

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1201

2001 HOUSE FINANCE AND TAXATION

HB 1201

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1201

House Finance and Taxation Committee

Conference Committee

Hearing Date January 30, 2001

Tape Number	Side A	Side B	Meter #
1	X		5,345
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. DAVID DROVDAL, VICE-CHAIRMAN, Opened the hearing and read the fiscal note.

REP. AL CARLSON, DIST. 41, Introduced the bill as the prime sponsor. He stated after talking to several friends who are involved in leasing, it was brought to his attention that there are some inequities in the leasing of motor vehicles. This bill changes the method of taxation of leased vehicles in North Dakota. Under the current system, an individual leasing a motor vehicle in this state, is required to pay an up front motor vehicle excise tax on the full capitalized cost of the motor vehicle. If the vehicle is twenty five thousand dollars and you are leasing it for a two year time frame, you are going to pay on that full twenty five thousand dollars. This full tax is paid even though the lessee only utilizes a portion of the vehicle's value during the term of the lease. This bill calculates the lessee's motor vehicle excise tax, it calculates the excise tax on the total of the monthly leased payments, rather than on the full capitalized cost of the motor vehicle.

If you have monthly payments of four hundred dollars and you are leasing it for twenty four months, you would be paying the tax on the total of those twenty four months times the four hundred dollars instead of on the full value of the vehicle. This benefits the customer and reduces their up front tax obligation. The question of the cost will come up in the rest of the testimony.

GARY ANDERSON, DIRECTOR OF SALES AND SPECIAL TAXES, STATE TAX DEPARTMENT, Appeared to explain the bill. He explained each section of the bill.

REP. DROVDAL Under this law, in section 3, if I lease a vehicle for three years, I would pay five percent of the amount I will pay for the lease, and at the end of that three years, and I want to continue to keep that vehicle and purchase it from them, then I would pay five percent of the purchase price?

GARY ANDERSON, That is correct.

REP. WINRICH There was an illusion, or advantage to staying with the same dealer, explain how that works.

GARY ANDERSON Under the current motor vehicle excise tax law, in dealing with leases for many years, it appears the law was not really written with leases in mind. There hasn't been any changes to address this issue, so what happens because of the up front tax issue. the law indicates that a new car dealer, is able to lease a vehicle of their franchise. What happens currently, if a customer brings the same vehicle back to the same dealer and lease another vehicle of the same kind, under the replacement law, they are able to use that as a trade-in credit, and the dealer will pass that credit unto the lessee in computing the taxable value. If that customer moves to a different dealership, they lose that, Replacement credit only applies to that same dealer. There

has been legislation in the past that looked at that, but the fiscal impact of that always created a problem.

REP. WINRICH This change in the basis of taxation would essentially, eliminate that?

GARY ANDERSON The customer is only obligated to pay tax up front on that term of the lease, if at the end of the three year term, he wishes to move elsewhere, he will just pay tax on what his lease term is. He doesn't invest the full amount of the tax in the full value of the vehicle, he just pays a portion of that vehicle.

REP. KELSH If an individual leases a vehicle in South Dakota, and pays the sales tax in South Dakota, and moves to North Dakota and relicense the vehicle, what kind of a tax would they be responsible for?

GARY ANDERSON At the present time, law allows reciprocity of credit, if they pay a five percent or higher tax rate in South Dakota or any other state, then moved the vehicle to North Dakota, generally, they are going to be given credit or an allowance for the credit up to five percent. If they pay five percent or greater, there is no tax. The law actually is interpreted, if you held a vehicle more than thirty days, and paid a tax, there won't be a tax obligation here. The problem happens when people buy their vehicles within a thirty day window and then bring them to North Dakota, there could be a problem with the tax obligation.

REP. KELSH If this bill is passed, then how would it play out?

GARY ANDERSON Based on the application of the language in section 2, subsection 2, which basically says, there still is credit being provided for those out of state individuals leasing vehicles.

