

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1049

2007 HOUSE FINANCE AND TAXATION

HB 1049

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 A

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 793 29min 59sec

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

**Chairman Belter:** We'll call the committee back to order. We'll open the hearing on HB1049.

**Rep. Carlson:** This Bill deals with the removal of sales and use tax exemption on natural gas and other fields for the purpose of heating. The biggest question that's going to be asked about this is why do you want to do this? And what's it going to cost? Because when we have an established tax the question will be have we built this into our revenue stream; yes we have. The heating fuels tax has been around for a number of years. In 1991, the tax was at 5%. The Legislature moved to reduce that to 2%. The Governor vetoed the Bill, so therefore brings us to the attachment we have today. The electricity does not have a tax on it. There are a lot of homes that are all electric homes. But there is a tax on natural gas, heating fuel which is a diesel fuel, and propane. Look at the charts, on page three, Taxable Sales and Purchases of Natural Gas and Computation of Sales Tax by Quarter. **(See attachment #1)** It breaks it down by quarters given to us by the Tax Dept. If you were to add those numbers up for the year 2005 and 2006, the estimated fiscal effect is 12,300,000.00. That number can be up or down depending on the price of gas. Last year gas was very high and you'll see that the numbers this year are going to run less. On page two it is figured in gallons, not dollars. We are not affecting the Agricultural Industrial Bill non-identified. The only one we are dealing with is the

heating fuels tax. On page one, the combined diesel and LP for average would be about 2.8 million dollars. So if you take that out per biennium, you're talking about a 5 million dollar price tag. If my math is correct, if you add the two together, you end up with a 17 million dollar number. It is a significant number and this Bill will go on from you if you approve the concept of removing the heating fuels tax, it will end up in Appropriations, because it does have a significant fiscal effect. On the other hand of all the taxes that are paid by our citizens, this is one that affects everybody that lives in and heats a home, especially those on fixed incomes that cannot afford the high prices of fuel. This would be a nice little break you can get in taxation. I think this is the right time to do it while we have this surplus.

**Chairman Belter:** You pointed out that natural gas is where most of the gas is paid. Do you know what this would mean to an average homeowner?

**Rep. Carlson:** No, I didn't have this figured out. It would probably be if an average is \$100.00 if you had your house on budget for heating for natural gas. \$1,200.00 a year times 2% is only \$24.00 savings. It could be \$24 to \$50 savings on a typical resident. It would depend on your usage. This does apply to all marriages, not to just housing. It applies to anybody who's heating a business with natural gas or propane or fuel oil. But if you're heating your shop with electricity, they would pay \$0. If you're heating with natural gas, they're going to pay a 2% tax.

**Representative Froseth:** On the fiscal note there's a discrepancy in other funds, in section B special fuels tax exemption is expected to reduce highway distribution funds? Why would it affect it?

**Rep. Carlson:** Because years ago in that category in fuels, they were signed to the highway distribution fund, so those taxes go to the highway distribution fund. All the national gas taxes go to the general fund, so there is a distribution. The highway people saw this and got a little bit excited because they are going to be losing some distribution money. You can question

whether or not the fact that that should have been there in the first place. Needless to say that's why that number shows up. We have always been concerned about matching highway dollars so we get the full value of the Federal dollars that are available. There are various things that the Appropriations Committee's looking at. We'll end up working all of this together in the end. Maybe these should be back in the general fund where we used to fund them, to offset the difference to this. This affects cities and counties because they get a portion of that tax. On the other hand those are agencies that are recipients, but the citizens are the ones paying this Bill. We need not forget that. We're trying to give those people in this time of a surplus a break. I hope we can do that through the means of this Bill.

**Representative Kelsh:** Are you proposing the transfer of general fund dollars to the highway distribution fund to make up for the lost revenue from this Bill?

**Rep. Carlson:** My recommendation is to take that money and give the people the tax break. I would not fund the highway patrol out of the highway distribution fund and by doing that I would have the money back in there to offset the loss of this money. I'd have more than that amount! That issue needs to be addressed by the Legislature because we will end up being over 5 million dollars short.

**Chairman Belter:** Thank you.

**Rep. Thoreson:** Rep. Carlson made very clearly the intent of this legislation. I would only add that since we announced before the legislature, I've had some feed back from people who heat their homes with these fuels and don't think it's fair that people who heat with electricity aren't taxed.

**Representative Weiler:** I just want to voice my support in this legislation, thank you.

**Tony Clark, Public Service Commissioner: (See attachment #2)** I would like to add on that in the last few days I did receive a couple of calls from folks who sell coal. There aren't a lot of

folks who still heat their home with coal but there are some. They wish that I would at least raise the idea of perhaps also to exempt coal for those folks who use it to heat their homes. It won't add a lot to the fiscal note. The large bulk of entities who heat using coal tend to be tax exempt already, like state institutions, university's, hospitals and entities like that.

**Representative Froseth:** Who supports this?

**Tony Clark:** I took a look at that before I came down. Minnesota taxes both natural gas and electricity at 6-1/2 %. Residential is exempted.

**Representative Pinkerton:** What's the percentage that would be residential; do you have an estimate of the percentage that's residential as compared to commercial?

**Tony Clark:** I'm not sure. Perhaps the Tax Dept. knows that.

**Dennis Boyd, MDU Resources Group, utility division Montana Dakota Utilities: (See attachment #3)**

**Kathy Aas, represents Xcel Energy:** Natural gas is a main heating source and we feel it shouldn't be taxed and it has a great impact on the low income customers. We would ask that you would support this Bill and Do Pass.

**Chairman Belter:** Any testimony in support of HB1049? Any opposition? Any neutral testimony?

**Tim Horner, Deputy Director for Business Support for ND Dept. of Transportation: (See attachment #4)** Neutral testimony.

**Russ Hanson, Association of General Contractors of ND:** Neutral Testimony. Just want to reiterate the concern that we have. If you cut back this policy statement to replace those highway funds that goes to the distribution system. We can continue to provide the infrastructure that we have been used to. We don't have a problem with the concept of the Bill.

**Mike Rud, represents the ND Petroleum Marketers and ND Propane Gas Association:**

Neutral testimony. Our concern is like Mr. Hanson indicated. As long as the funds are there we're very happy to give that break to the consumers. We just want to make sure down the road that we're not faced with a gas or diesel tax to come up with some extra revenue.

**Tom Balzer, ND Motor Carriers Association:** Neutral testimony. We have some concerns of the loss of the funds in the highway distribution fund.

**Mark Johnson, ND Association of Counties:** Neutral testimony. This will impact road construction in the state. **(See attachment #5)** I just wanted to show you some information on the LIHEAP program, which is the low income assistance program that's primarily federal dollars that do help people who truly need energy assistance. We would like to go on record as working with Rep. Carlson and Appropriations to see if we can find some replacement sources for at least the highway distribution fund.

**Chairman Belter:** Any more neutral or opposition testimony in HB 1049. If not, we will close the hearing on HB 1049.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 912 01min 42sec

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

Committee Work:

**Chairman Belter:** Let's look at HB 1049. That again we will have to rerefer it to appropriations.

**Representative Weiler:** Did you say this is in the Governor's budget?

**Chairman Belter:** Yes

**Representative Weiler:** It is?

**Chairman Belter:** I know that the Governor in his State of the State Address mentioned that he is supporting this Bill. Now whether it's in his budget or not, I'm not sure. I would entertain a motion on HB 1049.

**Representative Grande:** I move a Do Pass.

**Representative Owens:** I second it.

**Chairman Belter:** Any discussion?

**Representative Pinkerton:** I thought they were going to come back to us on the national gas and let us know how much of that was residential and how much was commercial.

**Chairman Belter:** Do you want us to hold it yet?

**Representative Pinkerton:** I would like to see that break.

**Chairman Belter:** Ok

**Representative Grande:** I'll withdraw.

**Chairman Belter:** Ok, we'll hold 1049 then.

**Representative Wrangham:** In addition to that question, there was a question about adding coal.

**Chairman Belter:** Ok, you want to check on that aspect? We'll close the meeting on 1049.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 C

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1590

Committee Clerk Signature

*Micki Schmidt*

### Minutes:

Chairman Belter opened the hearing on HB1049. This Bill takes away the 2% tax on natural gas and heating fuels and I believe we have some amendments from Rep. Heller. **(See attachment #1)**

Rep. Wrangham explained that the intent of the amendments was to add coal to be used as a heating fuel to the list of those fuels within the tax. As you can see it was in a different section of the code.

**Representative Wrangham:** I would move the amendments, 0201.

**Representative Brandenburg:** Second it.

**Chairman Belter:** Is there any discussion?

**Representative Owens:** Could Rep. Wrangham explain the last section in the amendment?

**Representative Wrangham:** The coal that is mined that is used in power plants and things like that is subject to severance tax, and this doesn't affect that.

**Chairman Belter:** Maybe we should get that clarified. Do you want to withdraw your motion on the amendments?

**Representative Wrangham:** I'll withdraw my motion.

**Chairman Belter:** Ok, the motion was withdrawn and we'll hold this one.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 D

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: 1707 (starts at 5min, 22sec)

Committee Clerk Signature

*Mickey Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1049...again. We have John Walstad from Legislative Counsel here to walk us through the amendment.

**John Walstad, Legislative Counsel:** This Bill was introduced to provide a tax exemption for gas and heating fuels. The amendment was suggested to add coal used for heating as an exempt heating fuel. In order to do that, it's necessary to provide a sales tax exemption. And to be careful that severance taxes are not imposed. That's why the two sections in this amendment are here. He goes on to explain each section, refer to amendment.

**Representative Wrangham:** It all seems so involved and difficult but actually all it does is add coal to this Bill.

**Chairman Belter:** Is Crystal Sugar paying sales tax on the coal they use?

**John Walstad:** No, that is an Ag processing facility and the coal they burn is exempt from both severance tax and sales tax under current law. This would preserve that but this would add coal used for heating other buildings, other than Ag. processing or sugar beet refine.

**Chairman Belter:** The new ethanol plant at Spirit Wood, they're going to use coal. Is that coal taxed?

**John Walstad:** No.

**Chairman Belter:** Any questions?

**Representative Wrangham:** I would move the amendment.

**Representative Owens:** Second it.

**Chairman Belter:** Any discussion? **All those in favor signify by saying aye. The motion carries.** What are your wishes on the Bill?

**Representative Owens:** I move a Do Pass as Amended and Rerefered to Appropriations.

**Representative Wrangham:** Second it.

**Chairman Belter:** Any discussion?

**Representative Vig:** Perhaps in the long run, this has a big effect on the State aid distribution. How does that come out in the end?

**Chairman Belter:** Once it leaves here it's up to appropriations.

**Representative Pinkerton:** How much of this is commercial and how much is residential?

**Chairman Belter:** I don't have that figure. Do you want to hold this? Ok. Do you want to withdraw?

**Representative Owens:** I'll withdraw.

**Representative Wrangham:** I'll withdraw.

**Chairman Belter:** Ok, We'll close the hearing on HB 1049.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 E

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2376

Committee Clerk Signature *Mickie Schmidt*

### Minutes:

Chairman Belter opened the hearing on HB1049. Rep. Wrangham, you brought the amendments in for the coal. Do you wish to move your amendments?

**Representative Wrangham: I would like to move the amendments.**

**Kyle Dawley, Intern:** We already amended it on January 22.

**Chairman Belter:** Ok. We have the amended Bill before us, what are your wishes?

**Representative Headland:** I move a Do Pass as Amended and Rerefer to Appropriations.

**Representative Owens:** Second it.

**Chairman Belter:** Is there any discussion? Will the clerk read the roll; 12-y, 0-n, 2-absent;  
Rep. Weiler will carry HB 1049.

**FISCAL NOTE**  
**Requested by Legislative Council**  
04/23/2007

Amendment to:           Engrossed  
                                  HB 1049

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$4,600,000)	(\$2,387,500)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. HB 1049 with Conference Committee Amendments provides a reduction in the sales tax rate for natural gas sold for heating purposes, and from special fuels tax for fuels used for heating purposes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engr. HB 1049 with Conference Committee Amendments is expected to reduce state general fund revenues by an estimated \$4.6 million and state aid distribution fund revenues by an estimated \$400,000 during the 2007-09 biennium due to the sales tax reduction provided in the bill. The special fuels tax reduction is expected to reduce highway distribution fund revenues by an estimated \$1.987 million during the 2007-09 biennium. These heating fuels, including coal, all become exempt in the 2009-11 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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	04/24/2007

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/06/2007

Amendment to:           Engrossed  
                                   HB 1049

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$2,900,000)	(\$1,575,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. HB 1049 with Senate Amendments provides a reduction in the sales tax rate for natural gas sold for heating purposes, and from special fuels tax for fuels used for heating purposes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engr. HB 1049 with Senate Amendments is expected to reduce state general fund revenues by an estimated \$2.9 million and state aid distribution fund revenues by an estimated \$250,000 during the 2007-09 biennium due to the sales tax reduction provided in the bill. The special fuels tax reduction is expected to reduce highway distribution fund revenues by an estimated \$1.325 million during the 2007-09 biennium. These heating fuels, including coal, all become exempt in the 2009-11 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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	04/06/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/23/2007

Amendment to:           Engrossed  
                                  HB 1049

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$2,908,000)	(\$1,577,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. HB 1049 with Senate Amendments provides a reduction in the sales tax rate for natural gas and coal sold for heating purposes, and from special fuels tax for fuels used for heating purposes.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engr. HB 1049 with Senate Amendments is expected to reduce state general fund revenues by an estimated \$2.908 million and state aid distribution fund revenues by an estimated \$252,000 during the 2007-09 biennium due to the sales tax reductions provided in the bill. The special fuels tax reduction is expected to reduce highway distribution fund revenues by an estimated \$1.325 million during the 2007-09 biennium. These heating fuels all become exempt in the 2009-11 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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/26/2007

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/06/2007

Amendment to: HB 1049

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$11,646,000)	(\$6,304,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Eng. HB 1049 provides a sales tax exemption for natural gas and coal sold for heating purposes, and an exemption from special fuels tax for fuels used for heating purposes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Eng. HB 1049 is expected to reduce state general fund revenues by an estimated \$11.646 million and state aid distribution fund revenues by an estimated \$1.004 million during the 2007-09 biennium due to the sales tax exemptions provided in the bill. The special fuels tax exemption is expected to reduce highway distribution fund revenues by an estimated \$5.3 million during the 2007-09 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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	02/07/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/26/2006

Bill/Resolution No.: HB 1049

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$11,600,000)	(\$6,300,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1049 provides a sales tax exemption for natural gas sales (taxed at a 2% sales tax rate under current law) and an exemption from special fuels tax for fuels used for heating purposes (taxed at a 2% special fuels tax rate under current law).

