert:

"1."

Page 1, remove lines 10 through 14

Page 1, line 15, replace "1." with "2."

Page 1, line 17, replace "2." with "3."

Page 2, line 29, replace "3." with "4."

Page 3, line 10, replace "4." with "5."

Page 3, line 23, replace "5." with "6."

Page 4, line 1, replace "6." with "7."

Page 4, line 17, replace "7." with "8."

Page 5, remove lines 2 through 6

Renumber accordingly

Date: 2-9-15

Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2223**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15-0465.01001, Title .02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Laffen Seconded By Sen. Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod		✓
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

Date: 2-9-15

Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2223**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Triplett Seconded By Sen. Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook		✓	Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen		✓	Senator Connie Triplett	✓	
Senator Brad Bekkedahl		✓			
Senator Dave Oehlke		✓			
Senator Jessica Unruh		✓			

Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

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

Date: 2.9.15

Roll Call Vote #: 3

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2223**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Unruh Seconded By Sen. Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod		✓
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett		✓
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2223: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2223 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to provide an"

Page 1, line 3, remove "appropriation;"

Page 1, line 7, remove "- Allocation of replacement revenue to cities and"

Page 1, line 8, remove "counties - Continuing appropriation"

Page1, after line 8, insert:

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Page 5, remove lines 2 through 6

Renumber accordingly

2015 TESTIMONY

SB 2223

SB 2223 Testimony

#1
1-28-15
SB 2223
1-28-15

Chairman Cook and members of the Senate Finance & Tax Committee, thank you for allowing me to be here today and introducing this bill on behalf of North Dakota retailers for what I have called "**The Tax Fairness Act of 2015**".

Senate Bill 2223 before you today is the exact same bill that was brought before you two years ago. And many of the reasons for bringing this bill are the same but even more compelling.

- 1) Our brick and mortar retailers are being besieged by online sales continually losing market share. Please see the attached document outlining the growth in internet sales vs. the stores that have a physical retail location.
- 2) Of our three neighboring states, two have no tax on clothing and clothing related items causing the loss of business to retailers in our border communities. See the Forum article from today.
- 3) Many of our working citizens must purchase uniforms for the jobs without subsidy from their employers. And these are almost entirely workers who are hourly paid, and among the lowest paid in the industries. This is an issue of tax relief for many. For a family of four estimates are that this will amount to approx. \$300 per year in tax relief.
- 4) This is an economic development issue that will help bring more shoppers to our retail centers from the province to the north and the state to the south as well tell our friends to the east and west that we are open for business for them. Surveys have consistently shown that Canadian shoppers bypass our retail centers to shop in Minnesota to save the 7% or more of sales tax.
- 5) I am submitting testimony on behalf of the West Acres management team and others regarding this bill. Attached.
- 6) To quote Mr. Rick Stern of Straus Clothing, "**All I want is a level playing field.**"

My Chairman and members of the committee, after all of these issues are given consideration, I am confident that you will choose to help the business community by giving them a level field by giving this bill a Do-Pass recommendation and then further supporting the bill when it comes before the full Senate.

Thank you for allowing me to be here today.

U.S. Census Bureau News

U.S. Department of Commerce • Washington, D.C. 20233

#1.2
JB2223
1-28-15

FOR IMMEDIATE RELEASE
TUESDAY, NOVEMBER 18, 2014, AT 10:00 A.M. EST

Ian Thomas (Data Collection and Data Products): (301) 763-2713
Xijian Liu (Sampling and Estimation): (301) 763-4272
Deanna Weidenhamer (Seasonal Adjustment): (301) 763-7186