REP. HERBEL Is this a similar law in other states?

GARY ANDERSON The application is taxed differently in other states. I believe Minnesota taxes lease payments, not the whole amount. This concept is similar to the state of New York. There are a variety of tax applications. Some tax up front, some on lease payments.

REP. RENNER How many vehicles are leased in the state?

GARY ANDERSON We do try to work with the automobile industry and the leasing industry, it is estimated there are fifty three hundred vehicles leased in North Dakota at this point.

REP. RENNER With that many vehicles, is that all the amount of the fiscal note would be?

GARY ANDERSON The impact of the current tax law to carry it to this application, is a minimum effect. The initial effect is created by the fact that we have an existing fleet of leased vehicles out there, that would have had tax paid up front. Many of those vehicles would be continuing on for maybe one to three years.

REP. DROYDAL If somebody has already paid the tax under current law, then down the road their lease comes up and they purchase the vehicle, are they going to have to pay the tax again?

GARY ANDERSON No, because section 3 of the bill, will provide the exemption. If you paid taxes up front, prior to the activation of the law, your buy out will still be tax free.

REP. RENNER On new farm equipment, are the payments taxed?

GARY ANDERSON Under North Dakota sales tax law, it actually provides an option. The law indicates that, generally, the sales tax will apply on the rental receipt. There is a provision in there that says, if the lessor paid tax up front, there is no tax on the payment.

RICK CLAYBURGH, STATE TAX COMMISSIONER Testified in support of the bill. He stated he just finished testifying on SB 2351 which addresses this same issue from a different perspective, dealing with the inequity of taxpayers. We have been working with the automobile

association, which occurs in the state now. If you lease a vehicle for six months, and before the end of that lease period, you decide you want to lease a new vehicle, unless you go back to the dealer that the lease was through, the statute is clear that you do not get credit for that lease payment that you paid on the tax. The amount of the difference that you paid, is lost to that taxpayer if they go to another dealership. It is also a heartburn for the dealers. Either bill, from our standpoint, would be fair to all taxpayers. Right now we have bad policy.

CASEY STOUTT, FORD DEALER, JAMESTOWN, Testified in support of the bill. He stated the current method that the state uses to tax leased vehicles is unfair to the consumer, because the consumer is being taxed for the whole vehicle rather than the portion they use. It is somewhat inappropriate for the state to be at odds with the consumer in North Dakota. We would love to see the method where they are taxed on the monthly payment on a monthly basis. Fiscally, we understand that this bill would be the most logical for the state to implement. The state will benefit from this. Right now, when we pay on the full price of the vehicle, we pay for that on a wholesale basis, and on the price of the vehicle only. The reason the state will come out neutrally, is because the payment includes interest and the dealership's profit. This does allow the consumer to be independent of the dealer, they are not forced to come back to the same dealer every time.

One of our goals is to try to grow our population a little bit, and one of the blocks we have in that effort, is a consumer that moves to this state and has paid thirty two of their thirty six lease payments and has paid tax on all of them, when they come into North Dakota, their vehicle is assessed as to value, and they owe North Dakota a full tax on whatever that value has, even if

there is only two or three months left in their lease. There is a double taxation going because of that.

REP. GROSZ With the complicated financing that we have, is there any tax liabilities that would become confusing with this?

CASEY STOUTT I don't think that would happen. I think it would be clearer to the consumer, because they have a copy of the lease contract, even if they were paying three hundred dollars for the first twelve months and two hundred for the second twelve months, it would still be paid up front on the total of those twenty four payments. One of the reasons this has come about, is when leases were somewhat more traditional, and you paid all forty eight payments to me. As the car companies have begun to subsidize leasing, that is one of the things that has brought this about.

