

2011 SENATE FINANCE AND TAXATION

SB 2333

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2333  
2/1/2011  
Job Number 13751

Conference Committee



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

Relating to sales and use tax exemption for clothing

## Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on SB 2333.

**Senator Taylor** – This is the bill that would exempt clothing from sales tax in North Dakota. Clothing is a necessity, we exempt other necessities in the sales tax code, like groceries and clothing would certainly be a necessity today. You will see that it does not include things like jewelry and fur coats. In the first section you will see something that maybe hasn't been in some of these proposals in the past and that is an appropriation of \$9.5 million to keep the cities whole. As we exempt things from the state sales tax code, we know that it does affect our cities. While they say this would be a \$38 million fiscal affect to the state of North Dakota, when we exempt clothes from our 5%, it would have a \$9.5 million affect on the cities who also charge sales tax on clothes with their city sales tax. So in an effort to not cause then harm in this effort, I included a \$9.5 million appropriation for the cities. That is for the biennium. I guess if a person was concerned to some extent about the ongoing nature of this, as we look at tax relief, it certainly could be sunsetted. If the hold harmless for the cities is for the biennium, maybe the exemption could be a one biennium exemption as well while we look for advantages it might create for us. We are going to have choices in tax relief in this session as you know with North Dakota's positive fiscal situation there are a number of tax relief bills that are coming before us as a body. I think this is one that ought to rank up fairly high. This is something that all North Dakotan's need and use. This is something that is family friendly for the parents out there that need to get a new coat for their kids, and need to put the little one in diapers, and take care of those basic needs of their family, this will put some dollars in their pocket. If you add the \$38 million to the \$9.5 million you are looking at some \$47.5 million. We have other options I'm sure in other bills that could spend that kind of money in tax relief. I know we are all committed to property tax relief and I think we will see that come through. I'd put this ahead of tax relief for the oil companies in terms of an oil tax decrease. I'd maybe put this ahead of corporate income tax relief. I'd maybe put this ahead of even personal income tax bills that might be out there in terms of targeting dollars to the folks that could really use it in the state if North Dakota. It does affect a lot of people while getting an advantage I think especially in the valley where they do border a state that does exempt clothing from sales tax in Minnesota. Some might

say Minnesota's fiscal situation may cause that to change, but as it is right now there is a motivation for folks to cross the river and go buy clothes in Moorhead and Breckenridge. So this might put them in a better competitive advantage and if Minnesota was to step away from their exemption, then we would be in a very good spot to bring that business across to our side of the river. I would ask that you look at this bill favorably; I think it is a good bill in terms of the tax relief bills that we are going to see in this session. I know there was a bill that was looking at a holiday of just 3 days and one of the comments I read in the paper was that people expect the relief to go 365 days a year, not just 3 days. This is a bill that will do that for you.

**Chairman Cook** – Do you have any research to determine the amount of sales tax on clothing that the city of Fargo collects compared to the city of Moorhead?

**Senator Taylor** – I have not. I don't know if we could find that number somewhere, we could certainly look. On the \$9.5 million I think Legislative Council just looked at that as a percentage of what would be in clothing and then to get that distributed back out to the cities. Obviously Fargo and Grand Forks would get a good share of that, but as it compares to Moorhead, I don't have that answer.

**Chairman Cook** – I ask the question because my wife likes to shop in Fargo. When I drop her off at the front door and find a parking spot at the malls there I sure see a lot of Minnesota license plates that are coming across from Moorhead. I have family in Moorhead, and they buy all their clothes in Fargo. In a way here what we are doing is giving a tax break to the residents of Minnesota who shop in Fargo. Correct?

**Senator Taylor** – That would probably hold true that when people come back across this side they are not going to pay the sales tax. I think the communities would likely see some auxiliary business. I'd assume they are going to buy a lot of other taxable items while they are here and maybe even eat in a restaurant.