CB14-199

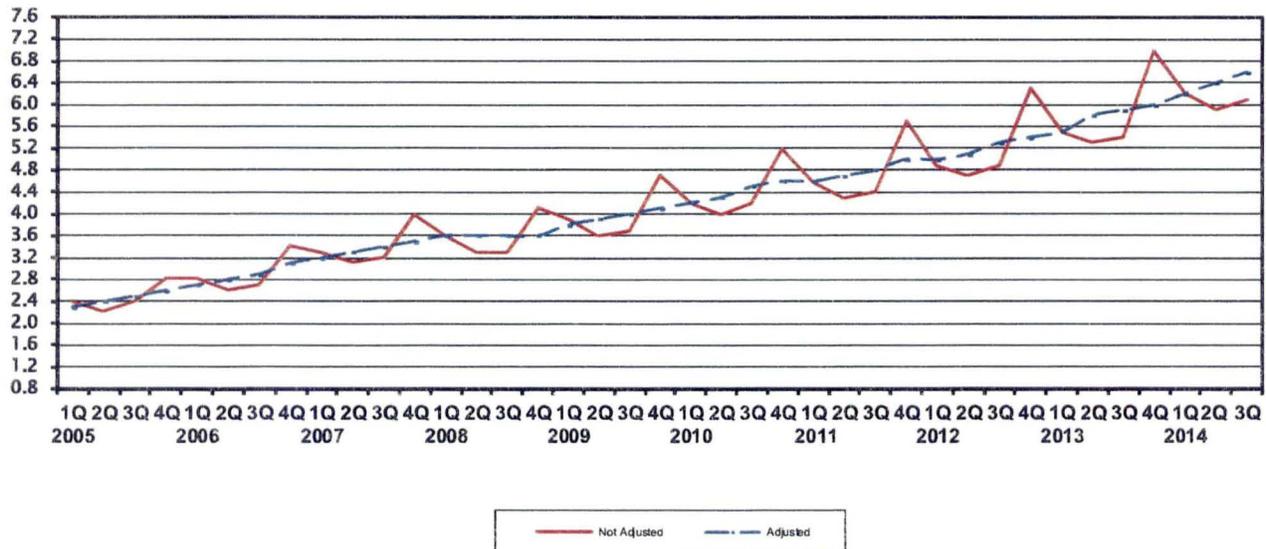
QUARTERLY RETAIL E-COMMERCE SALES 3RD QUARTER 2014

The Census Bureau of the Department of Commerce announced today that the estimate of U.S. retail e-commerce sales for the third quarter of 2014, adjusted for seasonal variation, but not for price changes, was \$78.1 billion, an increase of 4.0 percent ($\pm 0.7\%$) from the second quarter of 2014. Total retail sales for the third quarter of 2014 were estimated at \$1,185.1 billion, an increase of 0.9 percent ($\pm 0.2\%$) from the second quarter of 2014. The third quarter 2014 e-commerce estimate increased 16.2 percent ($\pm 3.2\%$) from the third quarter of 2013 while total retail sales increased 4.2 percent ($\pm 0.5\%$) in the same period. E-commerce sales in the third quarter of 2014 accounted for 6.6 percent of total sales.

On a not adjusted basis, the estimate of U.S. retail e-commerce sales for the third quarter of 2014 totaled \$71.9 billion, an increase of 2.5 percent ($\pm 0.7\%$) from the second quarter of 2014. The third quarter 2014 e-commerce estimate increased 16.2 percent ($\pm 3.2\%$) from the third quarter of 2013 while total retail sales increased 4.3 percent ($\pm 0.5\%$) in the same period. E-commerce sales in the third quarter of 2014 accounted for 6.1 percent of total sales.

Estimated Quarterly U.S. Retail E-commerce Sales as a Percent of Total Quarterly Retail Sales: 1st Quarter 2005 – 3rd Quarter 2014

Percent of Total



The Quarterly Retail E-Commerce sales estimate for the fourth quarter of 2014 is scheduled for release on February 17, 2015 at 10:00 A.M. EST.

For information, including estimates from 4th quarter 1999 forward, visit the Census Bureau's Web site at <http://www.census.gov/retail>. For additional information about Census Bureau e-business measurement programs and plans visit <http://www.census.gov/estats>.

* The 90% confidence interval includes zero. The Census Bureau does not have sufficient statistical evidence to conclude that the actual change is different from zero.

1.3
SB 2223
1-28-15

Table 1. Estimated Quarterly U.S. Retail Sales: Total and E-commerce¹
(Estimates are based on data from the Monthly Retail Trade Survey and administrative records.)

Quarter	Retail Sales (millions of dollars)		E-commerce as a Percent of Total	Percent Change From Prior Quarter		Percent Change From Same Quarter A Year Ago	
	Total	E-commerce		Total	E-commerce	Total	E-commerce
Adjusted²							
3rd quarter 2014(p)	1,185,095	78,069	6.6	0.9	4.0	4.2	16.2
2nd quarter 2014(r)	1,174,741	75,080	6.4	2.4	5.0	4.5	15.8
1st quarter 2014	1,147,339	71,503	6.2	0.2	3.3	2.4	15.5
4th quarter 2013	1,144,964	69,244	6.0	0.7	3.1	3.8	15.7
3rd quarter 2013(r)	1,137,133	67,175	5.9	1.1	3.6	4.7	17.4
Not Adjusted							
3rd quarter 2014(p)	1,184,513	71,894	6.1	-0.9	2.5	4.3	16.2
2nd quarter 2014(r)	1,195,158	70,134	5.9	10.9	4.8	4.8	15.9
1st quarter 2014	1,077,723	66,938	6.2	-10.0	-20.0	2.1	15.0
4th quarter 2013	1,197,402	83,709	7.0	5.5	35.3	3.7	15.7
3rd quarter 2013	1,135,418	61,857	5.4	-0.4	2.2	5.4	17.5

(p) Preliminary estimate. (r) Revised estimate.

¹ E-commerce sales are sales of goods and services where the buyer places an order, or the price and terms of the sale are negotiated over an Internet, mobile device (M-commerce), extranet, Electronic Data Interchange (EDI) network, electronic mail, or other comparable online system. Payment may or may not be made online.