BOB LAMP, NORTH DAKOTA AUTOMOBILE DEALER'S ASSOCIATION, Testified in support of the bill. This consists of one hundred twenty franchise new car dealers in North Dakota, who support this bill.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-30-01 tape #2, Side B, Meter # 2700

REP. RENNER Made a motion for a **DO PASS**.

REP. KELSH Second the motion. **MOTION CARRIED**

14 YES 0 NO 1 ABSENT

REP. RENNER Was given the floor assignment.

FISCAL NOTE
 Requested by Legislative Council
 01/11/2001

Bill/Resolution No.: HB 1201

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$102,000)	(\$9,000)		
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1201 changes how motor vehicle excise tax is applied to leased vehicles. Instead of the tax applying to the purchase price net of trade-in allowance, HB 1201 applies the motor vehicle excise tax to lease payments at the origin of the lease.

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.*

If enacted, HB 1201 is expected to reduce state general fund revenues by \$102,000 during the 01-03 biennium.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	01/29/2001

Date: 1-30-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1201

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Renner Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	A		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 14 No 0

Absent _____

Floor Assignment Rep. Renner

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

REPORT OF STANDING COMMITTEE (410)
January 30, 2001 4:52 p.m.

Module No: HR-16-1965
Carrier: Renner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1201: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1201 was placed on the Eleventh order on the calendar.

2001 SENATE FINANCE AND TAXATION

HB 1201

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1201

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 3/6/01

Tape Number	Side A	Side B	Meter #
1		x	14.7-end
2	x		0-15.3
3/12/01 - 2	x		0-50.2
Committee Clerk Signature <i>Lyndell M. Knight</i>			

Minutes:

Senator Urlacher: Opened the hearing on HB 1201, relating to motor vehicle excise tax imposed on motor vehicle leases and to the definition of purchase price, exemptions from motor vehicle excise taxes, and administration of motor vehicle use taxes.

Representative Al Carlson: Co-sponsored the bill, testified in support. The bill deals with how you deal with the taxation of leases. In the past, you've had to pay on the total amount of the vehicle, when you lease. This bill switches it to the amount of the lease. As the bill was worked over, the fiscal note has gone down.

Rick Clayburgh: State Tax Commissioner, testified in support. What the change would be, is the tax would be applied at the beginning of the lease on the value of the lease, excluding what the residual value of the lease would be. It's an issue of fairness. It's an issue that the tax department worked with the Automobile Dealers Assoc. on over the interim. Representative Carlson introduced the bill on behalf of them. We are in full support of the bill.

Senator Stenebjerg: You think it's an issue of fairness that someone's kind of locked into one dealership?

Rick Clayburgh: I don't want to try to get into saying you're locking a person in. The issue deals with specifically, if I leased a vehicle from dealership A, and I at the end of the lease want to go to another dealership, unless I go back to the original dealership, I do not get credit for the dollars that I have already paid in tax for the remainder of the lease.

Senator Nichols: How do they determine how the excise tax is charged?

Rick Clayburgh: It's based upon the length of the lease and what the trade-out value is going to be.

Senator Christmann: What happens when you overrun your miles and have a big assessment due at the end?

Rick Clayburgh: The gentleman here can answer that.

Casey Stoudt: Ford Dealer in Jamestown, testified in support. The current method of taxing leases is unfair to the consumer, because the consumer is taxed for the portion of the vehicle he is not using. I think the state will benefit in the long run, because the excise tax as it is presented here, will be imposed on the total of the payments that the lease customer pays. It does allow the consumer to become independent of any particular car dealer on the choice of his next lessor. I would ask for support for this bill.

Senator Christmann: What's a common lease length?

Casey Stoudt: That has been changing. Usually 24 months or 36 months.

Senator Christmann and Mr. Stoudt discuss lease payments and taxes on a \$25,000 car.

Senator Christmann: What if they go over the mileage?

Casey Stoudt: There are two solutions to that. If it is that far over the miles, they are best off to purchase that car and there is not penalty. The alternative is to pay that penalty and there would be excise tax on that penalty.