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB 1049 is expected to reduce state general fund revenues by an estimated \$11.6 million and state aid distribution fund revenues by an estimated \$1 million during the 2007-09 biennium due to the sales tax exemption provided in the bill. The special fuels tax exemption is expected to reduce highway distribution fund revenues by an estimated \$5.3 million during the 2007-09 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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328.-3402	<b>Date Prepared:</b>	01/07/2007



**House Amendments to HB 1049 (70114.0201) - Finance and Taxation Committee  
02/01/2007**

Page 1, line 3, after "reenact" insert "subsection 1 of section 57-39.2-02.1, subsection 44 of section 57-39.2-04, and"

Page 1, line 4, after "to" insert "a sales and use tax exemption for coal sold for use as heating fuel and"

Page 1, after line 8, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
  - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes.
  - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations.
  - f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
  - g. ~~Coal mined in this state and used for heating buildings, except for coal used in agricultural processing or sugar beet refining plants.~~
  - h. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
    - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

- (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
- (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
- (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
- (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".

**SECTION 2. AMENDMENT.** Subsection 44 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

44. Gross receipts from all sales of coal ~~used in agricultural processing or sugar beet refining plants located within this state~~ that is exempt from the coal severance tax.

Renumber accordingly

Date: 1-31-07 PM  
Roll Call Vote #: 1049

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Finance & Tax \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment  
Number \_\_\_\_\_

Action Taken Do Pass AS Amended and Rerefered to Apprep

Motion Made By Rep. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	✓	
Vice Chairman Drovdal	✓		Rep. Kelsh		
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande			Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Weiler

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

**REPORT OF STANDING COMMITTEE**

**HB 1049: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1049 was placed on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "subsection 1 of section 57-39.2-02.1, subsection 44 of section 57-39.2-04, and"

Page 1, line 4, after "to" insert "a sales and use tax exemption for coal sold for use as heating fuel and"

Page 1, after line 8, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
  - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes.
  - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations.
  - f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
  - g. ~~Coal mined in this state and used for heating buildings, except for coal used in agricultural processing or sugar beet refining plants.~~
  - h. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:

- (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
- (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
- (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
- (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
- (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".

**SECTION 2. AMENDMENT.** Subsection 44 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

44. Gross receipts from all sales of coal ~~used in agricultural processing or sugar beet refining plants located within this state~~ that is exempt from the coal severance tax."

Renumber accordingly

2007 HOUSE APPROPRIATIONS

HB 1049

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1049

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3246

Committee Clerk Signature

*Shelly M. Sand*

Minutes:

**Chm. Svedjan** opened the hearing on HB 1049.

**Rep. Wes Belter** testified in support of HB 1049. Rep. Belter explained that this bill removes the 2 percent special fuels tax that is currently on home heating fuel and natural gas. The bill was also amended to do away with the tax on those people who heat their homes with coal. Many homes are heated with electricity and there is no tax on electricity. By lowering this special fuels tax to no tax at all, it levels the playing field.

**Rep. Klein** motioned a Do Pass. **Rep. Monson** seconded the motion.

Rep. Glassheim: I renew my objection to raiding to this extent day after day, time after time.

**The Do Pass motion to HB 1049 carried by a roll call vote of 23 ayes, 1 nay and 0 absent and not voting. Rep. Weiler was designated to carry the bill.**

Date: 2/8/07  
 Roll Call Vote #: 1049

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1049

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No Pass as expressed

Motion Made By Klein Seconded By Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvoid	✓	
Representative Monson	✓		Representative Gullerson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glasheim		✓
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 23 No 1

Absent 0

Floor Assignment Weiler

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

**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2007 8:23 p.m.

**Module No: HR-27-2628**  
**Carrier: Weller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1049, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)**  
**recommends DO PASS (23 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).**  
Engrossed HB 1049 was placed on the Eleventh order on the calendar.

2007 SENATE FINANCE AND TAXATION

HB 1049

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1049

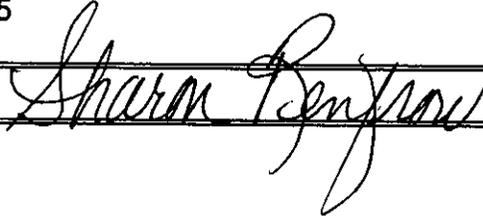
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: # 4385

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on HB 1049 which relates to a sales and use tax exemption for sales of natural gas and other fuels for heating purposes.

**Rep. Carlson:** appeared as prime sponsor of the bill stating this repeals the heating fuel taxes and presented a handout. (See attached) What this bill does is kind of the key talk about the bill is the gross receipts tax from the sale of natural gas or sale of fuels used for heating purposes is what this does. There are 2 different taxes that are on it, there's an excise tax and a sales tax and it does have an affect upon the way, it does #1 affect the general fund and #2 it does affect the highway distribution fund. The only change the House made was they added coal as an exemption. Handed out a second hand out. (See attached) This applies to anyone in all categories that heat with natural gas. It does put natural gas and diesel fuel or heating fuels and LP or propane on the same level as electricity has for heating our residence homes.

**Rep. Kasper:** co sponsor of the bill appeared in support stating this is going to be dollars that are not going to be able to appropriate out of general funds and other special funds.

**Kevin Cramer:** ND Public Service Commission appeared in support stating 2 things as advocates for rate payers in the State. The thing that is most defensive about this particular

tax I think is the regressive nature of it. The volatility of a tax like this is both volatile with the price.

**Sen. Horne:** if the highway distribution fund is going to see a reduction of some 5 million dollars, I'm assuming where will that money come from, how will that be made up?

**Answer:** frankly the immoral nature of this tax and that is the regressive nature of the tax that punishes rate payers, especially the lower social level payer honestly. If you feel compelled to make that revenue up, I would submit to you that there is a better way to tax and to provide revenue, whether its highway distribution or cities and counties than this volatile and punitive tax.

**Dennis Boyd:** MDU Resources Group appeared in support with written testimony. (See attached)

Sen. Urlacher: when we talk about the coal exemption is that all coal or is it residential usage or?

**Answer:** that's only coal that is used for heating purposes

**Sen. Oehlke:** are there any other states that MDU is in with Regressive tax now?

**Answer:** yes, 29 states do exempt heating fuels for the sales tax.

**Kathy Aas:** Excel Energy appeared in support stating it's a necessity, natural gas is a necessity like electricity and we just feel it should be taxed.

**Bob Graveline:** Utility Shareholders of ND and we too support HB 1049 and urge a DO PASS recommendation.

**Linda Wurtz:** AARP appeared in support with written testimony. (See attached)

**Wade Mann:** Chamber of Commerce appeared in support with written testimony. (See attached)

**Sen. Oehlke:** a power plant that uses coal for heat, does that affect this that tax somehow to or is that not sales but production tax?

**Miles Vosberg:** Tax Dept. most coal is subject to coal severance tax and under the existing law, if it's not subject to coal severance it's subject to sales tax which is basically heating purposes and so on. Under this bill that would remove that sales tax on coal and so there clearly would not be sales tax on any coal at all. As far as the natural gas goes, this would eliminate the 2% sales tax on all natural gas whether it'd be used for some type of production purpose or heating or whatever.

Closed the hearing.

**Sen. Urlacher:** this does address all natural gas, all coal use and all designed for heat whether it be commercial usage or residential use. But it appears that's built into the fiscal affect.

**Sen. Triplett:** I think it would be irresponsible to pass this bill without some assurance that there's already another bill passed that would make up the difference or we put something into this bill specifically that tried to mitigate the affect ( Meter # 26.16) I don't have any objection to the bill in terms of giving a break to the folks who are paying it now or leveling the playing field across energy type, but I do have an objection to taking money away from the cities and counties without thinking about how to replace it.

**Sen. Horne:** Do I read that HB 1495 would do that, provides that 10% of motor vehicle excise tax collections be deposited in the Highway Tax Distribution Fund rather than the general fund? So is this the replacement source that we're concerned about? Would this affect matching of federal funds? a pretty serious concern I would think.

**Sen. Anderson:** I really think this is a good thing for people on fixed income.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1049

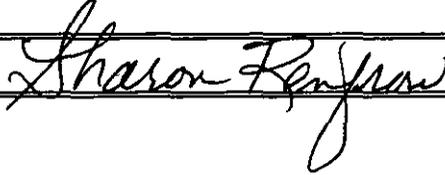
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: # 4988 & # 4990

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee back to order for discussion and action on HB 1049.

**Sen. Oehlke**: I have a note here that the Tax Dept question that is limited to homeowners only, what would the fiscal note look like?

**Sen. Horne**: I was wondering too, this would adversely affect the Highway Dept. Road Fund; didn't this money go to that? Go to that fund for highway maintenance and construction?

**Sen. Urlacher**: it's expected to reduce the Highway Distribution Fund by 5.3.

**Sen. Horne**: yes, it's in the fiscal note.

**Sen. Anderson**: I'd like to see what 1495 does before we do this one?

**Sen. Urlacher**: this has to be out today.

**Sen. Oehlke**: our fiscal note does not give us an idea of what if we separated this out to just home owners only, is that an impossible thing to do maybe that was the deal. For just home owners and not other entities.

**Sen. Cook**: I suppose it could be done but it would be difficult and imagine you're the retailer who is selling the products and imagine how your going to address and invoice and protect yourself for the ride when they come to see that this

**Sen. Tollefson**: made a **Motion for DO NOT PASS**, Seconded by Sen. Oehlke.

**Sen. Cook:** I'm going to support it, I look at a lot of things we've done this session and a lot of things I'd like to have a chance to revisit the decision on but this is about as good of a property tax relief bill for everybody that you can find, its going to reduce it, we all have to heat our homes and its going to reduce the cost.

**Sen. Tollefson:** there are a lot of good arguments for the reduction of that tax or the elimination of it and I certainly feel that way, but I think that the fiscal note has its affect on everything is pretty big. I believe that people are used to paying that tax whether that's right or wrong.

Sen. Anderson: it's not really property tax relief but I really struggled with this one and I do believe it's going to give a break for the low income folks, so I'm not going to support the DNP motion.

**Sen. Triplett:** I'd like to wait until Juhl hears back about the other bill.

**Sen. Horne:** I do too; I'm conflicted on this bill also between the concern for the cost of the treasury and the urge to help those struggling to.

# 4990

**Sen. Urlacher:** they haven't acted on the other bill but we have to act on this today. We have a motion for DNP on the floor.

Roll call: 3-4-0 Motion fails

**Sen. Cook:** made a **Motion for DO PASS**, seconded by Sen. Triplett.

**Sen. Triplett:** my comment earlier was a little facetious I'm going with it anyway, this still has a huge fiscal note and I'm concerned about that. Sales taxes are among the most regressive taxes and this is a benefit to low income people and it does as the witnesses pointed out but heating fuel on a even keel with other forms of heating and I'm just going to trust the process that at some point the appropriations committee or other committees will be putting something

back that will make the counties whole and make the highway trust fund bill whole, so I'm doing this with some trepidation but given our deadline.

**Sen. Anderson:** I echo what Connie says, I only hope that this other bill is going to put some money back in there because I have a soft spot for the highway distribution fund and I hate to vote for this bill because I know that's going to take away some money from the cities which is outside sources which is one of the reasons property taxes are going up but yet its of such benefit to the homeowners, I have to support this.

Roll Call vote: 5-2-0      Sen. Cook will carry the bill

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1049**

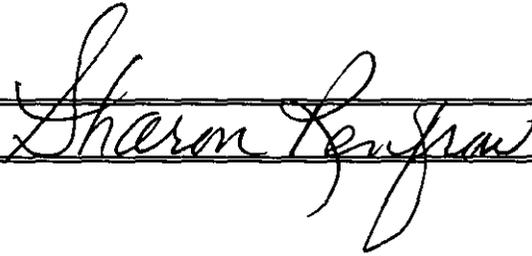
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: # 4992

Committee Clerk Signature



Minutes:

**Sen. Urlacher** called the committee to order because of a request by Sen. Horne for reconsideration on HB 1049.

**Sen. Horne:** thank you for doing that, if you recall I asked the question about what are we doing this again and I guess I didn't understand it as well as I should have and after thinking about how I voted, I'd like to reconsider it and if no other reason I'd like to change my vote and maybe others will change theirs too but I'd like to reconsider it for that reason, kind of a selfish reason if no other, that's my Motion, second by Sen. Triplett.

Voice vote: 7-0-0

**Sen. Horne:** as I said earlier, I'd like to change my vote and I would invite others to do the same as I'm not so sure of this bill and even though it has a good purpose I think the fiscal is too high and I'd like to change my vote and encourage others to do the same and I make a **Motion for DO NOT PASS on HB 1049**, second by Sen. Oehlke.