² Estimates are adjusted for seasonal variation, but not for price changes. Total sales estimates are also adjusted for trading-day differences and moving holidays.

Note: Table 2 provides estimated measures of sampling variability. For information on confidentiality protection, sampling error, nonsampling error, sample design, and definitions, see http://www.census.gov/retail/mrts/how_surveys_are_collected.html.

Table 2. Estimated Measures of Sampling Variability for Quarterly U.S. Retail Sales Estimates: Total and E-commerce

(Estimates are shown as percents and are based on data from the Monthly Retail Trade Survey.)

Quarter	Coefficient of Variation (CV)		Standard Error ¹ (SE) for E-commerce as a Percent of Total	SE for Percent Change From Prior Quarter		SE for Percent Change From Same Quarter A Year Ago	
	Total	E-commerce		Total	E-commerce	Total	E-commerce
3rd quarter 2014(p)	0.5	1.7	0.1	0.1	0.4	0.3	1.8
2nd quarter 2014(r)	0.4	1.6	0.1	0.2	0.7	0.3	1.6
1st quarter 2014	0.4	1.3	0.1	0.2	0.4	0.2	1.3
4th quarter 2013	0.4	1.2	0.1	0.1	0.9	0.6 ¹	2.1 ¹
3rd quarter 2013	0.5	1.3	0.1	0.1	0.6	1.0 ¹	3.3 ¹

(p) Preliminary estimate. (r) Revised estimate. (Z) Estimate is less than 0.05%.

Standard errors may be larger than those previously published because the estimated totals used to produce the percent changes are derived from different samples.

Note: Estimated measures of sampling variability are based on data not adjusted for seasonal variation, trading-day differences, or moving holidays, and are used to make confidence statements about both adjusted and not adjusted estimates. For information on confidentiality protection, sampling error, nonsampling error, sample design, and definitions, see http://www.census.gov/retail/mrts/how_surveys_are_collected.html.

Survey Description

#1.4
SB2223
-28 15

Retail e-commerce sales are estimated from the same sample used for the Monthly Retail Trade Survey (MRTS) to estimate preliminary and final U.S. retail sales. Advance U.S. retail sales are estimated from a subsample of the MRTS sample that is not of adequate size to measure changes in retail e-commerce sales.

A stratified simple random sampling method is used to select approximately 10,000 retail firms excluding food services whose sales are then weighted and benchmarked to represent the complete universe of over two million retail firms. The MRTS sample is probability based and represents all employer firms engaged in retail activities as defined by the North American Industry Classification System (NAICS). Coverage includes all retailers whether or not they are engaged in e-commerce. Online travel services, financial brokers and dealers, and ticket sales agencies are **not** classified as retail and are **not** included in either the total retail or retail e-commerce sales estimates. Nonemployers are represented in the estimates through benchmarking to prior annual survey estimates that include nonemployer sales based on administrative records. E-commerce sales are included in the total monthly sales estimates.

The MRTS sample is updated on an ongoing basis to account for new retail employer businesses (including those selling via the Internet), business deaths, and other changes to the retail business universe. Firms are asked each month to report e-commerce sales separately. For each month of the quarter, data for nonresponding sampling units are imputed from responding sampling units falling within the same kind of business and sales size category. Responding firms account for approximately 72 percent of the e-commerce sales estimate and about 70 percent of the estimate of U.S. retail sales for any quarter.

For each month of the quarter, estimates are obtained by summing weighted sales (either reported or imputed). The monthly estimates are benchmarked to prior annual survey estimates. Estimates for the quarter are obtained by summing the monthly benchmarked estimates. The estimate for the most recent quarter is a preliminary estimate. Therefore, the estimate is subject to revision. Data users who create their own estimates using data from this report should cite the Census Bureau as the source of the input data only.

Adjusted Estimates

This report publishes estimates that have been adjusted for seasonal variation and holiday and trading-day differences, but not for price changes. We used quarterly e-commerce sales estimates for 4th quarter 1999 to the current quarter as input to the X-13ARIMA-SEATS program to derive the adjusted estimates. For sales, we derived quarterly adjusted estimates by summing adjusted monthly sales estimates for each respective quarter. Seasonal adjustment of estimates is an approximation based on current and past experiences.

The X-13ARIMA-SEATS software improves upon the X-12 ARIMA seasonal adjustment software by providing enhanced diagnostics as well as incorporating an enhanced version of the Bank of Spain's SEATS (Signal Extraction in ARIMA Time Series) software, which uses an ARIMA model-based procedure instead of the X-11 filter-based approach to estimate seasonal factors. The X-13ARIMA-SEATS and X-12 ARIMA software produce identical results when using X-13ARIMA-SEATS with the X-11 filter-based adjustments. The X-13ARIMA-SEATS software and additional information on the X-13ARIMA-SEATS program may be found at <http://www.census.gov/srd/www/x13as/>.

