

**2011 HOUSE POLITICAL SUBDIVISIONS**

**HB 1439**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1439  
January 27, 2011  
Job #13553

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to elimination of the sales and use tax exemption for purchases by states, including the state of North Dakota; and to provide an effective date.

### Minutes

Chairman Johnson: Opened the hearing on HB 1439.

Rep. Dosch: I am here in support of HB 1439. This bill eliminates the sales tax exemption for state agencies or institutions. The purpose of this is to put things on an even keel. State government does not pay property taxes; which shifts the burden to the ones that do. When you look at sales tax it is the same thing. If I go to a store and buy a new calculator or chair; the private sector pays sales tax on it; whereas the government doesn't. Some of the money from the sales tax goes to the communities; some to the convention and visitors bureau who helps promote their communities and some goes back to the state as well. We need to treat government like anyone else in the private sector. That is the purpose behind the bill.

Rep. Kretschmar: Wouldn't this be like taking money out of their left hand pocket and putting it in their right hand pocket. The state would have to pay sales tax and they would get it back?

Rep. Dosch: That is one way to look at it. There are other things that are collected with the sales tax that does effect that community in which that purchase is made. That is the primary purpose of this and the other purpose is to really streamline the collection of our sales tax. For example in the lodging industry someone from Minot State comes down and they want to rent a room. From the lodging industry and how our laws are set for this tax exemption that room would typically be tax exempt. It is only tax exempt if that person direct bills it to the university. If that person checks out and pays cash for this room; then the hotel according to state law, has to collect taxes on that bill. If they come down and have a check from the university; then that room is tax exempt. How you are paying for the room determines if it is tax exempt or we don't have to collect the tax. If the clerk misses it when they are checking out and they pay cash and leave; at the end of the month when I do my sales tax reports, I saw we should have collect sales tax on it since they paid with cash rather than direct billing it or rather than a check so all the sudden the burden falls back on the lodging owner to chase after that person and collect or we end up paying the

tax our own pocket. Some people come down and say they are tax exempt because they are with this or that organization and then it is up to the front desk clerk to say; are you really here with that organization? It puts us in an owner position so let's have everyone pay the tax. Rep. Kretschmar you are right; when we go through the legislative process and fund these agencies they get the money back anyway so basically it simplifies the collection process.

Rep. Klemin: Would the city sales tax apply to the state under this bill?

Rep. Dosch: Yes it would. Either you are exempt or you are not exempt.

Opposition: None

Neutral: None

Hearing closed.

Discussion:

Rep. Klemin: I think this would create an interesting issue whereby the state would have to pay city sales tax. I don't think the state should be paying city sales tax unless the city pays state sales tax.

Rep. Hatelstad: If I come to Bismarck and rent a room and pay with my own credit card they charge all the taxes and I submit the bill to the state and they pay it, including the taxes so I don't know where we are with this.

Rep. Kilichowski: The problem I can see is anybody that has a state card can go to any town and say I am here on state business and pay with cash; avoid the sales tax and just go right back home. Isn't this very possible?

Rep. Shirley Meyer: Basically you have to prove that with a government ID so you are just out of luck. They won't accept just your word on this.

Rep. Kilichowski: If I have my card with me and am traveling in the state on vacation, I can check into a motel and show them my card and say I am here on state business and spend two days and pay with cash and walk away and not pay any tax at all.

Chairman Johnson: Your saying this is a good idea that everybody pay the taxes whether you show the state card or not?

Rep. Kilichowski: If they are here on official business most of it is direct billed now; right?

Chairman Johnson: Not necessarily.

Rep. Klemin: The problem with this bill overreached with the problem Rep. Dosch is trying to solve and so if the state of ND goes and gets supplies they have to pay state sales tax and that has nothing to do with the room tax that Rep. Dosch is concerned about and if that

is the problem, then I don't think this is the way to resolve it because it is far too broad. It covers everything that is subject to sales tax.

Rep. Heilman: Just for clarification the issue that was explained before when a state person can go show their card and if they pay cash they don't pay the tax. Isn't that the current law?

Chairman Johnson: that is not what he said.

Rep. Hatelstad: Unless it is direct billed to a state agency you have to pay the taxes even if you pay cash. If it is not direct billed you pay the tax.

Rep. Klemin: I think that is right when I have traveled. Then I bill it back to the state and they reimburse me for the tax I paid.

Do Not Pass Made By Rep.Devlin: Seconded by Rep. Beadle

Vote: 13 Yes 0 No 1 Absent Carrier: Rep. Kilichowski

Hearing closed.

## FISCAL NOTE

Requested by Legislative Council  
01/19/2011

Bill/Resolution No.: HB 1439

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						
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

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 1439 removes the sales tax exemption for items purchased by any state.

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.*

We are unable to estimate the fiscal impact of this bill.

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:	01/26/2011

Date: 1-27-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1439

House Political Subdivisions 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. Berlin Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Kilichowski

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

**REPORT OF STANDING COMMITTEE**

**HB 1439: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1439 was placed on the Eleventh order on the calendar.