**Sen. Oehlke:** Sen. Horne, do you have any words of wisdom on this.

**Sen. Horne:** well the ying and yang of it is some of us would like to do better for those who are purchasing natural gas for heat and on the other hand if it's a \_\_\_ we talked a lot about the impact on the treasury and I just \_\_\_ the way towards the treasury.

**Sen. Oehlke**: well I remember putting a pencil to it myself and thinking okay a \$1,000 worth of natural gas or propane or whatever amounts to \$20 and for people that are really hurting I think they are on fuel assistance at this point anyway, I don't think, I don't know if we're helping the people we really want to help.

**Sen. Cook**: I think there's a long history over the whole concept of whether or not we should even be taxing this or not, I think there was a time where it was taxed a lot higher and I think if I remember right there was an initiated measure involved in this particular tax, I mean its something that's certainly been a volatile issue all the years that it has been there I don't think it would hurt just to put it to rest and say that in the State of ND we're not going to tax natural gas or heating oils that we all have to heat our homes and I looked through the testimony I see and I understand the FN. You got the Chamber of Commerce's, AARP and me on the same side I guess I don't know; it can't be all that bad.

**Sen. Triplett**: I felt awfully ambivalent about this too because of the enormous FN on it and if we had one more day I think it would be worth trying to sort this out and trying to do an amendment for to focus it on the residential homes and separate out the rest of this in an effort to get the FN down to something more reasonable but given that we are out of time I think I'm going to join Sen. Horne.

Roll call vote: 5-2-0

Sen. Oehlke will carry the bill

Date: 3-13-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1049

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DNP

Motion Made By Tollefson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson		✓
Sen. Tollefson	✓		Sen. Horne		✓
Sen. Cook	<del>✓</del>	✓	Sen. Triplett		✓
Sen. Oehlke	✓				

Total (Yes) 3 No 4

Absent 0

Floor Assignment \_\_\_\_\_

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





**REPORT OF STANDING COMMITTEE**

**HB 1049, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)**  
recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1049 was placed on the Fourteenth order on the calendar.

2007 SENATE APPROPRIATIONS

HB 1049

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-20-07

Recorder Job Number: 5319

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1049 indicating we will be hearing the fiscal impact of the bill as it has been heard in Finance and Tax.

Representative Ron D. Carlisle, District 30, Bismarck, distributed a chart of computation of sales tax by quarter and introduced HB 1049 indicating this is an emergency 2 percent heating fuels tax and it is broken into two parts. There is currently no tax on electricity. He discussed the charts he distributed indicating the impact on the general fund, as well as the affect on cities and counties. This was not originally not in the Governor's Budget but when he gave the state of the state address, he endorsed the concept of removing this tax. He recommended a do pass on HB 1049.

Senator Robinson asked what neighboring states do on this issue. The response was Rep. Carlson did not know.

Chairman Holmberg indicated a subcommittee will be looking over this bill together with the other tax bills. The subcommittee will include Senators Christmann, Wardner and Seymour. Senator Bowman indicated the savings to the citizens and that reinvested money that has taxes paid back to the state.

Representative Jeff Delzer, District 8, Bismarck, testified in support of HB 1049, indicating that with the surplus we have this is a good time for us to give back to the citizens of ND and this is one way to do it.

Tony Clark, Commissioner, PSC, testified in support of HB 1049 noted that the PSC is in support of HB 1049. He stated leaving aside the policy debates on the fairness of the taxation and sticking to the fiscal side of things, I would emphasize is that this is a difficult tax to budget. Energy costs are extremely volatile and the most volatile of all are natural gas prices. They have increased dramatically over the past few years.

Senator Christmann asked to clarified the diesel and LP gas and if this is normally fuel oil. The response is yes correct.

Chairman Holmberg indicated because the budget is more robust then in the past, we can easily afford this. But it was also pointed out that over \$5 million goes into our highway distribution system which is not as robust. Do you have a comment on that? The response was that if we are going to build highways and generate revenues to do that, one of the things you wouldn't do is tax those people who are use fuel to heat their homes.

Kevin Cramer, PSC, testified in support of HB 1049, indicating he carries the gas portfolio. He indicated that gas prices are becoming less volatile because they are becoming higher. We are dealing with a finite resource and that is consistently increasing. This speaks to the point that this is the time to eliminate this immoral tax.

Dennis Boyd, representing MDU Resources Group, MDU, and 90,000 natural gas customers distributed written testimony and testified in support off HB 1049. He summarized his written testimony.

Senator Christmann questioned the property taxes on gas lines and electricity lines and coal being figured into everyones bills. The response was all of the taxes paid by our company on

our product are built into the rates we charge customers. Sales tax is on the retail portion of the utility.

Senator Christmann questioned the 2 percent on the retail and all of the taxes paid on your side are regressive. The response was we'd be happy if you eliminated all of our taxes.

Senator Wardner asked if he minded the committee stepping down on this and working on the tax. The response is that was offered as part of the history and it would be a viable way for you to manage the fiscal effect. The important thing is to get to the point of eliminating it.

Senator Lindaas indicated in the event ND economy should suffer a reversal, would you offer that we should reinstate this tax. The important thing with this tax is it is a necessity of life and if the fiscal situation of the state is such that you have to consider increasing taxes and as long as everyone is treated equally I would not argue against it.

Senator Tallackson asked if there was a division of commercial and individual gas rates. The response was that it is the same rate for both.

Linda Johnson Wurtz, Association State Director, Advocacy for AARP ND, representing 80,500 members, distributed written testimony in support of HB 1049.

Bill Shalob, representing the ND Chamber of Commerce, testified in support of HB 1049.

David Alan Flabiger, testified in support of HB 1049, indicating there should be no tax on heating oil and indicated we are being overcharged for fuel oil.

Bob Graveline, President, Utility Shareholders of ND, representing 2400 members, presented written testimony in support of HB 1049.

Chairman Holmberg closed the hearing on HB 1049.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049

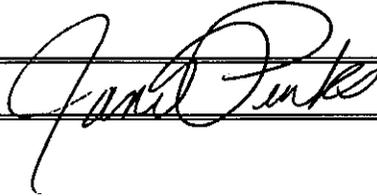
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-21-07

Recorder Job Number: 5377

Committee Clerk Signature



Minutes:

Chairman Holmberg opened HB 1049.

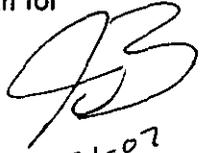
Senator Wardner distributed amendments .0301 indicating Senator Cook of Finance and Tax. These amendments were not considered in that committee. He stated if we take the bill the way it is, it has a fiscal note affecting the general fund and highway tax distribution fund by eliminating the 2 percent tax effective July 1, '07. The amendment changes the implementation date of the bill, in July 1, 2008 would drop by 1 percent and July 1, 2009 the tax would completely be eliminated. What it does to the fiscal note is reduce both the highway tax fund and general fund.

Senator Wardner moved a do pass on the amendment 0301, Senator Christmann seconded. There was discussion about the reduction, and the hit on state aid distribution which is reduced. An oral vote was taken resulting in a do pass.

Senator Wardner moved a do pass as amended, Senator Bowman seconded. A roll call vote was taken resulting in 13 yes, 0 no, 1 absent. The motion passed. Senator Wardner will carry the bill.

Chairman Holmberg closed the hearing on HB 1049.

March 15, 2007

  
3-21-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1049

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 5, after "tax" insert "rate reduction and"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas and coal sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994.~~ Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of coal that is exempt from the coal severance tax is two percent."

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from July 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 10, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from July 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 20, replace "This" with "Sections 2 and 5 of this" and replace "is" with "are"

Page 4, line 21, replace "2007" with "2008" and after the period insert "Sections 1, 3, 4, and 6 of this Act are effective for taxable events occurring after June 30, 2009."

Renumber accordingly

Date:  
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1049

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DP as Amend 0301

Motion Made By Wardner Seconded By Christmann Bowman

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathem	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 13 No \_\_\_\_\_

Absent 1

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE

HB 1049, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1049 was placed on the Sixth order on the calendar.

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 5, after "tax" insert "rate reduction and"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas and coal sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994. Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of coal that is exempt from the coal severance tax is two percent."

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from July 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 10, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from July 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 20, replace "This" with "Sections 2 and 5 of this" and replace "is" with "are"

Page 4, line 21, replace "2007" with "2008" and after the period insert "Sections 1, 3, 4, and 6 of this Act are effective for taxable events occurring after June 30, 2009."

Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1049

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 13, 2007

Recorder Job Number: 5984

Committee Clerk Signature

*Mickie Schmitt*

Minutes:

### Conference Committee:

Chairman Weiler opened the conference on HB 1049 and asked the clerk to take the roll; all were present.

**Chairman Weiler:** The first thing I'd like to do is have the Senate explain the amendments you put on the Bill and how they affect it in general.

**Sen. Tollefson:** Sen. Oehlke is the expert on this issue.

**Sen. Oehlke:** Sort of ...I carried the Bill originally...

**Chairman Weiler:** Sen. Oehlke, can you get us to the, is the amendment that we're looking at, 0301, is that the amendment?

**Sen. Oehlke:** There are actually two amendments. Both were added after it came out of our committee, one was added in Appropriations and that was 0301. Another was added on as a floor amendment and that's 0302. Effectively these amendments did help reduce the fiscal note because if you recall seeing it originally, it had about 18 million dollar fiscal note. And it affected the DOT significantly as well. It took about 11 something out of the general fund and another 6.3 out of other funds and it was a nasty fiscal note. To tell you the truth this came out of committee as Do Not Pass. It ended up in Appropriations and Appropriations at first added

the 0301. I'm not sure what that did to the fiscal note, I don't think another fiscal note was developed until after the 0302 was also added to it. But it appears to me that between the two of them, they have got rid of coal as an issue and tried to limit the tax to apply only to heating for residential type locations as far as the credit. I think that's all. If you go to the 0400 version of the Bill, if you go to the third page you'll notice that on line 20 it says sales tax on natural gas sales. The old 0400 version had coal in it so that portion of it was eliminated. Then if you want to flip to page 4 of the 0500 version, lines 20-21 where it says other than diesel fuel sold for use as heating fuel is exempt from the special fuels tax. I don't know if that was changed at all.

**Sen. Anderson:** Sen. Oehlke, I think that's where that 1% went back in again.

**Sen. Oehlke:** When we first had this in committee we tried to get the LC and the Tax Dept. to give us an idea what we could do to reduce that fiscal note and give that tax break to the people who really needed it, and not just blanket it to everybody. They just told us it was impossible for that to happen, they didn't think that there was a physical way to do it.

Apparently these amendments have solved some of that problem so that some relief can be given to some folks who are paying a tax on these fuels; they should get some benefit out of it.

**Chairman Weiler:** On page 4 of the 0500, line 23; if I'm reading this correctly it's currently at 2% tax and you're taking it down to 1% beginning July 1, 2008. So you're taking half of the fiscal note off, is that correct?

**Sen. Tollefson:** And then at the end of that year it will be exempt entirely, second year.

**Chairman Weiler:** Right, so the other half of the fiscal note will be realized in the 09'-11', is that correct? The question I have on that particular item is you have it going into effect July 1, 2008. The whole purpose of this is to give some relief. We kind of view heating as a necessity, we believe that it shouldn't be taxed. You have to heat your homes. I'm wondering why it's not going into effect until July 1, 2008. If you had it go into effect January 1, 2008 and you moved it

up six months and it's still in the same biennium but now we're covering, at least going to begin to cover the next heating season. That would be the question. Can you explain why you want to begin July 1, 2008 instead of backing it up to January 1 or even November 1 of 2007, it's in the same biennium?

**Sen. Tollefson:** I don't recall a discussion on that particular amendment nor the dates involved, this is a Cook amendment I think.

**Chairman Weiler:** And I don't have an updated fiscal note but I would imagine it just cuts the fiscal note in half, correct?

**Sen. Tollefson:** Actually it cuts it to 25%. Because you lose the whole first year and you get half the discount, it doesn't go to zero; it goes to 1, so it cuts it by 75%.

**Sen. Anderson:** There is a fiscal note on the very last page. Yes, there's a date of April 6<sup>th</sup>.

**Chairman Weiler:** Thank you. That must be the updated one. Is that roughly 25%?

**Sen. Anderson:** Yes.

**Chairman Weiler:** I understand the concern about attempting to reduce the fiscal note. They only have 550 million; we've got to be careful about spending this money on people to heat their homes.

**Sen. Oehlke:** When it was an 18 million dollar fiscal note, the main concern that I had about that is that the benefit was not really getting...yes if someone pays 1,000 dollars a year for heating and fuel, 2% of that is \$20.00. We were going to save that person \$20.00 or so but a large business who's probably spent \$50,000.00 on fuel is going to come out much better than perhaps the person that really needed benefits so because of the size of the fiscal note, that's why initially I wasn't in favor of it but if we can get that benefit to the person that really needs it on a reasonable basis and not hurt the general fund or the highway distribution fund.

**Sen. Anderson:** We voted on this more than once in committee and I was always echoing what you were saying is that everybody has to warm in ND, so I was in favor of to begin with. I don't have a problem with the amendments, I could go along with them but I just wanted you to know that as far as the Bill itself, I'm really in favor of it.

**Sen. Tollefson:** Visiting with the people that serve and sell natural gas for example, there was an attempt to our conversation about attempting to establish these breaks on the basis of residential and commercial, the residential only to those people that really need it.

Mechanically it becomes a very difficult if not impossible situation to handle. So the result of that conversation and those things that work with it, the Senate Finance and Tax and Sen. Cook and others came up with this what we think is a proper solution. Now your suggestion of setting up that date from the standpoint of the tax break to at least cover part of the next heating session could be perhaps something we should be talking about.

**Chairman Weiler:** I guess that I don't know that it was a suggestion on my part, it was just a question. If we're going to do this and the House certainly feels this is a reasonable thing to do and the right thing to do because again, people need to heat their homes. If we're going to do this why don't we just do it right away because the next heating season is coming up? So I don't know that it was a suggestion on my part as much as it was a question as to why you chose to start it when you did.