Note that the retail estimates continue to be adjusted using the X-11 filter-based adjustment procedure.

Reliability of Estimates

Because the estimates in this report are based on a sample survey, they contain sampling error and nonsampling error.

Sampling error is the difference between the estimate and the result that would be obtained from a complete enumeration of the population conducted under the same survey conditions. This error occurs because only a subset of the entire population is measured in a sample survey. Standard errors and coefficients of variation, as given in Table 2 of this report, are estimated measures of sampling variation.

The margin of error, as used on page 1, gives a range about the estimate which is a 90 percent confidence interval. If, for example, the estimated percent change is -11.4% and its estimated standard error is 1.2%, then the margin of error is $\pm 1.753 \times 1.2\%$ or 2.1%, and the 90 percent confidence interval is -13.5% to -9.3%. Confidence intervals are computed based on the particular sample selected and canvassed. If one repeats the process of drawing all possible samples and forming all corresponding confidence intervals, approximately 90 percent of these individual confidence intervals would contain the estimate computed from a complete enumeration of all units on the sampling frame. If the confidence interval contains 0%, then one does not have sufficient evidence to conclude at the 90 percent confidence level that the change is different from zero.

Nonsampling error encompasses all other factors that contribute to the total error of a sample survey estimate. This type of error can occur because of nonresponse, insufficient coverage of the universe of retail businesses with e-commerce sales, mistakes in the recording and coding of data, and other errors of collection, response, coverage, or processing. Although not directly measured, precautionary steps are taken to minimize the effects of nonsampling error.

#1.5
 SB2223
 1-28-15

Forbes (1)



Prosper Now (<http://www.forbes.com/sites/prospernow/>)

We cover the news on consumers and markets.

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STRATEGIES (/STRATEGIES) 2/03/2014 @ 10:16AM | 8,302 views

Year Of Reckoning For Brick And Mortar Retailers

Gary Drenik (<http://blogs.forbes.com/people/garydrenik/>), Contributor

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For Brick and Mortar (BAM) retailers, 2014 will prove to be another challenging year. As economists talk of a slow and gradual recovery ([latest jobs numbers \(http://www.forbes.com/sites/samanthasharf/2014/01/10/jobs-report-u-s-economy-added-just-74k-jobs-in-december-unemployment-down-to-6-7/\)](http://www.forbes.com/sites/samanthasharf/2014/01/10/jobs-report-u-s-economy-added-just-74k-jobs-in-december-unemployment-down-to-6-7/) indicate recovery will be at a snail's pace), BAMs will be hard pressed to drive topline growth. Based on an evolution in the consumer market fueled by demographic shifts, behavioral changes and consumers' attitudes toward the economy, retailers with a physical presence will be navigating through a minefield in 2014.

If you build it, they will come.

The old retail growth model was simple. It took off in the 1970's with the mall building surge. Successful retailers rode the coattails of baby boomers who were actively buying for growing families by erecting store fronts in a neighborhood near you. Having enough stores close to enough boomers equaled a solid growth plan.

There was no real challenge to the "Build It, They Will Come" model, at least not until the Internet spawned online shopping. The coveted Baby Boomers were aging and no longer had the need to accumulate "stuff," while the next generations X and Y, who were more mobile-savvy and open to a new online model, became the apple of retailers' eyes. Same store sales began to decline and the real estate model began to deteriorate.

#1.6
SB2223
1-28-15**The mall doesn't have it all.**

With the economic collapse of 2008 many BAMs began to realize how bloated their operations had become. Many site location departments shrank or became as busy as the Maytag repairman. E-commerce was becoming a bigger piece of the pie, decreasing BAMs role in total retail sales. Plus the ease of finding a product online at the lowest price in a few simple clicks can be more appealing than walking the length of a mall and not finding a specific item you are looking for. Rather than competing against each other, BAMs are now up against convenience, availability and price, not to mention credit card security (<http://www.forbes.com/security/>). In the wake of Target (</companies/target/>) TGT -0.65% (</companies/target/>)'s credit card breach, the discounter was ranked lowest in Prosper's Shopper Security Score. On the flip side, Amazon appears to be setting the standard for retail security

(<http://www.forbes.com/sites/prospernow/2014/01/24/amazon-sets-the-standard-for-shopper-security-while-target-struggles/>) with the highest score.

One example of BAMs' competition can be found in the recent holiday season. According to Prosper Insights & Analytics, 34% of Americans say that they completed 50% or more of their shopping online—that's a 99% increase from the 2006 shopping season. In identifying which markets were more susceptible to the call of the World Wide Web, we found that holiday shoppers in the Northeast were most likely to shop online as 39% completed 50% or more of their purchases via the Internet. Shoppers in the West (35%), South (33%) and Midwest (31%) regions followed.

Consumer sentiment packs a punch.

