

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 franchised 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