**Sen. Tollefson:** Mr. Chairman, we have someone from the Tax Dept. here, maybe there are some reasons why that's difficult to do and if there isn't, maybe we should do it.

**Chairman Weiler:** That would be fine, Myles or anybody would you care to comment on that?

**Myles Vosberg, Tax dept.:** What are we talking about? Are we talking about difficult for the retailers or commercial or the starting date?

**Sen. Tollefson:** I was thinking of the starting date but perhaps the retailers as well.

**Myles Vosberg:** As far as the starting date goes, as far as difficulty, as long as there's ample time for notice, I don't think that probably makes a whole lot of difference. Maybe retailers could discuss that further. It's probably more difficult to make a distinction or billing at a 2% rate for example for commercial use in exempting the residential is probably more difficult on their part. Mechanically to establish taxability for every particular account, I guess you would need to define how you wanted to do that if you're talking about heating for commercial purposes are you talking about individual residential or would that still include malls, apartment buildings and so on?

**Sen. Anderson:** Thank you Myles, but I don't know if that's the question that we've got here but that was also discussed in committee and it's also nice to be warm when you're working and there was also concerns by some that the business might be on the first floor and the person who runs the business may be on the second floor and everything goes through the singular. That's why it was just down to heating fuel and let's make all heating fuel the same. If one isn't taxed then none of them should be taxed. I understand the question is when?

**Chairman Weiler:** Thank you for those comments I believe that it is not only the Bill sponsors idea but the entire House as well. We don't want to separate this out into residential and commercial. Number one it isn't mechanically doable, I don't believe and number two is right. I mean it just isn't right to do that so.

**Sen. Oehlke:** If changing that from July to the first of the year, would that affect this fiscal note?

**Myles Vosberg:** Certainly it will.

**Sen. Oehlke:** I have a feeling that the reason that it is set up the way it is to gradually get us to the point without it being such a tremendous blow to start with. And although you mentioned \$550 million but as of yesterday we were 22 in the hole between the House and the Senate.

I'm kind of thinking that if we change that and the fiscal note and got boosted on it again, I don't know how much that would amount to but I don't want to put this in jeopardy either. I'd like to get this relief where it needs to be.

**Sen. Tollefson:** We have a retailer representative here and I think it would be good to know what problems a retailer would come up with, with any changes in the present format we have in our Bill.

**Chairman Weiler:** That would be fine.

**Dennis Boyd, MDU Resources Group:** I do have a history that dates back to 1979, it includes 79', 81', 82', 85 and 91 sessions to get this Bill and this tax where it's at today. As far as I understand the Bill at this point it affects all heating fuels, whether if there's no separation as far as residential and commercial that would be mechanically very difficult as Sen. Tollefson or Sen. Anderson acknowledged. There are customers that have a jewelry store or grocery store or shop on the first floor and they live in an apartment behind the store or upstairs and there's a single meter serving that building or the premise. We'd have to make an arbitrarily decision I suppose as to whether it's primarily residential or commercial which would be sort of difficult. And if it was a substantial operation that somebody wanted to be or wanted a tax or needed to be the customer said well this is primarily a residence and it had to be some piping change to set another meter that would all be at his expense. So I think that it's... I would hope that that discussion is off the table, because that would be very difficult to administer. I might add that in 1991 when this Bill did pass, we suggested and the Legislature accepted a phase in over a three year period of time. I guess the important thing to me is that the Bill pass that would be preferable if the implementation date could be moved up to January 1, 2008 or November of 2007 because then you would in effectively extend the benefit tax reduction for the upcoming heating season.

**Sen. Tollefson:** Other than that, a change of this effectiveness of this date would have no problem for the retailer?

**Dennis Boyd:** No, I don't believe so.

**Sen. Tollefson:** Mr. Chairman, I would make a suggestion that perhaps we should get a new fiscal note because that definitely will change.

**Chairman Weiler:** A new fiscal note, if we change the date?

**Sen. Tollefson:** Yes.

**Chairman Weiler:** In the House, did we add coal?

**Rep. Vig:** Yes.

**Chairman Weiler:** And then you guys removed it. Is that correct?

**Sen. Oehlke:** It is removed but it does have a current fiscal note. In the middle of the fiscal note it says on the last line says these heating fuels including coal all become exempt in the 2009-11 biennium.

**Rep. Skarphol:** Myles could you answer a question please? Do you have a number for us on what the fiscal note would be for the coal?

**Myles Vosberg:** We have a number and I can get it for you, I just don't recall what it was. It was relatively small. The concern that we had with the House amendment on the coal was if shaved down the rate, just like it did for the other fuels which created a problem for us in the Streamline Sales Tax (SST) because of adding another rate. Because the number was relatively insignificant, I had talked to Sen. Cook about amending that to get on the floor to eliminate it at one time rather than phase it.

**Rep. Skarphol:** Do you have a number for us on the changes of...we talked about change to move the effective date to January 1, can you get that for us? I would assume it's not a six month thing that there's primarily the heating season involved there.

**Sen. Anderson:** I think I can answer that question about the coal. I'm looking at two fiscal notes, one of them says natural gas, and the other one says coal. It goes from 11,600,000 to 11,646,000, so it would be 46,000 in the general fund, other funds it goes from 6,300,000 to 6,204,000 so that would be 4,000. The original Bill as Sen. Oehlke said, 11,646,000 for the general fund and 6,304,000 for other funds. I know that times getting late and that would be starting of course on the regular date. But the question is starting on January 1, do we really want that?

**Sen. Tollefson:** I think we should look at that fiscal note.

**Chairman Weiler:** Thank you, I think it certainly wouldn't hurt to take a look at it. I do recall that the reason we added coal was because we felt that if you're going to heat your house, it doesn't matter what you heat it with, you should be getting a tax break also. So that's the reason coal was added in and I certainly think we need to continue that. Are there any other comments at all? I think what we'll try to do is get a fiscal note and set up another meeting for tomorrow. We'll adjourn the conference.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 CC

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 16, 2007

Recorder Job Number: 6042

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

## Committee Conference:

Chairman Weiler opened the conference on HB 1049 and asked the clerk to take the roll: all were present.

**Chairman Weiler:** At this time I'm going to have Myles Vosberg come up. You all have a copy of the proposed fiscal notes covering a couple different scenarios and I'll have Myles at this time go over those please.

**Myles Vosberg, Tax Dept.: (See Attachment #1)** First of all when I was here on Friday, we talked about an effective for reducing the rates and we talked about probably not being difficult for the retailers. We would prefer very much not to make a change in the middle of a quarter. Most of our natural gas filers are going to be monthly. Some of them are filing quarterly and that would be difficult.

**Chairman Weiler:** You said quarterly?

**Myles Vosberg:** In the middle of a quarter. So actually we calculated these numbers with an October 1 change. This doesn't have a big impact from a November 1 change. So basically this schedule I show on the left side the House version, the Senate version. And then the middle column is natural gas and the special fuels would go from 2% to 1% on October 1, and

then the coal would be exempt in 2009. In the left hand column there, we show 6 million dollars for the natural gas and 50.348 for special fuels and then I broke it down between the general fund and the other funds. The breakdown for the natural gas is the State Aid Distribution Fund (SADF) The breakdown when it comes to the special fuels is the Highway Distribution Fund (HDF). Now for the natural gas we've got a little history there of what's been reported in the past that we collect, the heating season and so on. For the cycle of fuels we don't have as good of records. In addition to that with the special fuels, the customer has the ability to buy currently off season and store and so they tend to do that quite a bit and so there is not necessarily the most gallon control during the highest heating season and so for the special fuels we really split it equally by the quarter. And then the far right column is the same situation, only it's a July 1<sup>st</sup> 2008 date to reduce the rate to 1% with the reduction on July 1<sup>st</sup> 2009. And then clean up with the 6.9875 million fiscal note.

**Chairman Weiler:** Any questions on this at all?

**Sen. Oehlke:** Myles, are the numbers in addition to the 4 million that you kind of got in front of us right now? Or, would that replace?

**Myles Vosberg:** It would replace.

**Chairman Weiler:** Myles on the other funds, the original fiscal note was about 11. something with 6.3 of other funds. That 6.3 million of other funds, the way I understand it is already been taken care of in the Highway Patrol, can you explain to the committee what's happening on that?

**Rep. Skarphol:** In the Highway Patrol budget (HP) we move from using Highway Distribution Funds (HDF) to fund the administrative portion of the Highway Patrol and funded it with general funds. So part of the loss of these 6.3 million dollars would affect would be offset by

the general funds we put back in there. It was 4.4 million general funds that we put in to the HP, so it wouldn't cover all of that 6.3 million, but about 2/3 of it.

**Chairman Weiler:** So committee members basically what he's saying is that the fiscal note that we're dealing with is only the general and it's not the other funds. Does anyone have any questions on this? Myles, on the last table the one furthest to the right; if I'm reading this correctly, if we start the implementation date of January 1, 2008, we're looking at about 6,987,500, is that correct?

**Myles Vosberg:** That is correct; the implementation of a 1% rate on January 1<sup>st</sup>. It's the full exemption then on July 1<sup>st</sup>, course that's not really impacting this.

**Chairman Weiler:** And that's 4,600,000 of the general fund?

**Myles Vosberg:** That is correct.

**Chairman Weiler:** Ok. Versus if we try to implement it on October 1<sup>st</sup>, it's about 5.5 million, correct?

**Myles Vosberg:** From the general fund, that's correct.

**Chairman Weiler:** Committee members, any other questions? On the fiscal note, any comments on any of these charts at all? Now that we have this information, we can digest this.

**Rep. Skarphol:** One more comment, the way I'm reading this is if we change the implementation to January 1<sup>st</sup> of 2008, that we add a 2.5 million increase in the fiscal note, is that correct? And if we went to October 1<sup>st</sup>, it would be a 3.8 million. The difference is between the 8.3 and the 4.4. So it's about a 1.3 million dollar cost for that one quarter of the heating season?

**Myles Vosberg:** That's correct.

**Chairman Weiler:** Any other questions? We will adjourn at this time and set up another meeting when it's needed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 20, 2007

Recorder Job Number: 6224

Committee Clerk Signature *Mickie Schmidt*

Minutes:

### Conference Committee:

Chairman Weiler called the conference on HB1049 and asked the clerk to take the roll; everyone was present.

**Chairman Weiler:** The last time we got together we discussed this fiscal note and it was kind of the direction that we may want to go, so instead of getting together on that and then saying let's get the amendments drafted, I took the liberty of getting the amendments drafted. Myles Vosberg will explain them to us and then we'll see where it goes from there.

**Myles Vosberg, Legal Counsel from Tax Dept.:** (See Attachment #1) I can go through the concepts of the Bill; basically the amendments will change the natural gas rate from 2% to 1%, effective January 1, 2008 rather than July 1, 2008. The full exemption on natural gas would continue to be July 1, 2009.

The coal which now would be phased at the same 5% rate and would become exempt July 1, 2009, would become exempt January 1, 2008 under the amendment.

The other part of the Bill is where it gets a little complicated and that's involving the special fuels because there's another Bill that was passed this session, HB1348. The existing law, all special fuels are subject to a 2% tax imposed on the wholesale price. But HB 1348 left

propane which is a special fuel at 2% but changed other types of special fuels like dyed diesel to 4 cents per gallon and so we needed to incorporate that language into the amendment here so that rather than just changing the 2% to 1%, we needed to change the 2% to 1% on propane but change the 4 cents per gallon to 2 cents per gallon on the other types of special fuel, which is basically dyed diesel. So the reduction in rate on the special fuels would be at the same time January 1, 2008. So it will be either 2% to 1% or 4 cents per gallon to 2 cents per gallon and then fully exempt on July 1, 2009. That is basically it.

**Chairman Weiler:** So, I'm just going to summarize this real quick. Basically what this amendment does is it takes the implementation date for natural gas, propane, and coal from July 1, 2008 to January 1, 2008.

The coal, which is at 5%, goes to zero all in one shot. The reason for that is Streamline Sales Tax. (SST) Is that correct?

**Myles Vosberg:** That is correct.

**Chairman Weiler:** So natural gas, propane and coal's implementation date are all January 1, 2008. Along with another dyed diesel fuel which is used for heating purposes, that goes from 4 cents per gallon to 2 cents per gallon. All of that happens January 1, 2008. July 1, of 2009, is when all that stuff comes off and there's no more. There's no more tax for heating fuels. Is there any questions at all? The fiscal note is this one; the general fund is 4.6 million under general funds. And again the other funds are pretty much wiped out because of the Highway Patrol Bill, correct Rep. Skarphol?

**Rep. Skarphol:** Yes.

**Sen. Tollefson:** This is the fiscal note we're dealing with, the one on the far right? (Refers to attachment #1)

**Chairman Weiler:** Yes. Any other questions committee members? Committee members, we have an option to wait 10 minutes if you like or if everybody feels comfortable with this? What are your wishes?

**Sen. Oehlke:** For 5 million, we can wait 10 minutes.

**Rep. Skarphol:** I thought the price tag on this would be 2-1/2, additional based on the Senate version.

**Myles Vosberg:** Each one of these scenarios, it's not the difference, that's what the impact would be, so the column on the right there with the 4.6 million dollar fund would be the impact of these amendments.

**Sen. Oehlke:** So we need to add this fiscal note onto this fiscal note?

**Myles Vosberg:** No, this would be, if these amendments, if we get one based on these amendments, this is what you will see. 4.6.

**Rep. Skarphol:** So what's the fiscal note on a Senate version, right now as it stands?

**Sen. Oehlke:** 2.9 and that other fund is 1.575.

**Myles Vosberg:** I didn't break out the general fund from the other funds there, so the 4.475 million is the total impact, general fund and other special funds.