**Chairman Cook** – I think one could argue that they are here already; but, maybe not.

**Chairman Cook** asked for further testimony in favor of SB 2333. No one came forward.

**Chairman Cook** asked for testimony opposed to SB 2333.

**Jerry Hjelmstad, North Dakota League of Cities** – (see attached testimony A opposed to SB 2333)

**Senator Triplett** – If we took your suggestion in the last paragraph and adjusted the state sales tax rate, don't you suppose we'd probably commensurately reduce the state aid distribution percentage at the same time?

**Jerry Hjelmstad, North Dakota League of Cities** – No, the way the State Aid Distribution Fund is set up, it's the 4/10 of the first cent collected so it would not impact the State Aid Distribution Fund.

**Senator Triplett** – I understand that, but don't you think the legislature has the ability to alter the State Aid Distribution Fund, and if we dropped the tax by, say, a full percent or whatever, don't you suppose there would be some temptation here that we would also drop the state aid distribution by some proportionate amount?

**Jerry Hjelmstad, North Dakota League of Cities** – I would hope not.

**John Olson, City of Fargo** – (see attached testimony B opposed to SB 2333)

**Chairman Cook** asked for neutral testimony on SB 2333.

**Chairman Cook** asked Myles Vosberg to come forward to answer questions.

**Chairman Cook** – Total fiscal impact, \$47.5 million?

**Myles Vosberg, Tax Department** – Total impact is \$38 million for the state, and then the estimated \$9.5 for the locals.

No further action was taken.

**Chairman Cook** closed the hearing on SB 2333.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2333  
2/1/2011  
Job Number 13870

Conference Committee

*A. R. Miller*

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

Relating to sales and use tax exemption for clothing

## Minutes:

Committee Work

**Senator Dotzenrod** – We had this bill in the last session and we took it to the floor with a do not pass and it was killed in the Senate as I recall last time. If I remember right, one of our big problems with the bonds, that the cities had used these revenues to issue bonds and they needed the money to guarantee and back up those bonds. We had quite a bit of 'no' testimony. I think 2 years ago it was pretty overwhelming. I think Senator Taylor put some money in here to offset that, and I think those people that count on that money are a little nervous about that. They seem like, you can put an appropriation on it now, that covers us for 1 biennium but we don't have any guarantee for anything after that. Senator Taylor did try to solve that problem from 2 years ago, but I think still, people that were against it 2 years ago, are still against it.

**Chairman Cook** – I've got a daughter and 4 granddaughters in Moorhead where clothing is not taxed and I know where they do all their shopping.

**Senator Triplett** said that it's easy for the cities to have 1 person come in and represent the entire city government but for ordinary citizens they may not be able to take time off from work, and just because ordinary citizens don't come out to testify doesn't mean they don't care. Also maybe people come from Moorhead to Fargo to shop because there are more places and better options for shopping in Fargo.

**Vice Chairman Miller** – I want to say that this bill, while well intentioned, doesn't accomplish anything to necessarily address the poor in that aspect. Yes, it eliminates tax on clothing, but the thrift store bill we addressed, that was targeted toward the lower end of our economic spectrum in our society and I think that was a good thing. This is new clothing, this is something that yes is a basic need, but do you basically need new clothes? No, you could walk around in a bed sheet if you want to. I look at it as, what is good to grow our economy, what is good to grow business, and I don't really see this as that engine. I don't think this is something that is going to better our society. This is just something that would be nice.

**Chairman Cook** – We have a motion for a Do Not Pass on SB 2333. Ask the clerk to take the roll. (5-2-0)

Carried by **Senator Oehlke**.

# FISCAL NOTE

Requested by Legislative Council  
01/26/2011

Bill/Resolution No.: SB 2333

**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
<b>Revenues</b>			(\$34,960,000)	(\$3,040,000)		
<b>Expenditures</b>						
<b>Appropriations</b>			\$9,500,000			

**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
			\$0	\$0				

**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).*

SB 2333 creates a sales and use 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 2333 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$38 million in the 2011-13 biennium.

