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OMB/RECORDS MANAGEMENT DIVISION
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2001 HOUSE FINANCE AND TAXATION

HB 1052

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1052

House Finance and Taxation Committee

Conference Committee

Hearing Date January 30, 2001

Tape Number	Side A	Side B	Meter #
1	X		43

Committee Clerk Signature

Jamie Stein

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing and read the fiscal note.

SEN. RANDY CHRISTMANN, DIST. 33, Introduced the bill. Gave the rationale behind the bill. He stated that last session, they settled for a little compromise instead of eliminating the tax, they cut it in half for a period of twenty seven months. The fiscal note is technically accurate, but the fact is, we have been dealing with half that amount for the last two years. We had this bill in the interium taxation committee. We did a study of the problems in the ag industry, this was one of the solutions, the committee came up with. We looked at it as a hardship for the farmers who are struggling the most.

REP. JOHN NELSON, DIST. 7, Testified in support of the bill. With the reduction in the tax from last session, it did help some of those implement dealers and farmers and ranchers along the borders, in the sales of machinery and machinery parts. The bill you see today, is what we wanted two years ago.

JOHN WALSTAD, ATTORNEY WITH LEGISLATIVE COUNCIL, Appeared in a neutral position. Explained what the bill did. He was also the attorney for the interim committee. See the Report of the North Dakota Legislative Council, fifty seventh legislative assembly, 2001, see page 353. Mr. Walstad explained all sections of the bill. He stated that the fiscal note estimate in 1999, has tracked pretty close to what the numbers are now.

LIEUTENANT GOVERNOR JACK DALRYMPLE, Appeared to give a couple of observations regarding the bill. He stated, we have allowed this exemption for the last two years. He gave a couple of reasons why we should do this. One is, agriculture is still the number one industry in North Dakota. We are all very dependant in North Dakota, of how agriculture fares. We all know, at the present time, that things are not going well. We have a tremendous number of farmers struggling to stay in business. Setting public policies for these things is very difficult. There is always going to be the case where people are prospering in spite of difficult times. At least one third of the farmers in North Dakota are seriously considering to discontinue to farm. The other reason I wanted to give you, we want to show some good faith here in terms of public policy. We recognize the problem and want to do our share. You will see many, many bills before this legislature which are designed to help agriculture in North Dakota. If you feel that you can only vote for one piece of legislation, I would like you to prioritize this bill as the one you will support. This is real money for the farmers. It is the one bill which is fairly spread over the entire population of North Dakota.

BOB LAMP, NORTH DAKOTA IMPLEMENT DEALERS ASSOCIATION, Testified in support of the bill. See attached written testimony and a handout relating to farm machinery sales showing the percent of change from the same quarter in prior years.

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MIKE WEISENBERGER, GRAND FORKS, Testified in support of the bill. He stated he

was a manager and co-owner of Reiten & Young International in Grand Forks. It is a farm equipment dealership which employs twenty three people, handles Case, IH and New Holland lines of farm equipment as well as International trucks. He stated he is in his second year of managing, but has been an owner for ten years, but been in the business for twenty two years. This bill is very important to the dealership and the customers. Today's sales tax rates in North Dakota, which apply to farm equipment, are very different to those of the neighboring states and Canada.

My dealership is ten blocks from the Red River. I currently have to collect sales tax in North Dakota at the rate of 1 1/2% on used equipment and 3% on new equipment. Across the river in Minnesota, there is no sales tax under repair parts and no sales tax on used equipment or new equipment. We have customers in both states. Those North Dakota or Minnesota farmers who farm land side by side in either state, are subject to identical tax rates in many areas of their production. Fertilizer is not taxed in either state. The seed is not taxed in either state, nor are herbicides, insecticides or fungicides. Farm equipment expenses are a different scenario. Regardless of where the farm is located, the North Dakota resident is at a one and a half percent disadvantage in regard to repair parts purchased, used equipment purchased and even used equipment rented. That one and a half percent disadvantage doesn't mean the North Dakota farmer can rent land any cheaper or pay less for his farm labor. Like the farmers, the dealers also struggle with the sales tax issue. As a border dealer, I lose business daily, to Minnesota dealers because of the sales tax differences. Currently, used equipment sold at a farm auction, is not subject to sales tax. This tax exemption bill will not single handedly turn things around for our

farmers or implement dealers, however, this tax relief will result in a direct savings to our producers. Today, the average age of a farm tractor in the United States is said to be nineteen years old. Nineteen year old tractors require repair parts. This tax exemption will help those most in need of relief.

RAY ANDERSON, ROSS, ND, Testified in support of the bill. Stated he has been an implement dealer in Ross, ND, since 1971. His father started the business in 1946. He stated he supports the bill for three reasons. He stated it would have been a lot easier if we would have had zero percent tax on used equipment and parts two years ago, now, we have to break down all of our sales into one and a half percent, three percent, five percent and zero percent. If we have a city sales tax, we need to break that down also. From that, we need to break it down to retail sales, government sales, Montana sales, out of state sales and on and on. For those people who have computers that break this down, it would be nice to do, but I don't have that, so I have to break it down manually.

The number two reason, is our area is in an economic depression. This past year, in northwestern North Dakota, we saw a disaster in small grains. We saw farmers sell their grain for as little as seventy cents per bushel. We saw some farmers have their crop harvested and in the bin and the elevator man told them it was worth nothing at all. A lot of grain was sold for less than one dollar and fifty cents per bushel. In November of 2000, President Clinton was suppose to sign a bill which was supposed to help those people in our area who had quality problems. I called Senator Dorgan's office and talked to his ag man there. I asked him when do we expect this money to be in the farmer's hands. This was considered an emergency bill signed in November of 2000, he said it would probably be in May or June, which is too late for this spring's seeding

season. We have farmers who have not paid their bills from last fall, I am one of those on the receiving end. When the farmers go under, we also have implement dealers, hardware stores, seed plants and others who depend on a customer base.