**Rep. Skarphol:** Here?

**Myles Vosberg:** Yes.

**Rep. Skarphol:** Ok, then this number to the total impact of the version we're approving?

**Myles Vosberg:** Yes.

**Rep. Skarphol:** So is there a difference between that and that is how much?

**Myles Vosberg:** The 4.475 million is the entire fund. So the difference by these amendments is the difference between 4.475 and 6.9875.

**Sen. Anderson:** I did write that down. It was 2.9 million that was the Senate version with the 4.475, and the other 1.575 which totals 4.475.

**Rep. Skarphol:** This is just as clear as mud to me. The fiscal note dated 4-06 on this Bill. The total is 4.475. These two added together, general funds?

**Chairman Weiler:** Correct me if I'm wrong but we're only dealing with the general funds on this because the HP budget, the others are basically taken care of. If you take 2.9 million as the general fund under the Senate's version; 4.6 will be the...

**Rep. Skarphol:** So we're 1 million and a half different?

**Chairman Weiler:** 1.7 million.

**Rep. Skarphol:** Ok, so it's less than what I was saying?

**Chairman Weiler:** Yes.

**Rep. Skarphol:** So total funds, the difference is 2.512?

**Chairman Weiler:** Yes. Any other comments or questions on these proposed amendments?

**Sen. Tollefson:** Could you go over those figures one more time?

**Chairman Weiler:** If you look at fiscal note, the total funds are general funds are 2.9 million plus 1.575 million, total. And that totals this number.

**Sen. Tollefson:** That 4.475?

**Rep. Skarphol:** And the total fiscal effect of the proposed amendment is 6.9. The difference between those two numbers is 2.512. The difference in the general fund is 1.7.

**Chairman Weiler:** Under your 2.512, you're taking into account the total fiscal note and I'm just working with the general fund. We'll just stand at ease until the amendment gets here.

**Committee Stands at ease until the amendments got here. Passed out amendments.**

**Sen. Oehlke:** I remember Myles saying about coal at 4%? Or is 2% the correct number on this?

**Myles Vosberg:** That's incorrect.

**Chairman Weiler:** That's the first thing I saw too. Should that be zero?

**Myles Vosberg:** I don't think you need that whole last sentence. If you look at the gross, I have the engrossed House with the Senate amendments that was struck.

**Rep. Skarphol:** It was intended that that goes to zero, correct?

**Myles Vosberg:** Right.

**Rep. Skarphol:** Starting from the coal severance tax.

**Myles Vosberg:** That's not needed at all and that was added when the proposal was made to reduce the coal to 2%.

**Rep. Skarphol:** You have to work off of the 300 version of the Bill, because the amendment is 0304. It's in the packet.

**Myles Vosberg:** Maybe I'm not looking at this right but on version 0300, when you look at the amendment in section 2 that's not section 2 of the 0300.

**Rep. Skarphol:** I think what happens is; that section 2 on the amendment is placed after line 13 and section 2 will become section 3. That's the two different sections of code that those things are addressing.

**Myles Vosberg:** That section wasn't in version 0300.

**Chairman Weiler:** Myles, what are we repealing in section 5 of the 0300 version?

**Rep. Skarphol:** You're actually repealing this section 2 on the amendment. If you look at this code reference, you're actually repealing this.

**Chairman Weiler:** Maybe that's why it's in there?

**Rep. Skarphol:** And section 2, according to this new amendment, is effected by a line 20 which affects the effective dates. It says section 2 of this act is effective for special years occurring after June 30, 2007.

**Myles Vosberg:** Section 2 of the amendment reduces the rate on natural gas to 1%. Then section 5 of 0300 which stays the same, repeals that section, so that creates the full exemption.

**Chairman Weiler:** But section 5 of the 0300 version goes into affect...

**Myles Vosberg:** Right, on July 1 of 2009 where it should.

**Sen. Oehlke:** Is that the way to do that or should it say repeal section da-ta-da and add the following.

**Rep. Skarphol:** I think when you go with the affective dates on all of the changes that are made at the very bottom of the amendment and you pencil them in, I think it will make sense.

**Sen. Tollefson:** Yes, if you follow the code numbers.

**Rep. Skarphol:** Yes, it makes sense; even a 2% reference in section 2 makes sense. What this does is new section 2 says that the rate on natural gas is 1% and the coal severance tax is 2% until December 31, 2007 and then it drops.

**Chairman Weiler:** We didn't want that to go to 2%, we can't because of Streamline. It's got to remain at 5% until January 1.

**Myles Vosberg:** Right, it creates a new rate.

**Rep. Skarphol:** So the date is right but the rate is wrong. This 2% has to remain at 5% because it's affective until December 31, 2007 but the rate needs to be 5% versus 2%.

**Chairman Weiler:** I think what he did is they weren't aware of the fact that we couldn't go from 5% to 2% so he took natural gas and propane which is already at 2% and added coal to the 2%, correct?

**Myles Vosberg:** Right, this was originally amended on the floor I believe on the Senate side.

**Chairman Weiler:** So what do we need to do to fix section 2 on the amendment, we can't just take this...

**Rep. Skarphol:** We want natural gas to 1%, right? And you need to have coal stay at 5%, correct? I think all we need to do is change that 2% to a 5% and then sections 2 & 5 are effective until December 31, 2007. So section 2 on the amendment and section 5 which is a repeal are effective until 2007 and then the repeal takes place and that repeals that section. So we'll leave this at 5, I think we're fine. And then I think the balance of the amendment is fine because 1, 3, 4, and 7 are effective as of June 30, 2009. **So Mr. Chairman, if we'd like to clean this up, I would move amendment 0304 with the change of changing the 2% to 5% and then we will substantiate the actions are correct with Counsel.**

**Rep. Vig: Second it.**

**Chairman Weiler:** Does everybody know which 2% we need to change to 5%. Does everybody follow that? We have a motion and a 2<sup>nd</sup>.

**Myles Vosberg:** That 0300, section 1 of the Bill is placed where coal is currently, that's where we imposed the tax on coal. Sub item G on page 2 is struck out, so that would remove the imposition with tax on coal.

**Rep. Skarphol:** So that overstrike would need to be removed as well?

**Myles Vosberg:** On page 3, subsection 2 is a new exemption on coal.

**Rep. Skarphol:** Ok, subsection 2 becomes subsection 3.

**Myles Vosberg:** And I'm looking at version 0300. So we're striking the imposition on coal and we're creating an exemption on coal on the existing 0300. So if you leave that the same and just change the effective date of those two sections, I don't think you need that last sentence in there at all because we're already imposing tax at 5%.

**Sen. Oehlke:** We're at 5% now so all we need to worry about when it comes off.

**Chairman Weiler:** Correct, it's 5% now, all we're concerned with is January 1, 2008 the 5% becomes zero.

**Myles Vosberg:** So if you make and I'm talking again existing version 0300, if you make sections 1 and 2 effective on January 1, 2008, that will at that point eliminate the tax on coal.

**Chairman Weiler:** What I'm going to suggest then is that we not make that change and we'll go through the withdrawing of the motion if we need to but, what I'm going to suggest is that we take a vote on this and Myles, I'm sure that if you get a chance over the next day to go through this, if it's correct in what we did and what our intent is and you know what our intent is. If it's correct, that's great, if not Monday morning; we'll come back and fix it. I believe you that it's correct but in the event that it's not, we can fix it.

**Rep. Skarphol:** Will you contact Mr. Walstad, so that both of you have the same opinion?

**Myles Vosberg:** Yes, I can do that.

**Rep. Skarphol:** I would withdraw my motion.

**Rep. Vig:** I would withdraw my 2<sup>nd</sup>.

**Chairman Weiler:** Ok, members of the committee, I guess we have some proposed amendments that are clean in front of you. These amendments are correct. If we can make a motion, and then pass this out. The motion was with this change and we don't need that change.

**Rep. Skarphol:** I would move amendment 0304.

**Rep. Vig:** Second it.

**Myles Vosberg:** I was saying that I don't think that you need that last sentence in section 2 of the amendment.

**Chairman Weiler:** I'm sorry Myles; I thought you said we don't need to change the 2 to 5.

**Myles Vosberg:** The amendment needs to be changed because the existing version here pulls out the imposition of tax on coal and creates an exemption for coal already.

**Chairman Weiler:** So what you're saying is let's get this cleared up this evening and reschedule this for tomorrow morning.

**Myles Vosberg:** I'll go through all the rest of this and make sure it's ok and will go through it with John Walstad.

**Chairman Weiler:** Ok, we need to withdraw the motions again.

**Rep. Skarphol:** I'll withdraw my motion.

**Rep. Vig:** I'll withdraw my 2<sup>nd</sup>.

**Chairman Weiler:** Ok, we'll reschedule for tomorrow, we'll adjourn the conference.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1049 CC

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: April 21, 2007

Recorder Job Number: 6240

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

## Conference Committee:

Chairman Weiler opened the conference to order and asked the clerk to take the roll; all were present.

**Chairman Weiler:** Committee members, in front of you are the new correct version of the amendments. Myles, could you explain the amendments?

**Myles Vosberg, Tax Dept.:** After I talked to you last night, I found one other change that needed to be made, but basically the change is what we talked about yesterday the way John had written this we were reducing the rate on coal, which we didn't need to do, we just wanted to exempt it as of January 1, 2008. And so on the previous amendment is adjusted that what was section 2 on the amendment. And then if you look we added an additional section 5 amendment which is the change in the natural gas in the use tax law, we missed that before. The same provision is in both chapters. I asked John to update that as well. The only other change then from yesterday's amendment would be the effective date on the sections so that we exempted the coal January 1, 2008, we've reduced the rate of the natural gas and the special fuels from January 1, 2008 through June 30, 2009, and then exempted all of those special fuels and natural gas effective July 1, 2009.

**Chairman Weiler:** Myles, did you say there was another change to be made?

**Myles Vosberg:** In the new amendment, that section 5 is the use tax adjustment. It's in here now.

**Chairman Weiler:** So there isn't anything we need to do to these?

**Myles Vosberg:** No.

**Chairman Weiler:** So again what we're doing with these amendments is that we are implementing a start date of January 1, 2008 for natural gas, propane, and coal is going from 5% to 0 on that same date. And all special fuels will be reduced. What they are, cut in half, whether it's 4 cents to 2 cents for diesel or 2% to 1% for natural gas and propane, that will all happen January 1, 2008. And then on July 1, 2009, everything will be wiped out all of the tax will be wiped out. Are there any questions or comments?

**Rep. Skarphol:** I would move amendment 0305 to HB 1049 and have the Senate recede from the Senate amendments and adopt amendment 0305.

**Sen. Tollefson:** Second it.

**Chairman Weiler:** Is there any discussion? Seeing none, will the clerk take the roll; 6-y; 0-n; 0-absent; Rep. Weiler will carry the Bill. We will adjourn this conference.

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1049 (, as (re)engrossed):

Date: April 13, 2007

Your Conference Committee House Finance & Tax

For the Senate:

For the House:

*Roll:*

Y

N

← vote →

Y

N

*Roll:*

Sen. Tolofson  
 Sen. Dehike  
 Sen. Anderson

Rep. Weiter  
Rep. Skarphol  
Rep. Vig

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4-13-07

HOUSE CARRIER: \_\_\_\_\_ SENATE CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT: \_\_\_ YES \_\_\_ NO \_\_\_ ABSENT

*No Action today*

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1049 (, as (re)engrossed)

Date: April 16, 2007

Your Conference Committee House Finance : TAX

For the Senate:

For the House:

Roll:	For the Senate:		For the House:		Roll:
	Y	N	← vote →	Y N	
✓					✓
✓					✓
✓					✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_ having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

(Re)Engrossed \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

HOUSE CARRIER: \_\_\_\_\_

SENATE CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT: \_\_\_ YES \_\_\_ NO \_\_\_ ABSENT

*\* No Action taken!*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1049

That the Senate recede from its amendments as printed on page 1451 of the House Journal and pages 925 and 926 and page 1274 of the Senate Journal and that Engrossed House Bill No. 1049 be amended as follows:

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 5, after "tax" insert "rate reduction and"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas and coal sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994.~~ Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of coal that is exempt from the coal severance tax is two percent."

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 9, replace "Special fuel, other than" with "Propane"

Page 4, line 10, remove "diesel fuel," and after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 11, after the underscored period insert "Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fund tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer."

Page 4, line 20, replace "This" with "Sections 2 and 5 of this" and replace "is" with "are"

Page 4, line 21, replace "June 30" with "December 31" and after the period insert "Sections 1, 3, 4, and 6 of this Act are effective for taxable events occurring after June 30, 2009."

Re-number accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1049 (, as (re)engrossed):

Date: 4-20

Your Conference Committee HOUSE FINANCE & TAX

**For the Senate:**

**For the House:**

Roll:		YES / NO		YES / NO	Roll:
✓	Sen. Tollefson			Chairman Weiter	✓
✓	Sen. Oehlke			Rep. Skarphol	✓
✓	Sen. Anderson			Rep. Vie	✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4-20  
CARRIER: \_\_\_\_\_

LC NO. <u>70114.0304</u> of amendment
LC NO. _____ of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT        YES        NO        ABSENT

*\* NO ACTION taken*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1049

That the Senate recede from its amendments as printed on page 1451 of the House Journal and pages 925 and 926 and page 1274 of the Senate Journal and that Engrossed House Bill No. 1049 be amended as follows:

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 4, after the comma insert "subsection 3 of section 57-40.2-02.1,"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 1, line 7, after "57-39.2-03.6" insert "and subsection 3 of section 57-40.2-02.1"

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994.~~

Page 3, after line 24, insert:

**"SECTION 5. AMENDMENT.** Subsection 3 of section 57-40.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. An excise tax is imposed on the storage, use, or consumption in this state of natural gas consumed by a final user at the rate of ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994,~~ if sales tax has not been applied as provided by section 57-39.2-03.6."