Cities and counties that impose local sales taxes would also be required to eliminate the sales tax on clothing. This is expected to reduce local sales tax revenue by an estimated \$9.5 million in the 2011-13 biennium. Section 2 of SB 2333 appropriates \$9.5 million from the state general fund to be allocated among these cities and counties; therefore, the net impact for cities and counties is estimated to be zero.

**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.*

Section 2 of SB 2333 appropriates \$9.5 million from the state general fund to the tax commissioner for allocation to

cities and counties.

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/31/2011

Date: 2-2-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2333

Senate 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 Senator Hogue Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod		X
Joe Miller - Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Oehlke

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

**REPORT OF STANDING COMMITTEE**

**SB 2333: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2333 was placed on the Eleventh order on the calendar.**

2011 TESTIMONY

SB 2333

**To: Senate Finance and Taxation Committee**  
**From: Jerry Hjelmstad, North Dakota League of Cities**  
**Date: February 1, 2011**  
**Re: Senate Bill 2333**

125 North Dakota cities and 3 counties have a local sales tax.

SB 2333 would impact local revenues because local sales tax is required to follow the taxable status of items under state sales tax laws.

While the state may have a surplus of revenues, the great majority of local governments do not.

This bill would replace a continuing source of local revenue with a 2 year appropriation that may or may not continue.

The bill provides for an appropriation of \$9.5 million “or so much of the sum as may be necessary”. How is an amount of what is not collected on clothing sales to be determined?

With the wide availability of discount clothes, there is no compelling reason to narrow the state sales tax base and thereby reduce the amount available for distribution to cities, counties, townships and park districts under the state aid distribution fund (4/10 of the first cent of sales tax collected).

Sales tax is one way for local government to finance local services and projects, including bonded projects, without putting a greater burden on property taxes.

If adjustments are to be made in the state sales tax, perhaps the state sales tax rate could be adjusted rather than narrowing the sales tax base so that local revenues would not be reduced.

We ask for a “do not pass” on Senate Bill 2333.

**Senate Finance & Taxation Committee Hearing  
Honorable Senator Dwight Cook, Chair**

**City of Fargo Legislative Testimony – Senate Bill 2333  
February 1, 2011**

**8:30 a.m.**

Honorable Chairman Cook and members of the Senate Finance and Taxation Committee thank you for allowing us an opportunity to provide testimony on SB 2333.

The City of Fargo is opposed to the provision of this bill because it has a direct financial impact on local revenues derived from sales taxes collected on clothing sales. Our locally approved sales tax resources are dedicated to flood control and other infrastructure projects including street construction and utility infrastructure. We rely on sustained collections of this resource as approved by the voters and continue to use them to improve our community.

As one of several regional economic centers in the State of North Dakota, Fargo’s retail business is large and continues to draw people from a large geographic region from not only North Dakota but also from Minnesota, South Dakota, and Canada. Exempting clothing from sales taxation would have a direct and negative impact upon our locally generated resources.

While we appreciate the intent to restore locally generated sales tax collections impacted by the clothing exemption with a budget appropriation of \$9.5 million per year, we do not support any action that delays or reduces sales tax collections to our City. Fargo voters approved sales tax authorizations which have been used as the sole source of repayment for Sales Tax Revenue Bonds sold for infrastructure projects. As of this date we have \$88,000,000 in Sales Tax Revenue Bonds outstanding for which sales tax revenues have been pledged to make scheduled debt principal and interest payments twice per year. These are long term financial obligations already on the books which require as much sales tax as necessary to continue payments into the future. Although we have agreed by contract to follow the tax exemption rules as adopted by the State of North Dakota for our local sales tax collections we feel that the process outlined in this bill is a step backward in the revenue collection process.

We urge you to support a DO NOT PASS recommendation on this bill to preserve longstanding sales tax collection methods, protect the integrity of City’s bonding ability and the resources needed to pay our obligations.

Thank you for allowing this testimony.