Consumers are cautiously optimistic cautious. Fifty percent of Americans say they've focused on needs over wants more in the last six months, 42% have become more practical in their purchases and 36% are more budget conscious. And employment continues to be a real economic drag as the labor participation rate dropped to a 35 year low (<http://www.zerohedge.com/news/2014-01-10/people-not-labor-force-soar-record-918-million-participation-rate-plunges-1978-level>). Further, 22% of Americans believe there will be more layoffs over the next six months.

Issues and uncertainty such as energy/fuel, utility costs and Obamacare are driving Americans' discontent with the government; over half (55%) say they are unhappy with Washington (<http://www.forbes.com/washington/>). Plus don't forget all the political uncertainty in the world, specifically in the Middle East. Put it all together and it equals slow sales in a competitive market, operating on an old brick and mortar model leading to an over-challenging environment for BAMs in 2014.



#1.7
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Change or die.

The fixed cost of real estate combined with inventory and personnel have all been disrupted by online shopping growth. This will continue to force many retailers to reengineer their business in 2014, and for many that will mean consolidation/store closings. It's already begun.

“He who lacks foresight and underestimates his enemy will surely be captured by him.”

Sun Tzu, *The Art of War*

For these BAMs who are up against the proverbial wall, the first step will be to take the blinders off. Many have chosen to ignore, downplay, or even cover-up the impact of e-commerce. Thinking in-store shopper experience or more television advertising will solve the problem will only hasten the decline and not stop the trend. Secondly, the attention needs to turn to a consumer-centric business model rather than a real estate-centric model. Retailers will need to focus on understanding their greatest asset (their customers) and that means a new marketing model built on consumer insights. “Location, location, location” will become “Customer, customer, customer”. Retailers need to recognize that the customer is now in control. Customers are not owned by retailers. They now shop around, even if they have a store credit card or frequent shopper card. Unless you know how much they are spending with the competition, both online and in-store, you may be surprised with unpleasant news too late to react. Identifying the markets which are most vulnerable to online competition will be a good starting point.

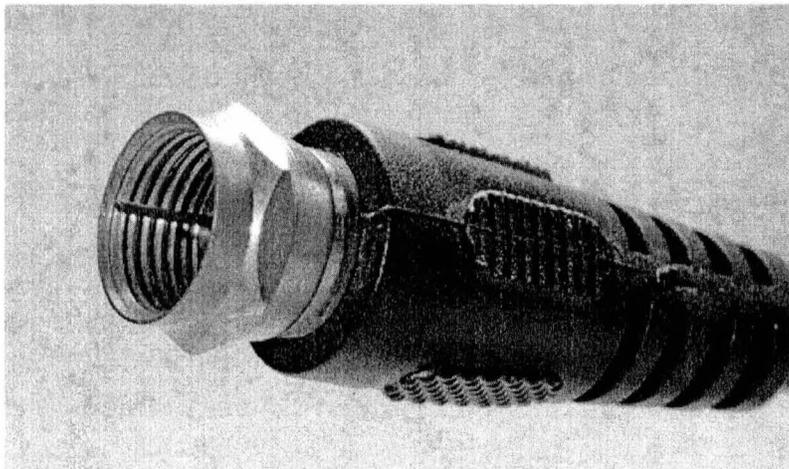
Utilizing market intelligence hasn't been a strength of retailers, but 2014 will be the year they will need to develop systems for collecting and analyzing data in order to survive. And not all data is created equal. As I wrote in a previous post, having foreknowledge from data mining of various data streams is key for big data succes (<http://www.forbes.com/sites/prospernow/2014/01/16/big-data-equals-big-headache-for-executives/>). Today's focus on mining internal data/transactional data will leave many users of big data disappointed and out millions of dollars.

#1.8
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1-28-15

Gary Drenik is CEO of Prosper Insights & Analytics, a company that prides itself on turning data into solutions. www.ProspersDiscovery.com
(<http://www.ProspersDiscovery.com>)