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 9, replace "Special fuel, other than" with "Propane"

Page 4, line 10, remove "diesel fuel," and after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 11, after the underscored period insert "Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer."

Page 4, line 20, replace "This" with "Sections 1, 2, 3, 5, and 6 of this" and replace "is" with "are"

Page 4, line 21, replace "June 30" with "December 31" and after the period insert "Sections 4 and 7 of this Act are effective for taxable events occurring after June 30, 2009."

Renumber accordingly

**Conference Committee Amendments to Engrossed HB 1049 (70114.0306) - 04/21/2007**

That the Senate recede from its amendments as printed on page 1451 of the House Journal and pages 925 and 926 and page 1274 of the Senate Journal and that Engrossed House Bill No. 1049 be amended as follows:

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 4, after the comma insert "subsection 3 of section 57-40.2-02.1,"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 1, line 7, after "57-39.2-03.6" insert "and subsection 3 of section 57-40.2-02.1"

**Conference Committee Amendments to Engrossed HB 1049 (70114.0306) - 04/21/2007**

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is ~~four~~ one percent from January 1, 1993, through December 31, 1993; ~~three~~ percent from January 1, 1994, through December 31, 1994; and ~~two~~ percent after December 31, 1994."

Page 3, after line 24, insert:

**"SECTION 5. AMENDMENT.** Subsection 3 of section 57-40.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. An excise tax is imposed on the storage, use, or consumption in this state of natural gas consumed by a final user at the rate of ~~four~~ one percent from January 1, 1993, through December 31, 1993; ~~three~~ percent from January 1, 1994, through December 31, 1994; and ~~two~~ percent after December 31, 1994, if sales tax has not been applied as provided by section 57-39.2-03.6."

**Conference Committee Amendments to Engrossed HB 1049 (70114.0306) - 04/21/2007**

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 9, replace "Special fuel, other than" with "Propane"

Page 4, line 10, remove "diesel fuel," and after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 11, after the underscored period insert "Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer."

Page 4, line 18, after "57-39.2-03.6" insert "and subsection 3 of section 57-40.2-02.1" and replace "is" with "are"

Page 4, line 20, replace "This" with "Sections 1, 2, 3, 5, and 6 of this" and replace "is" with "are"

Page 4, line 21, replace "June 30" with "December 31" and after the period insert "Sections 4 and 7 of this Act are effective for taxable events occurring after June 30, 2009."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1049 (, as (re)engrossed):

Date: April 21, 2007

Your Conference Committee House Finance: TAX

Roll:	For the Senate:		For the House:		Roll:
	YES	NO	YES	NO	
✓	Sen. Tollefson	✓	Chairman Weiler	✓	✓
✓	Sen. Oehlke	✓	Rep. Skarphol	✓	✓
✓	Sen. Anderson	✓	Rep. Vig	✓	✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) ~~1000~~<sup>1451</sup> - ~~1000~~<sup>1451</sup>

and place \_\_\_\_\_ on the Seventh order.

adopt (further) amendments as follows, and place 1049 on the Seventh order:

\_\_\_\_\_ having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

(Re)Engrossed 1049 was placed on the Seventh order of business on the calendar.

DATE: April 21 2007

CARRIER: Rep. Weiler

LC NO. <u>70114.0306</u> of amendment
LC NO. _____ of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Rep. Skarphol

SECONDED BY: Sen. Tollefson

VOTE COUNT 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1049, as engrossed:** Your conference committee (Sens. Tollefson, Oehlke, Anderson and Reps. Weiler, Skarphol, Vig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1451, adopt amendments as follows, and place HB 1049 on the Seventh order:

That the Senate recede from its amendments as printed on page 1451 of the House Journal and pages 925 and 926 and page 1274 of the Senate Journal and that Engrossed House Bill No. 1049 be amended as follows:

Page 1, line 3, after the comma insert "section 57-39.2-03.6,"

Page 1, line 4, after the comma insert "subsection 3 of section 57-40.2-02.1,"

Page 1, line 6, after "tax" insert "rate reduction and" and after the first "for" insert "sales of natural gas and for"

Page 1, line 7, after "57-39.2-03.6" insert "and subsection 3 of section 57-40.2-02.1"

Page 3, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 57-39.2-03.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-03.6. Sales tax rate on natural gas sales.** Notwithstanding any other provisions of this chapter, the rate of the tax imposed under this chapter upon the gross receipts of retailers from all sales at retail of natural gas to retail consumers or users is ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994.~~

Page 3, after line 24, insert:

**"SECTION 5. AMENDMENT.** Subsection 3 of section 57-40.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. An excise tax is imposed on the storage, use, or consumption in this state of natural gas consumed by a final user at the rate of ~~four one percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994.~~ if sales tax has not been applied as provided by section 57-39.2-03.6."

Page 4, line 3, after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is"

Page 4, line 9, replace "Special fuel, other than" with "Propane"

Page 4, line 10, remove "diesel fuel," and after "is" insert "exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is"

Page 4, line 11, after the underscored period insert "Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt"

from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer."

Page 4, line 18, after "57-39.2-03.6" insert "and subsection 3 of section 57-40.2-02.1" and replace "is" with "are"

Page 4, line 20, replace "This" with "Sections 1, 2, 3, 5, and 6 of this" and replace "is" with "are"

Page 4, line 21, replace "June 30" with "December 31" and after the period insert "Sections 4 and 7 of this Act are effective for taxable events occurring after June 30, 2009."

Renumber accordingly

Engrossed HB 1049 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1049

#1

1-9-07 HB 1049  
Rep. Anderson

**Gallons and Tax revenue of Fuel taxed @ 2%  
Fiscal Year**

**Diesel**

	Gallons @ 2%	Tax	Avg Tax/ Gallon	Avg Price Per Gallon
2000	214,007,269	\$3,592,437.07	\$0.016787	\$0.84
2001	229,831,883	\$4,868,273.80	\$0.021182	\$1.06
2002	242,535,266	\$4,150,252.67	\$0.017112	\$0.86
2003	213,957,367	\$4,135,095.09	\$0.019327	\$0.97
2004	235,694,954	\$4,958,264.27	\$0.021037	\$1.05
2005	237,581,255	\$6,899,700.74	\$0.029041	\$1.45
2006	226,141,527	\$10,118,662.30	\$0.044745	\$2.24

Rounded Tax Per gallon	Estimated tax collected from sales of heating fuel			
	Reported Heating Gallons	Reported Heating Tax	Estimated Heating	Est Tax Heating
\$0.017				
\$0.021	13.44%	\$654,296.00		
\$0.017	11.47%	\$476,018.84		
\$0.019	13.33%	\$551,208.18		
\$0.021	11.76%	\$583,091.88		
\$0.029			12.47%	\$ 860,393
\$0.045			12.47%	\$ 1,261,797

**LP**

	Gallons @ 2%	Tax	Avg Tax/ Gallon	Avg Price Per Gallon
2000	83,170,202	\$1,060,352.51	\$0.012749	\$0.64
2001	88,124,237	\$1,697,749.12	\$0.019265	\$0.96
2002	83,588,659	\$1,247,673.66	\$0.014926	\$0.75
2003	100,166,752	\$1,575,805.50	\$0.015732	\$0.79
2004	86,666,889	\$1,613,565.24	\$0.018618	\$0.93
2005	95,805,071	\$2,050,662.31	\$0.021405	\$1.07
2006	77,514,704	\$2,062,929.46	\$0.026613	\$1.33

Rounded Tax Per gallon	Reported Heating Gallons	Reported Heating Tax	Estimated Heating	Est Tax Heating
	\$0.013			
\$0.019	77.55%	\$1,316,594.39		
\$0.015	79.52%	\$992,097.28		
\$0.016	71.90%	\$1,132,976.38		
\$0.019	79.92%	\$1,289,616.59		
\$0.021			77.00%	\$ 1,579,010
\$0.027			77.00%	\$ 1,588,456

**Combined Diesel and LP (For Average)**

	Gallons @ 2%	Tax	Avg Tax/ Gallon	Avg Price Per Gallon
2000	297,177,471	\$4,652,789.58	\$0.015657	\$0.78
2001	317,956,120	\$6,566,022.92	\$0.020651	\$1.03
2002	326,123,925	\$5,397,926.33	\$0.016552	\$0.83
2003	314,124,119	\$5,710,900.59	\$0.018180	\$0.91
2004	322,361,843	\$6,571,829.51	\$0.020386	\$1.02
2005	333,386,326	\$8,950,363.05	\$0.026847	\$1.34
2006	303,656,231	\$12,181,591.76	\$0.040116	\$2.01

Rounded Tax Per gallon	Reported Heating Gallons	Reported Heating Tax	Estimated Heating	Est Tax Heating
	\$0.016			
\$0.021		\$1,970,890.39		
\$0.017		\$1,468,116.11		
\$0.018		\$1,684,184.55		
\$0.020		\$1,872,708.46		
\$0.027				\$ 2,439,403
\$0.040				\$ 2,850,253

Historical reporting of Special fuel and Liquefied Petroleum

**Diesel Fuel**

*gallons*

**2001**

Heating	30,888,923	13.44%
Agricultural	102,857,088	44.75%
Industrial	41,476,292	18.05%
Railroad	54,664,229	23.78%
Non-identified	(54,649)	-0.02%
	<b>229,831,883</b>	

**2002**

Heating	27,817,910	11.47%
Agricultural	105,626,749	43.55%
Industrial	36,668,797	15.12%
Railroad	72,289,088	29.81%
Non-identified	132,722	0.05%
	<b>242,535,266</b>	

**2003**

Heating	28,528,283	13.33%
Agricultural	89,397,879	41.78%
Industrial	35,273,171	16.49%
Railroad	60,801,004	28.42%
Non-identified	(42,970)	-0.02%
	<b>213,957,367</b>	

**2004**

Heating	27,728,539	11.76%
Agricultural	96,942,125	41.13%
Industrial	44,460,080	18.86%
Railroad	66,541,875	28.23%
Non-identified	22,335	0.01%
	<b>235,694,954</b>	

**LP**

*gallons*

**2001**

	68,339,824	77.55%
	9,446,894	10.72%
	10,817,589	12.28%
	154,708	0.18%
	(634,778)	-0.72%
	<b>88,124,237</b>	

**2002**

	66,466,163	79.52%
	7,056,830	8.44%
	9,874,961	11.81%
	96,544	0.12%
	94,161	0.11%
	<b>83,588,659</b>	

**2003**

	72,018,129	71.90%
	16,079,641	16.05%
	11,718,367	11.70%
	78,467	0.08%
	272,148	0.27%
	<b>100,166,752</b>	

**2004**

	69,267,145	79.92%
	7,346,596	8.48%
	9,859,067	11.38%
	47,089	0.05%
	146,992	0.17%
	<b>86,666,889</b>	

**Total Average**

Heating	114,963,655	12.47%	276,091,261	77.00%
Agricultural	394,823,841	42.82%	39,929,961	11.14%
Industrial	157,878,340	17.12%	42,269,984	11.79%
Railroad	254,296,196	27.58%	376,808	0.11%
Non-identified	57,438	0.01%	(121,477)	-0.03%
	<b>922,019,470</b>		<b>358,546,537</b>	

Tax Reports Discontinued reporting a classification of fuel uses after May 2004

**Taxable Sales and Purchases of Natural Gas  
and Computation of Sales Tax  
By Quarter**

	<u>Taxable Sales and Purchases</u>	<u>Sales Tax Rate</u>	<u>Sales Tax Due</u>
1st Qtr 2003	\$ 77,967,302	2%	\$ 1,559,346.04
2nd Qtr 2003	41,283,299	2%	825,665.98
3rd Qtr 2003	27,649,563	2%	552,991.26
4th Qtr 2003	58,489,217	2%	1,169,784.34
<b>Total CY 2003</b>	<b>205,389,381</b>		<b>4,107,787.62</b>
1st Qtr 2004	94,424,036	2%	1,888,480.72
2nd Qtr 2004	44,783,754	2%	895,675.08
3rd Qtr 2004	35,376,724	2%	707,534.48
4th Qtr 2004	66,108,425	2%	1,322,168.50
<b>Total CY 2004</b>	<b>240,692,939</b>		<b>4,813,858.78</b>
1st Qtr 2005	108,688,139	2%	2,173,762.78
2nd Qtr 2005	58,835,083	2%	1,176,701.66
3rd Qtr 2005	40,730,648	2%	814,612.96
4th Qtr 2005	100,489,381	2%	2,009,787.62
<b>Total CY 2005</b>	<b>308,743,251</b>		<b>6,174,865.02</b>
1st Qtr 2006	127,019,396	2%	2,540,387.92
2nd Qtr 2006	58,106,936	2%	1,162,138.72
3rd Qtr 2006	41,967,985	2%	839,359.70

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12/14/06 kls

1-9-07

HB 1049

#2

Testimony

Public Service Commissioner Tony Clark

House Finance and Taxation Committee, Hon. Wes Belter, Chairman

January 9, 2007

Chairman Belter and members of the House Finance and Taxation Committee, my name is Public Service Commissioner Tony Clark. On behalf of myself and Commissioners Kevin Cramer and Susan Wefald, it is my pleasure to speak before you today in support of HB 1049.

This is a concept that we have supported for some time now, because perhaps more than most, we hear from consumers who are concerned with rising wholesale energy costs. And while as a state we may not be able to do much to control how cold it gets, or what the international price of natural gas is, we do have the opportunity to save North Dakotans at least two percent on their heating bills, and that is by repealing the taxes listed in HB 1049.