Senator Stenehjem: Would there be excise tax on the buyout?

Casey Stoudt: Under this bill, yes. Under the old legislation, he would have already paid it.

Senator Christmann: What if it comes back with damage?

Casey Stoudt: The rules have become relatively liberal. Ford sends us a picture book of what's acceptable.

Senator Stenehjem: Can I trade in a car on a lease deal?

Casey Stoudt: Yes. The new law would deal with that somewhat indirectly. If you owned that car, it would lower the monthly lease payment.

Senator Stenehjem: Asks for some numbers from Mr. Stoudt. If we do this on a lease, then why shouldn't we allow someone who buys a brand new car?

Casey Stoudt: The individual is prepaying the tax in full ahead of time. As the owner of that vehicle, you are guaranteed of receiving the benefit of whatever that car is worth as a residual.

Senator Stenehjem: Series of questions for Mr. Stoudt. If I lease a vehicle and move out of state, does ND still receive the excise tax?

Casey Stoudt: Yes.

Senator Kroeplin: What's going to be the effect on the monthly payment?

Casey Stoudt: Modestly less.

Gary Anderson: State Tax Dept., testified in support. Explained the leasing tax system. We tried to find a mechanism where customers don't have to pay that huge amount of tax upfront.

This has a minimal revenue effect, it's \$102,000 for this biennium, our analysis shows that after that, it goes up slightly. Runs through each section.

Senator Christmann: How can it be such a small differential?

Gary Anderson: We did work with the automobile industry and we received information from major leasing companies to get a handle on how many leases are made in ND. There were approximately 5,300 new vehicles that are being leased in ND. The average lease length is 33 months. Average lease payment is about \$377 a month. Approximately 2,900 leases currently have trade-in credits. Average purchase price of a lease vehicle is \$22,500. That all figures out to the \$102,000. Right now ND's motor vehicle excise tax law is not conducive to leasing vehicles.

Bob Lamp: Auto Dealers Assoc. of ND, testified in support. We think this bill is in the consumers' interest. It's good for the consumer and it's good for the leasing industry.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held 3/12/01. Meter number 0-, Tape 2.

Bob Lamp: Appeared to present an example of lease numbers from Casey Stoudt and explain it. Handout attached.

Discussion was held over monthly payments, the benefit to the state, the credit transferring from one dealership to another, the fiscal note, and selling vehicles out of state.

Gary Anderson: Appeared to answer any questions and explain further.

COMMITTEE ACTION:

Motion made by Senator Wardner for a DO PASS & REREFFERED TO APPROPRIATIONS, Seconded by Senator Stenchjem. Vote was 4 yeas, 2 nays, 0 absent and not voting. Bill carrier was Senator Wardner.

Date: 3/12/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1001

Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS & Referred to Appropriations

Motion Made By Wardner Seconded By Stenehjem

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann		✓			
Senator Stenehjem	✓				
Senator Kroepelin	✓				
Senator Nichols		✓			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
March 13, 2001 10:40 a.m.

Module No: SR-43-5438
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1201: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1201 was rereferred to the Appropriations Committee.

2001 SENATE APPROPRIATIONS

HB 1201

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1201

Senate Appropriations Committee

Conference Committee

Hearing Date March 20, 2001

Tape Number	Side A	Side B	Meter #
Tape #1	x		0.0-16.3
Committee Clerk Signature <i>Janice Petek</i>			

Minutes:

Senator Nething opened the hearing on HB1201.

Representative Alan Carlson, District 41-Fargo, one of the two primary sponsors, gave an overview of HB1201; stressing the change would be on the portion used -- if one leases for 24 months, pay for 24 months.

Myles Vosberg, Compliance Supervisor for the Sales & Special Taxes Division, representing the North Dakota Office of State Tax Commissioner, testified in support of HB1201 (a copy of his written testimony is attached).