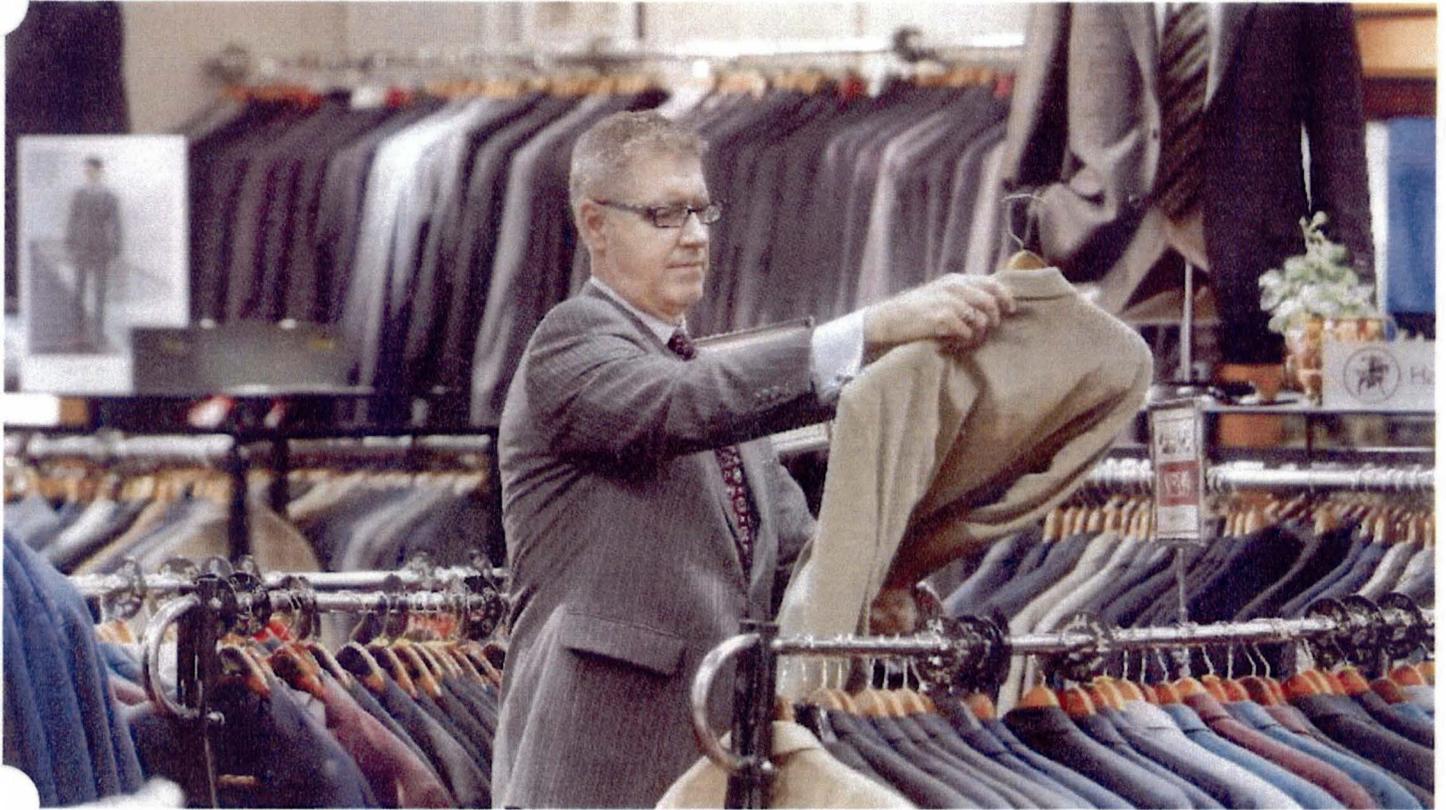
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#1.9
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Mark Juven looks at blazers while shopping Tuesday, Jan. 27, 2015, at Straus Clothing in Fargo. Fargo state Sen. George B. Sinner has introduced a bill in the Legislature that would eliminate the sales tax on clothing in North Dakota. Dave Wallis / The Forum

'All we want is a level playing field': Bill introduced to dump ND's sales tax on clothing

By **Helmut Schmidt** on Jan 27, 2015 at 8:05 p.m.

FARGO – Getting rid of North Dakota's sales tax on clothing would level the playing field between the state's brick-and-mortar stores and online retailers, and clothing stores in bordering states, local retailers say.

Chris Heaton, senior vice president for property management at West Acres mall, said the mall and its merchants back a bill introduced in the Legislature by

Sen. George B. Sinner, D-Fargo.

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“It would only be of benefit to our tenants. We fight this battle on two fronts. The Internet takes a chunk out of sales” as sales taxes are sporadically collected online, Heaton said.

“And as a border city, we compete against Minnesota, which does not have a tax” on clothing, he said.

Sinner is chief sponsor of Senate Bill 2223, which would end the sales tax on clothing, with exceptions for accessories, sporting or protective equipment, and other items.

The bill includes \$9.5 million to reimburse cities and counties for lost sales tax revenues.

If it passes, the state would also forgo an estimated \$40.6 million in taxes on clothing in the coming biennium, said Kathryn Strombeck, director of research for the Office of the State Tax Commissioner.

SB 2223 gets its initial hearing Wednesday in the Senate’s Finance and Tax Committee, Sinner said.

Rick Stern, co-owner of Straus Clothing in Fargo, said at its core the bill is about fairness.

“Our problem is the Internet. No sales tax on Internet sales. Right off the bat, that’s a 7 or 7.5 percent disadvantage that we have,” Stern said.

“All we want is a level playing field,” he said. “They (big online retailers) come in and cherry-pick all the customers. Why should they have the big advantage?”

“And you look at Minnesota. They don’t have the sales tax on clothes. Our big

problem is not Moorhead," it's the Mall of America and large outlet stores, Stern said.