Taxes on a basic services like natural gas, propane and heating oil are problematic for a number of reasons, perhaps none more so than the fact that they are very regressive. They tend to hit those the hardest who can afford it the least. That is why the state has exempted other basic services like water, food and electricity. But what makes this tax perhaps even more troublesome than those on other basic services, is that it is even more volatile.

The amount North Dakotans pay in any given year is mainly dependent on two uncontrollable factors. One is the cost of the energy itself. Commodity energy costs are not regulated and are set by world markets. As we all know, these costs have risen substantially. The second factors is the weather. The colder it gets, the more your

furnace runs and the higher your tax will be. Adding insult to injury, this means the bulk of the tax is assessed when people can least afford it, in the coldest months when energy costs are highest.

The state's budget surplus gives policy makers a chance to look at needs and priorities that may not have been able to be considered in previous years. We believe this tax repeal should be one of those priorities. To the extent that tax relief is desired by the legislature, this is one relatively simple, administratively easy way to deliver a broad-based tax cut. It also has the secondary benefit of enhancing North Dakota's business climate. Utility and energy costs can be a major factor for where business decide to invest. Eliminating this tax will provide our state with a competitive advantage over those states that continue to tax heating fuels.

In 1991, the legislature saw the inherent unfairness of this tax. Legislators at that time acknowledged as much by dropping the state's sales tax on natural gas to 2 percent. We hope that our state's robust economy now offers the opportunity to finish the job and extend the break to citizens using any of these fuels to heat their homes.

That ends my testimony, I would be happy to answer any questions you may have.

1-9-07  
HB 1049

#3

**Testimony on HB 1049  
House Finance and Taxation Committee  
January 9, 2007**

Good morning, Mr. Chairman and members of the Committee. For the record, my name is Dennis Boyd. I am appearing this morning on behalf of MDU Resources Group, our utility division Montana-Dakota Utilities, and more than 90,000 natural gas customers of MDU and Great Plains Natural Gas in North Dakota. We support HB 1049 and urge its passage.

Mr. Chairman and members of the Committee, I thought it might be of interest to you to know a little of the background on this issue. I and my company have a long history with this tax dating back into the 1970's. In 1976, the general sales tax rate was 5%, with no exemptions for either electricity or natural gas. The sales tax on electricity was removed via a Bob McCarney initiated measure in 1976. In the 1979 Legislative Assembly, a bill was introduced by an organization called the Quad County Community Action Group in Grand Forks. It received only a handful of votes and failed, but it was the first effort to eliminate the tax. In the 1981, 1983, and 1985 Legislative Sessions, legislation was introduced at the request of MDU to eliminate the tax. We did pass a bill in 1985, but unfortunately Governor Sinner vetoed it, and we were unsuccessful in overriding the veto. We bypassed the 1987 and 1989 Legislative sessions because the state's financial situation was miserable, and we believed the results would be the same as 1985. In 1991, however, again at the request of MDU, legislation was introduced to eliminate the tax. The state's revenue forecast was still bleak but improving, and so we offered an amendment to reduce the tax 1% annually for the next three years. This greatly mitigated the fiscal note on the bill and would leave the tax at 2% after 1994, which was the same rate as the existing excise tax on the other major heating fuels, fuel oil and propane. We were successful in passing that bill, but as he had done in 1985, Governor Sinner vetoed it. During the last hour of the last day of the 1991 session, however, we were successful in overriding the veto.

All of the arguments in support of eliminating the tax are as valid today as they were in 1979. In a harsh climate such as we have in North Dakota, natural gas is a "necessity of life". The legislature and the electorate have created numerous sales tax exemptions for "necessities of life" such as electricity, food, water, clothing, coal, medical supplies and prescription drugs to name a few. Certainly natural gas, fuel oil, and propane deserve to also have tax exemptions as they are also necessities of life. In many areas, taxing natural gas puts natural gas providers such as MDU at a competitive disadvantage as potential customers evaluate competing fuels, such as electricity. And in the interests of economic development, energy costs are certainly a consideration when a company decides to expand, locate, or re-locate its business. I believe 29 other states exempt heating fuels from sales taxes. Common sense and sound public policy dictate that competing heating fuels should be taxed, or not taxed, equally. And finally, Mr. Chairman and members of the committee, a sales tax is regressive, particularly when it is applied to necessity of life commodities.

For all of these reasons, Mr. Chairman and members of the committee, we respectfully ask for your favorable consideration and a "Do Pass" recommendation on HB1049. The time is perfect, both politically and fiscally, to finish the job.

Dennis Boyd  
MDU Resources Group, Inc.  
Bismarck, ND

#4

HB 1049 - 1-9-07

**HOUSE FINANCE AND TAXATION COMMITTEE**  
**January 9, 2007**

**North Dakota Department of Transportation**  
**Tim Horner, Deputy Director for Business Support**

**HB 1049**

---

Good morning Mr. Chairman and members of the committee. My name is Tim Horner and I'm the Deputy Director for Business Support at the North Dakota Department of Transportation. Thank you for the opportunity to present information to you today.

House Bill 1049, as written, will have an impact on the Department of Transportation, as well as North Dakota's cities and counties. The proceeds of the current two percent special fuels excise tax are deposited in the Highway Tax Distribution fund. Sixty-three percent of this fund goes to the Department of Transportation and is used for matching federal funds, in addition to providing funding for state funded transportation activities. Twenty-three percent of the fund is distributed to the counties, with the remaining fourteen percent going to the cities.

Currently, the two percent special fuels excise tax on heating fuels provides about \$5.3 million per biennium for the Highway Tax Distribution fund. Exemption of heating fuel from the special fuels excise tax would reduce the revenue available to the Department of Transportation by about \$3.3 million per biennium (sixty-three percent of \$5.3 million). Counties would see a revenue decrease of about \$1.2 million and the revenue available for cities would decrease about \$740,000.

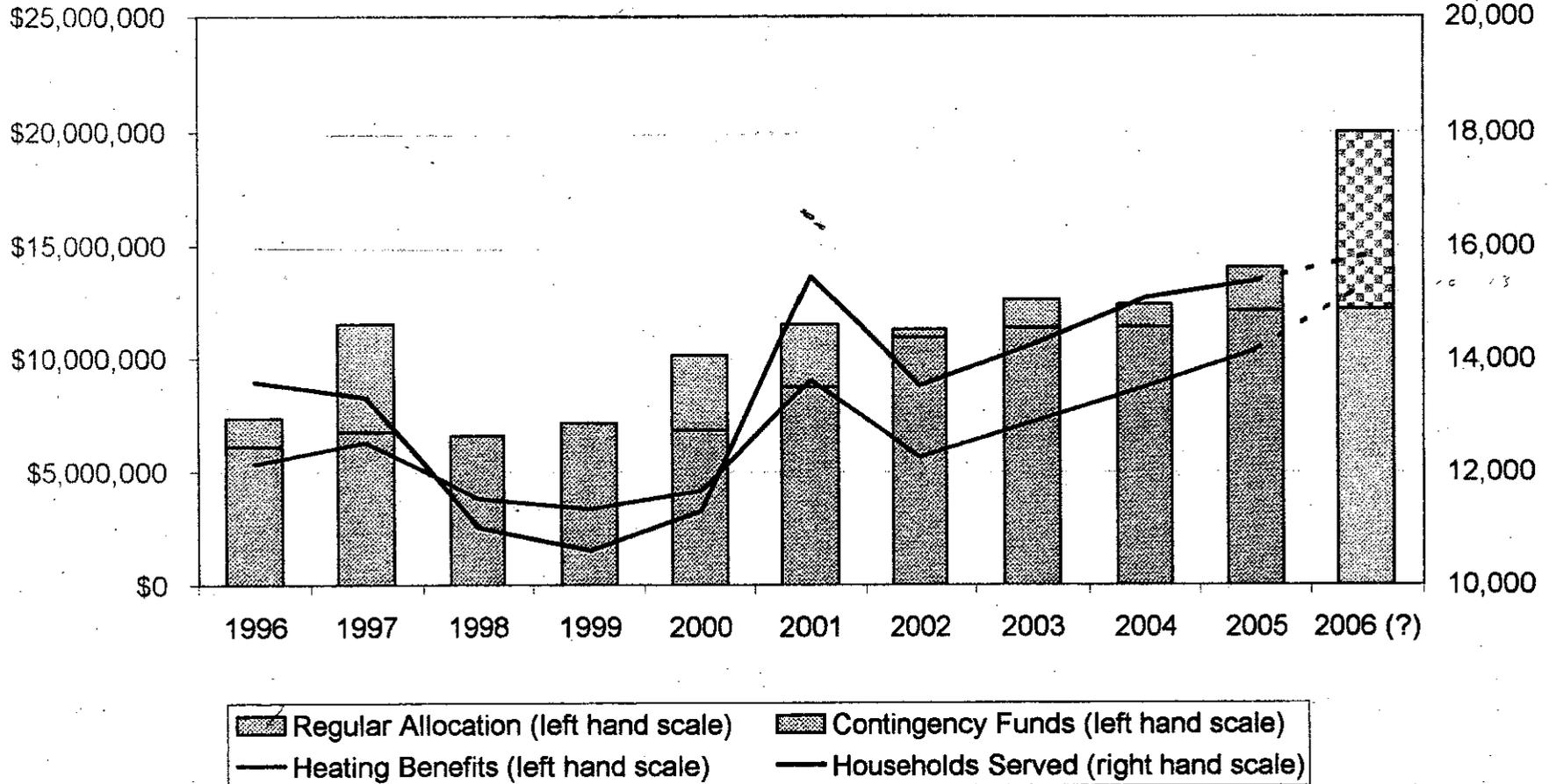
Transportation in our State is dependent on an appropriate level of State funding. Because of that, passage of this bill, as written, would necessitate finding an alternate revenue source to replace the \$5.3 million of revenue that would no longer be available for transportation purposes.

Thank you again for the opportunity to address you today. I would be happy to answer any questions you may have at this time.

#5

HB 1049 - 1-9-07

### LIHEAP HISTORY



2006: solid green = continuing resolution funding; green pattern = additional 1 billion appropriation

# LIHEAP Data for Federal Fiscal Year 2005

Households Served	15,367
Average Benefit	\$678
Average Heating Bill	\$956
Average % Paid by LIHEAP	71%

## Distribution of Percentages

5% - Lump Sum	6%
10% - 15%	2%
20% - 25%	4%
30% - 35%	6%
40% - 45%	8%
50% - 55%	9%
60% - 65%	13%
70% - 75%	15%
80% - 85%	14%
90% - 95%	23%
	100%

Average Household Income	LIHEAP Households	Poverty Level
1 Person	\$9,260	\$9,570
2 Person	\$13,511	\$12,830
3 Person	\$15,621	\$16,090
4 Person	\$18,624	\$19,350

Maximum income is 60% of the state median income. That figure for a four person household is \$34,242. To ensure that the greatest benefit goes to those most in need, the program is based on the lowest income households (under \$11,414) paying 2% of their income for heating costs, those with somewhat more income (up to \$22,828) paying 4%, and those with incomes up to the maximum paying 6%.

The formula for determining a household's percentage of each heating bill is

$$\frac{\text{Adjusted Annual Income} \times 2\%, 4\%, \text{ or } 6\%}{\text{Estimated Cost of Heat}}$$

Using an "average" four person household as an example:

$$\frac{\$18,624 \times 4\%}{\$1,217} = \$745$$

This yields a client portion of 61.22%, and a LIHEAP portion of 38.78%, which we would round up to 40%

Estimated Cost of Heat is based on an annual survey of vendors, and is broken down by county, type of building, type of fuel and number of bedrooms.



***The power to make it better.™***

**House Finance and Tax Committee  
HB 1049  
January 9, 2007**

Linda Johnson Wurtz  
Associate State Director for Advocacy  
AARP North Dakota

AARP North Dakota considers heat a necessity for those who live and work in the state. As such, we support the exemption from the special fuel tax, particularly for those on fixed incomes.

If there are any questions or any members of the committee would like to visit about this bill, my contact information is below.

701-527-1474 (mobile)

701-355-3642 (office)

## SELECTED BILLS APPROVED AS OF CROSSOVER AFFECTING HIGHWAY REVENUES

Bill No.	Description	Highway Revenues Increase (Decrease)		
		Highway Tax Distribution Fund	Highway Fund	Cities and Counties
HB 1011	Reduces funding from highway tax distribution fund for Highway Patrol operations	\$4,444,595	\$2,800,095	\$1,644,500
HB 1012	Provides that motor vehicle excise tax collections exceeding \$120 million each biennium be deposited in the highway fund		1	
HB 1049	Exempts special fuels used for heating purposes	(5,300,000)	(3,339,000)	(1,961,000)
HB 1138	Allows fuel tax refunds for emergency medical services providers	(112,500)	(70,875)	(41,625)
HB 1348	Replaces the excise tax of 2 percent on sales of all special fuels, except propane, with a flat tax of 4 cents per gallon	(463,800)	(292,194)	(171,606)
HB 1495	Provides that 10 percent of motor vehicle excise tax collections be deposited in the highway tax distribution fund rather than the general fund	13,717,065 <sup>2</sup>	8,641,751	5,075,314
SB 2288	Increases the maximum balance of the ethanol incentive fund from \$5 million to \$10 million		3	
	Total	\$12,285,380	\$7,739,777	\$4,545,583

<sup>1</sup>Based on the executive budget recommendation, this bill would have resulted in \$6,197,000 being deposited in the highway fund rather than the general fund; however, because of other bills that have been approved as of crossover which reduce motor vehicle excise tax collections (HB 1245 - see footnote No. 2 below and HB 1495), the provisions of this bill are not projected to result in any additional highway fund revenues during the 2007-09 biennium.

<sup>2</sup>House Bill No. 1245 reduces the purchase price of a vehicle by dealer-offered rebates for purposes of calculating motor vehicle excise tax due. This bill is projected to reduce motor vehicle excise tax collections by \$6,895,021 during the 2007-09 biennium.