Bob Lamb, on behalf of the Auto Dealers Association of North Dakota, spoke in support of the bill. He indicated as leasing becomes more popular -- this is necessary and allows tax credit to follow lessee.

Senator Heitkamp: People such as yourself who look to do business in the state -- will this 3 or 4 years out be spending more dollars? More into the State treasury? Is this good for business?

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB1201

Hearing Date March 20, 2001

Bob Lamb: There's no simple answer -- not part of preparing the fiscal note; in the long run the consumer benefits when in/out of leases; pay on total value of lease payments; doesn't effect purchase price.

No additional testimony, for, against or neutral. Senator Nething closed the hearing.

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March 20, 2001 Full Committee Action (Tape #2, Side A, Meter No. 5.5-50.7 - 3 of 6)

Senator Nething reopened the hearing on HB1201.

Committee members reviewed the bill and testimony heard earlier in the day.

Senator Robinson moved DO PASS; seconded by Senator Holmberg. Roll call vote: 13 yes; 0 no; 1 absent and not voting. Floor assignment back to original committee, Senator Wardner

Date: 3-20-01

Roll Call Vote #: _____

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1201

Senate Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken As Pass

Motion Made By Senator Robinson Seconded By Senator Holmberg

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓	✓			
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist					

Total Yes 13 No 0

Absent 1

Floor Assignment Senator Ward

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

REPORT OF STANDING COMMITTEE (410)
March 20, 2001 12:39 p.m.

Module No: SR-48-6130
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1201: Appropriations Committee (Sen. Nething, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1201 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

HB 1201.



Ford — Lincoln — Mercury
 502 1st Ave. S. • Box 949
 Jamestown, N.D. 58402 • (701) 252-2270

Lease Example on a 2001 Ford Expedition

Current Taxation Method		Proposed Taxation Method	
List Price	41445		41445
Sale Price	35400		35400
Capitalized Cost	35400		35400
Residual Value	19000		19000
Lease Term	36		36

Monthly Pmt pretax 579

*Tax Calculation
 Sale Price 35400
 Taxable 35400 X 5%
 Tax (above) 1770

If vehicle purchased at end (no tax)
 Total received by state 1790

Tax Calculation
 Total of Payments pre tax $579 \times 36 = 20844$
 Taxable 20844
 Tax 1042

If vehicle purchased at end (5% tax x 19000)
 Total received by state 1992 (1042 + 950)

	U1R1 EXPEDITION E. BAUER 4X4	40400.00	
	2001 MODEL YEAR		
JL	DARK TOREADOR RED CLEARCOAT		
12	MED GRAPHITE CAPT CHAIR, LEATHR		
	EDDIE BAUER SERIES		
	RUNNING BOARDS, ILLUMINATED		
	TOW HOOKS (4X4)		
	TRAILER TOWING PACKAGE		
	FOG LAMPS		
	MIRRORS, POWER HEATED/SIGNAL		
	17" STYLED CHROME STEEL WHEEL		
	PREM ELEC AM/FM/STEREO/CASSET		
	FORD MACH AUDIO SYSTEM		
	CD CHANGER (6 DISC)		
	COMFORT/CONVENIENCE GROUP		
	THIRD ROW SEAT		
	PRIVACY GLASS		
99L	5.4L EFI V8 ENGINE		NC
44E	ELECTRONIC 4-SPD AUTO TRANS		NC
T5N	P265/70R-17 OWL ALL-TERRAIN		NC
XH9	3.55 RATIO LIMITED SLIP AXLE		NC
41H	ENGINE BLOCK HEATER	35.00	00
90H	HEATED FRONT SEATS	295.00	00
153	FRONT LICENSE PLATE BRACKET		NC
	TOTAL VEHICLE & OPTIONS	40730.00	00
	DESTINATION & DELIVERY	715.00	00