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He said Internet sales are increasing 20 percent a year, while smaller brick-and-mortar firms struggle to eke out small gains.

Dropping the sales tax on clothing "would just make it fair for us. I don't know what the big problem is," Stern said. "I could see if (the state was) in dire shape as far as revenue, but we're not."

Sinner said the current system sets up North Dakota businesses to get "creamed by Internet sales."

In addition to Minnesota, Montana on the state's western border also doesn't charge a tax on clothing, he said.

Even if North Dakota merchants don't lose money year to year, "they are losing market share," Sinner said.

He said lost sales tax revenue would be made up with higher retail sales, more jobs and more money flowing through North Dakota's economy.

Dropping sales taxes on clothing will also help nurses and other workers who need to buy uniforms or other specialty clothing, Sinner said.

He said the state has the revenues to make up ending sales taxes on clothing, but he's unsure of the support he'll get from the Republican-controlled Legislature.

North Dakota levies a 5 percent tax on retail sales, including clothing, though there is a long list of exemptions. There are also 3 percent sales taxes on the sale of new mobile homes and motor vehicle rental contracts.

Fargo levies 2 cents in sales tax approved by voters – 1.5 cents for infrastructure needs and a half cent for flood control projects. That brought in \$48.5 million in ¹⁻²⁸ revenue for the city in 2014. Similarly, Cass County levies a half-cent sales tax, which gave the county \$16 million in 2014. West Fargo's 2 percent sales tax brought in \$4.5 million for that city in 2014, according to the North Dakota State Treasurer's Office.

But the Fargo, West Fargo and Cass County sales tax figures include all items – not just clothing – touched by the sales tax, county Auditor Mike Montplaisir said.

Craig Whitney, president and CEO of the Fargo Moorhead West Fargo Chamber of Commerce, could not be reached for comment.

Helmut Schmidt

Helmut Schmidt was born in Germany, but grew up in the Twin Cities area, graduating from Park High School of Cottage Grove. After serving a tour in the U.S. Army, he attended the University of St. Thomas in St Paul, Minn., graduating in 1984 with a degree in journalism. He then worked at the Albert Lea (Minn.) Tribune and served as managing editor there for three years. He joined The Forum in October 1989, working as a copy editor until 2000. Since then, he has worked as a reporter on several beats, including education, Fargo city government, business and military affairs. He is currently The Forum's K-12 education reporter.

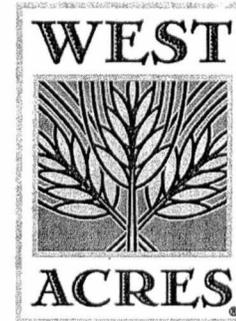
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Chairman Dwight Cook
Senate Finance and Taxation Committee

Draft of Testimony on SB 2223, January 28, 2015

Mr. Chairman, members of the committee; my name is Chris Heaton, Senior Vice President of Property Management for West Acres Development, LLP, the owners of West Acres Regional Shopping Center in Fargo, North Dakota.

I am writing today that this letter may be included as testimony in support of Senator Sinner's bill proposing a sales tax exemption on clothing. We are here to provide our customers with a top tier, local venue to procure goods and services, and we exist because of their patronage. We are not the ones who pay the sales tax or benefit from it, we are only the collectors. It must be understood that in today's evolving marketplace, customers have many choices of where and how to shop. Physical retail locations offer customers a tactile experience where they can see, touch, and try on clothing before purchase. Online retailers offer the convenience of shopping from home. Some states charge a sales tax while others do not. Our location in Fargo, neighboring with Minnesota, presents an easy option for our customers to shop without paying sales tax on clothing. All of these factors contribute to a wide variety of options for today's customer. As North Dakota's largest retail landlord, we face challenges from both cyberspace and across the river.

The merger of traditional and online retail is inevitable, and we embrace the opportunity it presents. Online shopping, however, has a distinct advantage over traditional brick-and-mortar retail. A sale should be a sale regardless of where you make the purchase, but when online retailers fail to collect state sales tax it places physical retail locations at a distinct price disadvantage. According to a 2011 study from the University of Tennessee, *each \$1 million of new retail sales in traditional brick-and-mortar establishments adds 3.61 jobs. The same \$1 million in new sales at Amazon's average is expected to create 0.88 jobs. One out of every 11 U.S. jobs is shopping center related, and for every 100 individuals directly employed at regional shopping centers, an additional 20-30 are supported in the community due to multiplier effects.** Simply put, physical retail creates jobs and those jobs pay salaries that employ community residents working in ancillary professions. If cyber-retailers continue to grow and the rules are not the same as those for traditional retailers, jobs will be lost.

*<http://www.efairness.org/>

Here in Fargo we also compete with the state of Minnesota due to our location. Surveys we have commissioned over the years consistently show that our Minnesota, and specifically Moorhead customer base is underrepresented. Those citizens have an incentive to shop in Minnesota because they are not charged sales tax. History has shown that strong retail has so far decided to locate to the North Dakota side of the river, but to rely on that as a long-term business model is risky. A continued discrepancy between our neighboring states will ultimately drive quality retail to Minnesota at the cost of jobs for our citizens, and North Dakota will pay the price in many ways including lost revenue from income and property taxes.

