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10/6/03
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12

2003 HOUSE FINANCE AND TAXATION
HB 1499

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1499**

House Finance and Taxation Committee

Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.7

Committee Clerk Signature

Jamie Stein

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

REP. DAVID MONSON, DIST. 10 Introduced the bill. See attached written testimony.

REP. BELTER Asked for examples of snack foods which are currently taxed now, and some of the snack foods which will be taxed, which are not taxed now.

REP. MONSON Right now some of the snack foods would be anything with sugar in it, all candy, all kinds of soda pop, etc., if it has more than 70% juice, they are considered juice and would not be taxed, even though they may have sugar added, things that I don't believe are taxed now, that would be taxed if this bill would be passed, would be pizzas, sunflower seeds, peanuts, potato chips. If you look at page 3 of the bill, the list is quite long. If we stop at a convenience store, half the time, we don't look at the price, we don't look at the nutrients in it, we don't look whether it will be taxed or not, if we have a little craving, we pick it up off the shelf and eat it. It

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10/16/03
Date

Page 2
House Finance and Taxation Committee
Bill/Resolution Number HB 1499
Hearing Date February 3, 2003

is certainly not something that most of us will depend on for our daily sustenance. Meat, potatoes, canned vegetables and those kinds of things would still be tax free.

REP. BELTER Is Minute Maid Orange Juice taxed under this bill?

REP. MONSON As I understand it, it would not be taxed.

REP. DROYDAL Inquired if you mix consecrated orange juice with water, wouldn't that be taxed?

REP. MONSON I don't believe it would because it is still considered juice. I think it means little dried soup mixes, which you mix with water, they would be taxed. I am not sure about the consecrated orange juice.

REP. WINRICH In some of the discussions we had with the streamlined sales tax, I know that definitions are very important, have you concurred with the tax department regarding some of these definitions?

REP. MONSON I have conferred with the tax department and did get a copy of that document and talked with some of the people at the summit where they talked about the uniform tax, and this does not improve that at all. This is not in compliance with that. That bill will actually cost us money, if it is passed. The definition of juice, for instance goes from 70% juice, which we have now, to 50% juice. Anything with flour in it, cannot be taxed. Right now, we would tax twix bars because it has chocolate and sugar in it, under that definition, anything with flour in it, is not considered candy. Pizzas would not be considered taxable under that bill, because it has flour in it. For your information, there is a compact being set up between approximately thirty states, North Dakota hasn't signed onto it yet, we have sent people to it. If we all get into the same definitions and tax items by their definitions, we would participate in any tax revenues

Page 3
House Finance and Taxation Committee
Bill/Resolution Number HB 1499
Hearing Date February 3, 2003

down the road, which may be mail order places who would collect for us and send back, such as internet sales.

REP. WINRICH Stated he was more concerned with the definitions in this bill and if they do apply to what you want them to apply to.

REP. MONSON Whether the tax department agrees or not, I don't know, our definitions in North Dakota, are already set, this further defines what is taxable and what is not taxable.

MILES VOSBERG STATE TAX DEPARTMENT Appeared in a neutral position. He stated they did have a few questions as to what would be taxed under the proposed language. One of the questions raised about food that requires no further preparation then adding liquid, I am not sure what that would be. We would need a little clarification on some of the items. This bill is not in compliance with the streamlined bill tax, should that pass. There is a conflict there, the tax department has not taken a position on this bill.

REP. BELTER Do you have a list of concerns or amendments?

MILES VOSBERG Stated, they did not prepare amendments. The biggest area of concern would be the food that requires only a liquid. He stated he didn't see the consecrated juices to be taxable. Items that may be stored unopened, without refrigeration, could be subject to interpretation there too. Baked goods might be questionable too.

REP. BELTER What about hot chocolate which you mix with either water or milk?

MILES VOSBERG Right now, the powered drink mixes are all taxable. This bill does not change that language.

REP. DROVDAL I thought I was paying taxes on this stuff all along. If I take things with me, instead of eating it there, is one taxable and one not taxable?

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Page 4
House Finance and Taxation Committee
Bill/Resolution Number HB 1499
Hearing Date February 3, 2003

MILES VOSBERG Right now, food for immediate consumption, would be subject to tax.

That would include a heated pizza or sandwich that someone prepares for you. It would not include, if you run into a convenience store or grocery store and you buy a bag of chips, sunflower seeds, etc. Any kind of prepared food, or food you eat in a restaurant, is taxable under existing law. Item #10 which is line 17, on page 3 of the bill, says prepared pizza, sandwiches, salads, delicatessen trays, right now, if you go into a delicatessen and buy a large quantity of potato salad, that would not be subject to tax. If you bought it in a deli to eat there or in a restaurant, that would be considered food for immediate consumption and is subject to tax.

REP. WEILER TO REP. MONSON I see ice cream sauces and ice cream cones, is ice cream taxed?

REP. MONSON Stated he didn't know for sure.

REP. BELTER TO MILES VOSBERG Asked if ice cream is currently taxed and would it be taxed under this bill?

MILES VOSBERG Ice cream is not currently taxed, and under the language here, I don't believe it will be taxed.

With no further testimony, the hearing was closed.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1499

House Finance and Taxation Committee

Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
1	X		35.3
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

COMMITTEE ACTION

Committee members felt this bill would be too hard to enforce and also would be expensive for the small business owners who would probably have to invest in new equipment to charge the sales tax on these snack items.

REP. CLARK Made a motion for a **DO NOT PASS**

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

12 YES 0 NO 2 ABSENT

REP. WEILER Was given the floor assignment.

FISCAL NOTE
 Requested by Legislative Council
 01/23/2003

Bill/Resolution No.: HB 1499

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$6,072,000	\$528,000		
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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 1499 removes the sales tax exemption for snack foods, deli trays and salads, frozen dinners and pizzas, and certain bread products and pastries. A rough estimate of the potential fiscal impact is \$6,600,000 for the 2003-05 biennium.

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, 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 Dept.
Phone Number:	328-3402	Date Prepared:	01/31/2003

FR

Date: 2-4-03

Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1499

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Clark Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Weiler

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

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
February 4, 2003 12:59 p.m.

Module No: HR-21-1604
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1499: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1499 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-21-1604

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Operator's Signature

10/16/03
Date

2003 TESTIMONY

HB 1499

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Yolanda Rickford
Operator's Signature

10/16/03
Date

Testimony on HB1499
Rep. David Monson

Good morning Mr. Chairman and members of the House Finance and Tax Committee. For the record, I am Rep. David Monson from Dist. 10 in northeastern ND.

This is a recycled bill as most of you who have been around for a few sessions may know. I introduced this bill about 10 years ago. Obviously it didn't pass then since it is here again today. I felt it was a good bill then, and I believe it is still a good bill today.

It is a clarification bill as well as a small revenue generator. I have not seen the fiscal note, but I understand it is in the neighborhood of about \$6 million. This is a nice little tweak to the budget without putting a burden on anyone.

The "food" that would be taxed by the passage of this bill is generally not the kind that people depend on for good nutrition. In fact, it is generally considered part of a rather poor diet. Much of the "food" that falls into the category of snack food is already taxed. In my estimation, this bill would clarify our tax code and make it more uniform, taxing things that most of us already believe are taxed.

I could go on about the merits of this bill, but I'm sure you have lots of questions and we may as well get right to that portion of my testimony. If you have any questions I would be happy to answer them.