Number three, the reduction of used equipment and repair parts would level the playing field with others in our business. We have neighboring states who do not charge sales tax on machinery or repair parts. Customers have been known to drive to those areas, just to make those purchases of used equipment and repair parts. I know according to state law, when they bring this stuff back into the state where it is supposed to be used, it is supposed to be reported. I don't know how many really do. The only case is, where they come across the Canadian border, they have to report those sales. We need to compete with out of state sellers, who do not pay to our state's economy.

REP. RENNERFELDT Are your Canadian sales pretty well dried up?

RAY ANDERSON Right now, our sales are really slow, mainly because of the difference in money. We have a lot of people who are going into Canada to buy because of the difference in the dollar.

DALE ANDERSON, GREATER NORTH DAKOTA ASSOCIATION, Testified in support of the bill. GNDA is the principal advocate for change in North Dakota. As an organization of over one thousand members, our membership is a cross section including farmers and farm equipment dealers. This bill is a winner for five reasons: 1. It is a positive impact on farmers, 2. It helps the dealers move their product, 3. It puts North Dakota dealers on a more level playing field, 4. It brings farm machinery in line with tax policy in other parts of the food chain, 5. The estimated impact of 2001-2003 biennium is reasonable.

KEN JUNKERT, REPRESENTING AG COMMISSIONER ROGER JOHNSON, Testified

In support of the bill. See attached written testimony from Roger Johnson.

MARK SITZ, FARMER AND REPRESENTING NORTH DAKOTA FARMERS UNION,

Testified in support of the bill. Also supported this measure in 1999, and it has helped the producers out there. This is real money to producers of North Dakota. I am a little hesitant to admit I am one of those farmers who has a nineteen year old tractor.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Testified in support of the bill.

One of the things we want to be careful of is supporting exemptions in the state. This is one of the issues you will be reading about in our tax study which is being printed right now. Currently, the one and a half percent rate on used farm machinery and repair parts, does create a tremendous burden on the implement dealers in the state. We have not created a separate form, we have tried to maintain the original form because of the sunset. Secondly, it deals with that equalization of breaks. We see a tremendous amount of activity crossing the state borders. It is a difficult issue to deal with. Any time tax policies dictate what consumers do, we have an imbalance and is something that needs to be addressed. This is the major reason I support this legislation. From the standpoint of Canada, because people have to fill out a duty report, we do get that information from customs. We do have a fair amount of audit activity which occurs along the Minnesota border, where we deal with implement dealers or other types of taxpayers, when we get that information, we will assess North Dakota taxpayers. It also deals with simplification of rates and the zero burdens, as was pointed out, when you purchase machinery at an auction, it is not subject to sales tax in North Dakota, which is a competitive force against implement dealers in the state.

JOHN WALSTAD Addressed a portion of the bill which relates to trade-in credit. Under existing law, by definition in the sales tax law, which is not in this bill, when you bring in an item and trade it in on a new purchase, and that new purchase is taxable, you subtract the value of the trade-in from the price of the new purchase, to determine your tax liability. That applies if the item traded in will be subject to sales tax when it is sold. At the one and a half percent rate, no problem. When there is no tax, there is no trade in.

BRIAN KRAMER, NORTH DAKOTA FARM BUREAU Testified in support of the bill.

See attached written testimony.

HARLAN FUGLESTEN, GOVERNMENT RELATIONS DIRECTOR FOR THE NORTH

DAKOTA ASSOCIATION OF RURAL ELECTRIC COOPERATIVES, Testified in support of the bill.

BILL BUTCHER, STATE DIRECTOR OF NATIONAL FEDERATION OF

INDEPENDENT BUSINESS, Testified in support of the bill. We have been supportive of this type of legislation over the years, we feel the legislation of last session has worked and is necessary to an industry who has a great need.

ROD BACKMAN, OFFICE OF MANAGEMENT & BUDGET, Appeared to give comments regarding the bill. He stated when it comes time to balance the budget, they have an issue with the constitution, which requires that the budget be balanced. The fiscal note shows a 9.7 million dollar impact. The Governor has included 5.5 million of that in his budget. The shortfall is not 9.7, it is the difference between that and 5.5 million. I have some amendments which would change the effective date to December 31, 2002, to balance the budget. It leaves

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the one and a half percent rate in effect for eighteen months, then the last quarter of the biennium, it will drop the rate to zero. The sole reason for doing that was to balance the budget.

REP. SCHMIDT If auctioneers sell machinery on a consignment basis, the sales tax is collected?

ROD BACKMAN I am not aware of that.

REP. WINRICH We had some data about the effect of lowering the one and a half percent, and apparently that spurred sales a little bit, won't this delay some of that, and you probably won't make up the 5.5 million you are looking for?

ROD BACKMAN That is possible, 5.5 million came from the original fiscal note we were working from for three fourths of the biennium. Obviously, there may be other factors, besides that.

GARY KNUTSON, NORTH DAKOTA AGRICULTURE ASSOCIATION Testified in support of the bill. They have four hundred members who are short line, crop production, and dealers as well, and all support the bill. If nothing else, it may move some used equipment which helps keep the doors open.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-5-01, Tape #2, Side B, Meter #2056

REP. RENNERFELDT Presented amendments to the committee which would cut the sales tax on farm machinery. After reviewing the amendments, committee members agreed there would need to be additional amendments.

The bill will be acted on at a later date.