TOTAL FOR VEHICLE 41445.00



AUTOMOBILE DEALERS ASSOCIATION OF NORTH DAKOTA

1411 32nd ST SW • PO Box 2524 • Fargo ND 58108-2524 • (701) 293-6822 • FAX (701) 293-6824 • www.adand.com

SUMMARY SHEET **HOUSE BILL 1201**

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DON CHARBONNEAU
NADA Director
Bismarck
8170

- Consumer leasing of motor vehicles is a growing segment in the automotive industry.
- Approximately 5300 new vehicles were leased in North Dakota during the past year.
 1. The average lease length was 33 months.
 2. The average lease payment was \$377 per month.
 3. Approximately 2915 leases have trade-in credit applied.
 4. Average residual value was \$14,844.
- Current North Dakota tax policy requires the upfront payment of motor vehicle excise tax on the full capitalized cost of the leased motor vehicle (less trade credit where applicable).
- Consumers are taxed on the full value of the motor vehicle while using only a portion of its value.
- This bill changes the method of taxation on leased vehicles. The provisions of the bill are as follows:
 1. Lessee pays tax on the total of the monthly lease payments and upfront charges. As an example, if the monthly lease payments are \$300 for 36 months, the lessee will pay \$540 in motor vehicle excise tax ($\$300 \times 36 = \$10,800 \times 5\% = \$540$).
 2. At the end of the lease, there will be no tax credit for trade-in. The lessee is free to lease from any dealer or lease company.
 3. If the lessee purchases the motor vehicle at lease end, the additional motor vehicle excise tax on the residual value of the vehicle is due and payable by the lessee.
 4. The leased vehicle must be held in lease for a period of at least 12 months.

(Continued...)

5. These provisions apply only to vehicles with an actual vehicle weight of ten thousand pounds or less.
- The fiscal impact to the state of North Dakota is less than \$100,000 per year. Furthermore, there is potential for revenue enhancement if tax is assessed on such things as charges for excessive wear and tear and for lease vehicles bought out by the lessee at the end of the lease.

Robert L. Lamp
Automobile Dealers Association of North Dakota

1

**Testimony before the
Senate Appropriations Committee
House Bill 1201
Fiscal Note Analysis**

March 20, 2001

Presented by Myles Vosberg, Compliance Supervisor for the Sales & Special Taxes Division, representing the North Dakota Office of State Tax Commissioner.

Mr. Chairman and members of the Senate Appropriations Committee:

My name is Myles Vosberg and I am the sales tax compliance supervisor at the Office of State Tax Commissioner. I am here today representing the Tax Commissioner's Office on House Bill 1201. Our office was asked to complete the fiscal note that accompanies this bill.

Current motor vehicle excise tax law provides for the application of tax "upfront." By this, I mean that the tax is computed on the purchase price of a motor vehicle intended for lease and paid to the state at the time the motor vehicle is titled and registered with the Department of Transportation's Motor Vehicle Division. House Bill 1201 would replace this current application of tax on the purchase price of leased vehicles with an application of tax that is also applied "upfront" and payable when the motor vehicle is titled and licensed. However, the tax under House Bill 1201 would be based on the sum of the down payment, the total of the lease payments determined for the entire period of the lease, and any other consideration payable under the lease terms. The taxable base does not include registration fees, title fees, or insurance charges.

The fiscal note prepared by our office identifies a loss of \$102,000 to the General Fund and \$9,000 to the State Aid Distribution Fund during the 2001-2003 Biennium.

It is important to note that under current law, the amount of motor vehicle excise tax due on a leased vehicle can vary depending on whether the lease customer has a trade-in or not. And if a trade-in exists, the amount of tax depends on the value of the trade-in. An individual leasing a \$22,000 car today without a trade-in will pay \$1,100 upfront. If the individual provides a trade-in valued at \$12,000, the tax is \$500; if the trade-in is valued at \$3,000, the tax is \$950. Although the initial purchase price of a transaction may be the same for hundreds of potential lease customers, the amount of tax

that each of these customer will pay is dependent upon whether the lease customer has a trade-in and also on the value of the trade-in.