<sup>3</sup>The ethanol incentive fund receives 40 percent of farm vehicle registration fees. Increasing the maximum balance in the fund from \$5 million to \$10 million is not estimated to affect the level of highway revenues during the 2007-09 biennium since the Department of Transportation is not projecting the ethanol incentive fund to exceed the maximum \$5 million balance during the 2007-09 biennium.

**Testimony on HB 1049**  
**Senate Finance and Taxation Committee**  
**March 5, 2007**

Good morning, Mr. Chairman and members of the Committee. For the record, my name is Dennis Boyd. I am appearing this morning on behalf of MDU Resources Group, our utility division Montana-Dakota Utilities, and more than 90,000 natural gas customers of MDU and Great Plains Natural Gas in North Dakota. We support HB 1049 and urge its passage.

Mr. Chairman and members of the Committee, I thought it might be of interest to you to know a little of the background on this issue. I and my company have a long history with this tax dating back into the 1970's. In 1976, the general sales tax rate was 5%, with no exemptions for either electricity or natural gas. The sales tax on electricity was removed via a Bob McCarney initiated measure in 1976. In the 1979 Legislative Assembly, a bill was introduced by an organization called the Quad County Community Action Group in Grand Forks. It received only a handful of votes and failed, but it was the first effort to eliminate the tax. In the 1981, 1983, and 1985 Legislative Sessions, legislation was introduced at the request of MDU to eliminate the tax. We did pass a bill in 1985, but unfortunately Governor Sinner vetoed it, and we were unsuccessful in overriding the veto. We bypassed the 1987 and 1989 Legislative sessions because the state's financial situation was miserable, and we believed the results would be the same as 1985. In 1991, however, again at the request of MDU, legislation was introduced to eliminate the tax. The state's revenue forecast was still bleak but improving, and so we offered an amendment to reduce the tax 1% annually for the next three years. This greatly mitigated the fiscal note on the bill and would leave the tax at 2% after 1994, which was the same rate as the existing excise tax on the other major heating fuels, fuel oil and propane. We were successful in passing that bill, but as he had done in 1985, Governor Sinner vetoed it. During the last hour of the last day of the 1991 session, however, we were successful in overriding the veto.

All of the arguments in support of eliminating the tax are as valid today as they were in 1979. In a harsh climate such as we have in North Dakota, natural gas is a "necessity of life". The legislature and the electorate have created numerous sales tax exemptions for "necessities of life" such as electricity, food, water, clothing, medical supplies and prescription drugs to name a few. Certainly natural gas, fuel oil, propane, and coal deserve to also have tax exemptions as they are also necessities of life. In many areas, taxing natural gas puts natural gas providers such as MDU at a competitive disadvantage as potential customers evaluate competing fuels, such as electricity. And in the interests of economic development, energy costs are certainly a consideration when a company decides to expand, locate, or re-locate its business. I believe 29 other states exempt heating fuels from sales taxes. Common sense and sound public policy dictate that competing heating fuels should be taxed, or not taxed, equally. And finally, Mr. Chairman and members of the committee, a sales tax is regressive, particularly when it is applied to necessity of life commodities.

For all of these reasons, Mr. Chairman and members of the committee, we respectfully ask for your favorable consideration and a "Do Pass" recommendation on HB1049. The time is perfect, both politically and fiscally, to finish the job.

Dennis Boyd  
MDU Resources Group, Inc.  
Bismarck, ND



**Senate Finance and Tax Committee  
HB 1049  
March 5, 2007**

Chairman Urlacher and members of the committee. My name is Linda Johnson Wurtz, Associate State Director for Advocacy for AARP North Dakota. Today I am representing our 79,700 North Dakota members.

There are times when a tax on energy may be appropriate to raise revenues and promote conservation. However, North Dakota is currently in a position to re-evaluate the necessity of taxing heating fuels. Heat is a basic necessity for everyone who lives and works in our state. As such, we support a sales tax exemption for sales of heating fuels. This will be a particularly welcome change for individuals on a fixed income.

AARP North Dakota supports HB 1049 and hopes for a do-pass recommendation from this committee.

Thank you for your consideration.



**TESTIMONY OF WADE MANN**  
**North Dakota Chamber of Commerce**  
**HB 1049**  
**March 5, 2007**

Chairman Urlacher and members of the Senate Finance and Taxation Committee, I am Wade Mann, V.P. of Governmental Affairs of the North Dakota Chamber of Commerce.

During this legislative session, 16 local chambers of commerce in North Dakota are part of a coalition representing 7,236 business members that support the Legislative Policy Statements of the North Dakota Chamber. As a group we support HB 1049 and request a do pass vote from the committee.

One of our legislative objectives is to advocate pro-business concerns. A basic pro-business concern is to eliminate unnecessary and burdensome operating costs imposed on businesses. Rising energy costs have become an increasing burden on businesses in the state. Elimination of the tax on heating fuels will allow businesses to mitigate these increasing energy costs.

Business owners live in our communities and employ our neighbors. It is important to our state's economy to put these businesses in a position to succeed. This bill will help in achieving that goal.

HB 1049, Mann, Page 1

Thank you for the opportunity to appear before you. I would be happy to answer any questions.



# Utility Shareholders of North Dakota

## BOARD OF DIRECTORS

Bob Pile  
*Fargo*

Harold Bruschwein  
*Wahpeton*

Clarence Storseth  
*Dickinson*

Karen Krebsbach  
*Minot*

Larry Hanson  
*Williston*

John M. Olson  
*Bismarck*

Moine Gates  
*Grand Forks*

Richard Kunkel  
*Wills Lake*

Charles Axtman  
*Jamestown*

Bob Graveline, President  
*Bismarck*

March 19, 2007

Members of Senate Appropriations:

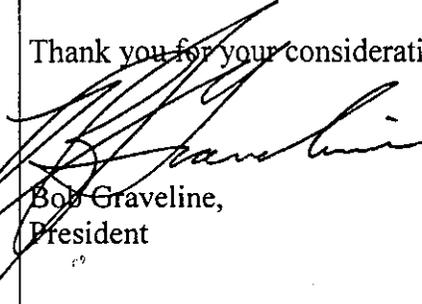
**HB-1049** to eliminate the 2 % sales tax on all heating fuels will be before the Senate Appropriations Committee Tuesday morning, and on behalf of the nearly 2,400 members of the Utility Shareholders of North Dakota, I urge your favorable action to forward a DO PASS recommendation to the Senate. While the impact to the general fund is estimated to be in the neighborhood of \$11.6 million, we encourage you to find the funds necessary to pass this legislation.

There are two very important and very clear points in support of this legislation:

1. Current tax policy legislates a competitive advantage to electricity consumed for heating purposes, as there is no sales tax levied on electricity. However, there is sales tax levied against all other heating fuels – propane, coal, diesel fuel, coal, and natural gas. It does not seem right for the legislature to grant an advantage to one product over other products in the market place. Passage of **HB-1049** will eliminate this legislatively imposed competitive advantage.
2. Current tax policy on heating fuels forces consumers to pay more taxes during the coldest times of the year when energy prices are usually highest. As temperatures drop, thermostats are turned up and energy consumption rises forcing people to pay more taxes to the state just to stay warm. This doesn't seem to be a fair way to treat our citizens, and more especially so when it is remembered that those who use electricity to meet their heating needs, do not pay sales taxes. Passage of **HB-1049** will eliminate this regressive and unfair tax.

In the name of fairness, equity, and compassion for our North Dakota citizens, the Utility Shareholders of North Dakota encourages your favorable efforts to remove all sales taxes on heating fuels and forwarding a **DO PASS RECOMMENDATION FOR HB-1049.**

Thank you for your consideration,



Bob Graveline,  
President

P.O. Box 1856  
Bismarck, ND 58502  
701-258-8864  
Fax 701-258-8865  
1-800-981-5132  
E-mail usnd@usnd.org  
www.usnd.org



**Senate Appropriations  
HB 1049  
March 20, 2007**

Chairman Holmberg and members of the committee. My name is Linda Johnson Wurtz, Associate State Director for Advocacy for AARP North Dakota. Today I am representing our 80,500 North Dakota members.

There are times when a tax on energy may be appropriate to raise revenues and promote conservation. However, North Dakota is currently in a position to re-evaluate the necessity of taxing heating fuels. AARP supports a tax exemption for sales of heating fuels.

North Dakotans have supported several good and practical sales tax exemptions over the years. We have exemptions for food, prescription drugs, hospital services, and school supplies. Things we think of as basic necessities. Heat is a basic necessity for everyone who lives and works in our state. As such, we would like to see heating fuels also exempted from sales tax. This will be a particularly welcome change for individuals on a fixed income.

AARP North Dakota supports HB 1049 and hopes for a do-pass recommendation from this committee.

Thank you for your consideration.

**Testimony on HB 1049**  
**Senate Appropriations Committee**  
**March 20, 2007**

Good morning, Mr. Chairman and members of the Committee. For the record, my name is Dennis Boyd. I am appearing this morning on behalf of MDU Resources Group, our utility division Montana-Dakota Utilities, and more than 90,000 natural gas customers of MDU and Great Plains Natural Gas in North Dakota. We support HB 1049 and urge its passage.

Mr. Chairman and members of the Committee, I thought it might be of interest to you to know a little of the background on this issue. I and my company have a long history with this tax dating back into the 1970's. In 1976, the general sales tax rate was 5%, with no exemptions for either electricity or natural gas. The sales tax on electricity was removed via a Bob McCarney initiated measure in 1976. In the 1979 Legislative Assembly, a bill was introduced by an organization called the Quad County Community Action Group in Grand Forks. It received only a handful of votes and failed, but it was the first effort to eliminate the tax. In the 1981, 1983, and 1985 Legislative Sessions, legislation was introduced at the request of MDU to eliminate the tax. We did pass a bill in 1985, but unfortunately Governor Sinner vetoed it, and we were unsuccessful in overriding the veto. We bypassed the 1987 and 1989 Legislative sessions because the state's financial situation was miserable, and we believed the results would be the same as 1985. In 1991, however, again at the request of MDU, legislation was introduced to eliminate the tax. The state's revenue forecast was still bleak but improving, and so we offered an amendment to reduce the tax 1% annually for the next three years. This greatly mitigated the fiscal note on the bill and would leave the tax at 2% after 1994, which was the same rate as the existing excise tax on the other major heating fuels, fuel oil and propane. We were successful in passing that bill, but as he had done in 1985, Governor Sinner vetoed it. During the last hour of the last day of the 1991 session, however, we were successful in overriding the veto.

All of the arguments in support of eliminating the tax are as valid today as they were in 1979 and 1991. In a harsh climate such as we have in North Dakota, natural gas is a "necessity of life". The legislature and the electorate have created numerous sales tax exemptions for "necessities of life" such as electricity, food, water, clothing, medical

supplies and prescription drugs to name a few. Levying a sales tax on these necessities of life is particularly regressive for individuals on fixed incomes and the elderly. Certainly natural gas, fuel oil, propane, and coal deserve to also have tax exemptions as they are also necessities of life.

In many areas, taxing natural gas puts natural gas providers such as MDU at a competitive disadvantage as potential customers evaluate competing fuels for heating, such as electricity. I am told by some of our utility managers that potential customers are not choosing natural gas for heating purposes, choosing instead electricity or some other source. It is not good public policy when one competitor is disadvantaged in the market place by state tax policy. And in the interests of economic development, energy costs are certainly a consideration when a company decides to expand, locate, or re-locate its business. Natural gas is a clean, efficient commodity produced in North Dakota. State tax policy ought not discriminate against its retail sales.

I believe 29 other states exempt heating fuels from sales taxes. Common sense and sound public policy dictate that competing heating fuels should be taxed, or not taxed, equally. And finally, Mr. Chairman and members of the committee, when we started this legislative session, I believe there was a general expectation that there would be some tax relief provided to the citizens of North Dakota. Passage of this bill would be a perfect vehicle to meet that expectation, as every resident who heats a home or apartment or business will receive some relief, regardless of age or economic status, and at the same time, perhaps the greatest benefit will be for those individuals who are struggling to make ends meet.

For all of these reasons, Mr. Chairman and members of the committee, we respectfully ask for your favorable consideration and a "Do Pass" recommendation on HB1049. The time is perfect, both politically and fiscally, to finish the job.

Dennis Boyd  
MDU Resources Group, Inc.  
Bismarck, ND

House Bill 1049  
 Conference Committee  
 4/16/2007

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	<u>House Version</u>	<u>Senate Version</u>	<u>Reduce 10/1/2007 Exempt 7/1/2009</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Reduce 1/1/2008 Exempt 7/1/2009</u>	<u>General Fund</u>	<u>Other Funds</u>
Coal (Sec 1 & 3)	50,000							
Natural Gas (Sec 2, 4, & 6)	12,600,000	3,150,000	6,000,000	5,520,000	480,000	5,000,000	4,600,000	400,000
Special Fuels ( Sec 5)	5,300,000	1,325,000	2,318,750		2,318,750	1987500		1,987,500
Total	17,950,000	4,475,000	8,318,750	5,520,000	2,798,750	6,987,500	4,600,000	2,387,500
	Exempt all 7/1/07	Reduce rate on natural gas and special fuels for heating from 2% to 1% 7/1/08 and exempt natural gas, special fuels for heating and coal 7/1/09	Reduce rate on natural gas and special fuels for heating from 2% to 1% 10/1/07 and exempt natural gas, special fuels for heating and coal 7/1/09			Reduce rate on natural gas and special fuels for heating from 2% to 1% 1/1/08 and exempt natural gas, special fuels for heating and coal 7/1/09		

Other fund for natural gas and coal is State Aid Distribution Fund  
 Other fund for special fuels is Highway Distribution Fund