I believe that it is time to level the playing field, support local business, and benefit the hard-working consumer by passing SB 2223.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Chris Heaton", with a long horizontal line extending to the right.

Chris Heaton

*Senior Vice President, Property Management
West Acres Development*

Email: ChrisHeaton@westacres.com

Call: 701-282-2222

Click: westacres.com, [Facebook](#)

From: Straus Clothing [mailto:info@strausclothing.com]
Sent: Tuesday, January 27, 2015 3:51 PM
To: 'Sinner, George B.'
Subject: RE: Sales Tax on Clothing

1.15
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I would like to go on record in support for removing the ND sales tax on clothing.

It comes down to fairness to retailers, and equity for all consumers.

Retailers like us, who sell clothing, are at a marked disadvantage relative to MN retailers and internet and catalog retailers. We can usually match the prices charged on the internet or by clothing retailers across the river in Moorhead, but we have to charge the 7.5% sales tax, which is quite a bit. Think of how people will drive 5 miles to save 5 cents on a gallon of gas. When gas was \$3.50 a gallon, that was a savings of about than 1 ½%! The sales tax on clothing makes us uncompetitive when it comes to price, relative to Moorhead retailers and the internet. And when a retailer is not competitive on price, that retailer is going to have serious problems growing the business. The fair thing would be for either everyone to charge sales tax, or for nobody to charge sales tax. The North Dakota Legislature can't force other states or the internet to charge sale tax on clothing at this point. But they can remove the tax so that ND clothing retailers are competing on an equal basis with those retailers outside our state.

We all know that sales tax is a regressive tax. Everyone pays it at the same rate, no matter how much money you have. The past 2-3 legislative sessions have been kind to folks who own property in ND and folks that have taxable income, but not so kind to those who have neither. We have been encouraged to think of the operation of the state as supported by the 3-legged stool of taxation: income tax, property tax, and sales tax. We have cut the first 2 significantly, but not touched the 3rd. I seriously doubt that the property tax savings of apartment building owners has been passed on to the tenants of the benefiting property. To be equitable, a cut to sales tax should accompany the cuts to the other taxes. The tax savings to the consumer would no doubt be spent in the marketplace, boosting income for businesses, and adding to the income taxes paid. It could even end up being a push as far as taxes collected by the state, shifting sales taxes to income taxes.

I hope the committee will take a serious look at the fairness and equity issues, and recommend a "Do Pass" on this bill.

Sincerely,

John Stern
Owner
Straus Clothing
Fargo ND

Straus Clothing a.k.a
3223 13th Ave S
Fargo, ND 58103

#2.1



1025 NORTH 3RD STREET • P.O. BOX 1956
BISMARCK, ND 58502 • 701-223-3370
WWW.NDRETAIL.ORG
FAX: 701-223-5004

Testimony SB 2223

January 28, 2015 – Senate Finance and Tax

Chairman Cook and members of the Committee:

For the record, my name is Mike Rud. I'm the President of the North Dakota Retail Association. On behalf of our association's 400 members many of which you might frequent, I'm here urging a **"DO PASS" on SB 2223.**

NDRA believes SB 2223 is sound legislation. It would come at a time when the Great State of North Dakota is seeing an economy that remains strong despite the downturn in oil prices. This is a bill with the potential to provide tangible financial relief to every citizen in North Dakota. NDRA believes the repeal of state taxes on all clothing items will only enhance the State's business climate.

NDRA looks at the exemption from this angle. This type of tax relief never leaves the pockets of the general public. This is income the average citizen would still have at their disposal. Let's say 40% or roughly 20 million dollars of this money is then used to make additional purchases within the state. National figures show this money turns over an average of 5 times in a normal economy. If that happens in North Dakota that would be a 100 million dollar boost to the state's business sector, only serving to strengthen state coffers.

2.2
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In addition, this repeal would come at a time when many brick and mortar stores are at a severe disadvantage to internet sales companies selling products tax free. Over the last five years, we have seen internet sales grow by double digits every year during the Christmas Shopping season. This tactic is harming many main street businesses that collect and pay taxes and employ ND citizens. If nothing else passage of SB 2223 would even the playing field a bit in terms of product price points until Congress finally acts on the Main Street Act.

Passage of SB 2223 might even open the state borders to more shoppers boosting not only clothing sales, but sales in nearly every other sector of the business community.

Passage of this bill will have immediate positive impacts on our economy. This is money consumers and business owners alike could immediately notice in their pockets. When consumer confidence is high, consumer spending follows suit. SB 2223 sends that message.

I urge you to vote "YES" on SB 2223. Thank you for your time and consideration.