House Bill 1201 would instead provide for the application of tax based on the combined amount of the down payment, all the payments for the entire lease term, and any other consideration due under the lease. Under House Bill 1201, the tax remains due at the time the vehicle is titled and registered except for a lease renewal or consideration that cannot be determined until the end of the lease such as excess mileage charges. The taxable total of the lease payments will include finance charges. The lease payments will also include any portion of the trade-in allowance that is financed as part of the lease payment because the dealer has agreed to pay off existing debt on the vehicle being traded in. For example, a dealer may accept a trade-in of a motor vehicle owned by a lease customer, on which the lease customer still owes money. The trade-in allowance will reduce the lease price, however, if the dealer agrees to pay off the existing debt on the customer's vehicle or pays the lessee cash for the trade-in value, the amount paid by the dealer will be added back into the leased value, which increases the lease payments. Other consideration due on a lease may include lease acquisition fees, cancellation charges, transportation charges, origination fees, and excess mileage or damage charges. As mentioned earlier, charges for titling and registering the vehicle, and separately stated charges for insurance are not taxable.

The Office of State Tax Commissioner received information from the North Dakota Automobile Dealer's Association, from the franchise credit corporations and from the Department of Transportation's Motor Vehicle Division that provided information regarding number of leases occurring in this state, the average purchase price of a vehicle subject to current law, the average term of a motor vehicle lease, the average lease payment, and the approximate number of leases having a trade-in. Using this information, the projected fiscal impact was computed for House Bill 1201, as presented on the next page.

Testimony before the
Senate Appropriations Committee
On
House Bill 1201 - Fiscal Note

March 20, 2001

5,300 new vehicles leased per year
Average purchase price of lease vehicle - \$22,500
Average lease term -- 33 months
Average lease payment - \$377.70
Approximately 55% or 2,915 leases have a trade-in
Average trade-in or residual value - \$14,844.44

[Information obtained from automobile industry, franchise credit corporations (Ford Motor Credit, GM Credit, etc.), ND DOT, and Office of State Tax Commissioner.]

Projections based on Current Tax Law:

Total purchase price of leased vehicles (5,300 X \$22,500)		\$ 119,250,000
Less Trade-in or replacement credits (2,915 X \$14,844.44)		<u>- 43,271,543</u>
Net purchase price subject to tax		\$ 75,978,457
Motor Vehicle Excise Tax Rate		5%
Motor Vehicle Excise Tax Collections -----	Year 1	\$ 3,798,922
	Year 2	<u>3,798,922</u>
Total Collections for Biennium		<u>\$ 7,597,844</u>

Projections based on House Bill 1201:

Total lease payments (33 months X \$377.70)		\$ 12,465
Plus down payment (\$1,500/lease)		<u>+ 1,500</u>
Total taxable lease costs for a lease vehicle		\$ 13,965
Times total new leases/year		<u>x 5,300</u>
Total taxable lease costs for ALL lease vehicles/year		\$ 74,014,500
Motor Vehicle Excise Tax Rate		5%
Motor Vehicle Excise Tax Collections -----	Year 1	\$ 3,700,725
Motor Vehicle Excise Tax Collections -----	Year 2**	<u>3,785,525</u>
** Tax computed on buyouts occurring before end of lease term during year 2 ("early buyouts @ \$16,000") (\$16,000 x 5300 x 2% buyouts x 5% tax = \$84,800)		
Total Collections for Biennium		<u>\$ 7,486,250</u>
Revenue Gain or (Loss) for Biennium		<u>\$ (111,594)</u>

NOTE: Beginning the 3rd year, additional revenue from the tax on the buyouts will generate additional revenues: 3rd Year -- \$187,000, 4th Year -- \$748,164.

Prepared by Myles Vosberg, North Dakota Office of State Tax Commissioner