

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2223

Introduced by

Senators Sinner, Casper

Representatives P. Anderson, Oversen, Schneider, Wallman

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota  
2 Century Code, relating to a sales and use tax exemption for clothing; to provide a statement of  
3 legislative intent; to provide an appropriation; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Sales tax exemption for clothing - Allocation of replacement revenue to cities and**  
8 **counties.**

- 9 1. Gross receipts from sales of clothing are exempt from taxes imposed under this  
10 chapter. The commissioner shall make annual allocations of funds provided by  
11 legislative appropriations among cities and counties imposing sales taxes to offset the  
12 lost city and county sales tax revenue from this exemption. The commissioner shall  
13 make an annual payment to cities and counties prorated in proportion to the respective  
14 shares of each city and county in respect to total annual statewide city and county  
15 home rule sales tax collections.
- 16 2. For purposes of this section, "clothing" means all human wearing apparel suitable for  
17 general use.
- 18 3. For purposes of this section, "clothing" includes:
- 19 a. Aprons, household and shop;
- 20 b. Athletic supporters;
- 21 c. Baby receiving blankets;
- 22 d. Bathing suits and caps;
- 23 e. Beach capes and coats;
- 24 f. Belts and suspenders;

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- 1           g. Boots;
- 2           h. Coats and jackets;
- 3           i. Costumes;
- 4           j. Diapers, children and adult, including disposable diapers;
- 5           k. Ear muffs;
- 6           l. Footlets;
- 7           m. Formal wear;
- 8           n. Garters and garter belts;
- 9           o. Girdles;
- 10          p. Gloves and mittens for general use;
- 11          q. Hats and caps;
- 12          r. Hosiery;
- 13          s. Insoles for shoes;
- 14          t. Laboratory coats;
- 15          u. Neckties;
- 16          v. Overshoes;
- 17          w. Pantyhose;
- 18          x. Rainwear;
- 19          y. Rubber pants;
- 20          z. Sandals;
- 21          aa. Scarves;
- 22          bb. Shoes and shoelaces;
- 23          cc. Slippers;
- 24          dd. Sneakers;
- 25          ee. Socks and stockings;
- 26          ff. Steel-toed shoes;
- 27          gg. Underwear;
- 28          hh. Uniforms, athletic and nonathletic; and
- 29            ii. Wedding apparel.
- 30          4. For purposes of this section, "clothing" does not include:
- 31            a. Belt buckles sold separately;

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- 1           b. Clothing accessories or equipment;
- 2           c. Costume masks sold separately;
- 3           d. Fur clothing;
- 4           e. Patches and emblems sold separately;
- 5           f. Protective equipment;
- 6           g. Sewing equipment and supplies, including knitting needles, patterns, pins,
- 7                 scissors, sewing machines, sewing needles, tape measures, and thimbles;
- 8           h. Sewing materials that become part of clothing, including buttons, fabric, lace,
- 9                 thread, yarn, and zippers; and
- 10          i. Sport or recreational equipment.
- 11         5. For purposes of this section, "clothing accessories or equipment" means incidental
- 12           items worn on the person or in conjunction with clothing. The term includes:
- 13           a. Briefcases;
- 14           b. Cosmetics;
- 15           c. Hair notions, including barrettes, hair bows, and hairnets;
- 16           d. Handbags;
- 17           e. Handkerchiefs;
- 18           f. Jewelry;
- 19           g. Sunglasses, nonprescription;
- 20           h. Umbrellas;
- 21           i. Wallets;
- 22           j. Watches; and
- 23           k. Wigs and hairpieces.
- 24         6. For purposes of this section, "fur clothing" means clothing that is required to be
- 25           labeled as a fur product under the federal Fur Products Labeling Act [15 U.S.C. 69],
- 26           and the value of the fur components in the product is more than three times the value
- 27           of the next most valuable tangible component. For purposes of this subsection, "fur"
- 28           means any full or partial animal skin with hair, fleece, or fur fibers attached, either in its
- 29           raw or processed state, but does not include skins that have been converted into
- 30           leather or suede or, which in processing, the hair, fleece, or fur fiber has been
- 31           completely removed.

1       7. For purposes of this section, "protective equipment" means items for human wear and  
2       designed as protection of the wearer against injury or disease or as protection against  
3       damage or injury of other persons or property which are not suitable for general use.

4       The term includes:

- 5       a. Breathing masks;
- 6       b. Clean room apparel and equipment;
- 7       c. Ear and hearing protectors;
- 8       d. Face shields;
- 9       e. Hardhats;
- 10      f. Helmets;
- 11      g. Paint or dust respirators;
- 12      h. Protective gloves;
- 13      i. Safety glasses and goggles;
- 14      j. Safety belts;
- 15      k. Tool belts; and
- 16      l. Welder's gloves and masks.

17      8. For purposes of this section, "sport or recreational equipment" means items designed  
18      for human use and worn in conjunction with an athletic or recreational activity which  
19      are not suitable for general use. The term includes:

- 20      a. Ballet and tap shoes;
- 21      b. Cleated or spiked athletic shoes;
- 22      c. Gloves, including baseball, bowling, boxing, hockey, and golf;
- 23      d. Goggles;
- 24      e. Hand and elbow guards;
- 25      f. Life preservers and lifevests;
- 26      g. Mouth guards;
- 27      h. Roller and ice skates;
- 28      i. Shinguards;
- 29      j. Shoulder pads;
- 30      k. Ski boots;
- 31      l. Waders; and

1            m. Wetsuits and fins.

2            **SECTION 2. APPROPRIATION - LEGISLATIVE INTENT.** There is appropriated out of any  
3 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
4 \$14,000,000, or so much of the sum as may be necessary, to the tax commissioner for the  
5 purpose of allocation to cities and counties under section 1 of this Act. Two-thirds of the amount  
6 appropriated shall be allocated in two equal annual installments to cities and counties for the  
7 biennium beginning July 1, 2015, and ending June 30, 2017. It is the intent of the sixty-fourth  
8 legislative assembly that the remaining one-third of the amount appropriated will be  
9 appropriated by the sixty-fifth legislative assembly for allocation to cities and counties for the  
10 biennium beginning July 1, 2017, and ending June 30, 2019.

11            **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
12 June 30, 2015.