FISCAL NOTE

(Return in triplicate)

Bill/Resolution No.: HB 1520 Amendment to: ____

Requested by Legislative Council Date of Request: 6-27-94

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

   Narrative:

   See Attachment entitled "Fiscal Analysis of House Bill 1520."

2. State fiscal effect in dollar amounts:

	1993-95 Biennium General Fund	1993-95 Biennium Special Funds	1995-97 Biennium General Fund	1995-97 Biennium Special Funds	1997-99 Biennium General Fund	1997-99 Biennium Special Funds
Revenues:						
Expenditures:						

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

   a. For rest of 1993-95 biennium: ____

   b. For the 1995-97 biennium: ____

   c. For the 1997-99 biennium: ____

4. County and City fiscal effect in dollar amounts:

1993-95 Biennium Counties	1993-95 Biennium Cities	1995-97 Biennium Counties	1995-97 Biennium Cities	1997-99 Biennium Counties	1997-99 Biennium Cities

If additional space is needed, attach a supplemental sheet.

Date Prepared: 6-29-94

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AHB

FISCAL ANALYSIS OF HOUSE BILL 1520

50189.0600

The fiscal impact of HB 1520 is difficult to analyze. Much of the information needed to compute an accurate fiscal note is not currently available, is unknown, depends on the actions of others, and/or cannot be determined. Some of the complexities include the following:

- The provisions of the bill may involve more facilities than Northern Corn Processors (NCP).
- A case could be made that without HB 1520, no large plants would build in the state rendering the fiscal impact zero (except for retroactive sales tax provisions).
- With property tax, the decision to grant exemptions rests with local jurisdictions. Whether they will do so, and how existing mill rates will be affected is unknown.
- With income tax, the decision to grant exemptions rests with the State Board of Equalization. Whether it will do so is unknown. Not enough information is known to compute the likely income tax of the cooperative members of the Northern Corn Processors LLC.
- The sales tax provisions of HB 1520 are retroactive involving any manufacturers/agricultural processors who have built or expanded during the retroactive periods. The fiscal effect of this is unknown.
- Infrastructure costs associated with large plants are difficult to determine as are the positive effects of a potentially expanding economy.

Although an accurate fiscal note for HB 1520 cannot be computed at this time, some fiscal information is known, and may be useful to the Legislature. It is summarized below:

PROPERTY TAX (Sections 1,2,3, and 7)

HB 1520 Highlights:

* Enables municipalities to grant agricultural processing businesses up to ten years' complete property tax exemption

* Enables municipalities and project operators to negotiate in lieu of property tax payments for a period of up to twenty years (not limited solely to agricultural processing entities)

* Removes the limitation on large projects so they can qualify for property tax exemptions

* Effective for tax years beginning in 1994

Fiscal Information: The expanded property tax exemptions contained in HB 1520 are not automatic; the municipality has the authority to grant the property tax exemptions and negotiate in lieu of tax payments. No information exists on how many such projects may be granted a broader, more complete exemption, or granted an in lieu of tax payment because of this legislation.

The Northern Corn Processors corn wet milling plant is estimated to have property valued at $36,000,000, excluding land. Using an average (Red River Valley) 1993 county mill rate, a plant of that size would have paid between $465,000 and $560,000 in property taxes for 1993 had it been on the tax rolls at existing rates. Adding a new plant of this size to rural tax rolls could have the effect of lowering the mill rate, however, because it would be a substantial addition to total taxable valuation. Conversely, if a plant of this size is granted an exemption, the mill rate may have to be increased for existing property to generate the tax revenue to provide for expanded service needs. Currently, those services cost property taxpayers in Cass and Richland counties an average of $650 per capita in property taxes. This plant could add 1,000 to 2,000 persons to the region during construction and close to 500 when in operation.

INCOME TAX (Section 7)

HB 1520 Highlights:

* Removes the limitation on large projects so they can qualify for the five year income tax exemption

* Effective for tax years beginning in 1994

Fiscal Information: The only change contained in HB 1520 relative to income taxes is the removal of the project size limitations which has the effect of enabling large plants to qualify for a potential five-year income tax exemption. The State Board of Equalization has the authority to grant -- or reject -- projects' requests for income tax exemptions. There is no information on the number of large projects that would qualify for and receive an income tax exemption because of the provisions of HB 1520, so a fiscal impact cannot be computed.

Note that the State Board of Equalization went on record during its June 16, 1994 meeting, stating an income tax exemption would be approved for the Northern Corn Processors' corn wet milling plant. Currently, there is not enough information available upon which to compute the potential income tax liabilities of each individual member of Northern Corn Processors LLC or the fiscal impact of the potential exemption.

Assuming Northern Corn Processors was a single corporate entity (in fact it is a LLC expecting partnership income tax treatment with income flowing through and taxable to three cooperative corporate members) a rough estimate of what it might owe can be computed as follows:

ASSUMPTIONS	
Annual Net Income	$30.0 million
Federal Tax (34%)	- 10.2 million
ND Apportionment Factor (All property, all payroll, no sales)	.67
ND Taxable Income	13.3 million
ND Corporate Tax	$ 1.4 million

SALES AND USE TAXES (Sections 4,5, and 6)

HB 1520 Highlights:

(The following changes to the manufacturing exemption are retroactive to July 1, 1993)

* Expands the current manufacturing exemption to include any machinery and equipment that is used in the manufacturing operation at any point from receipt of raw materials through any process prior to final transportation from the site

* Exempts computer equipment if it controls or monitors the functions of machinery used in the manufacturing operations

* Broadens the definition of exempt machinery and equipment to that used primarily in the manufacturing process (Current law states machinery and equipment must be used solely in the manufacturing process to be exempt)

* Creates an exemption for machinery and equipment used to conduct research, development and design activities related to the manufacturing process of a plant

(The following is effective retroactively for plants with construction starting after September 30, 1992 and with initial construction that will be completed after June 30, 1994)

* Creates an exemption for construction materials used in the construction process or incorporated in the structure of an agricultural processing facility

Fiscal Information: To-date, the existing manufacturing exemption has provided $12.2 million in sales tax exemptions to manufacturers. An additional $725,000 of requests for exemption have been denied, because the items did not qualify under existing law.

Because of the retroactive broadening included in HB 1520, much of the $725,000 would be eligible to be refunded. The total to be refunded due to the retroactivity will likely go much higher than the amount of refunds denied by this office; most manufacturers who have built or expanded during the retroactive period -- including at least one large agricultural processing plant -- would be entitled to a refund or exemption.

In attempting to interpret information made available by Northern Corn Processors relative to its proposed plant, it appears HB 1520 would exempt the plant from sales tax on the construction of its: steephouse, wetmill, feedhouse, refinery, wastewater treatment, receiving, storage, loadout, and utilities facilities. Machinery and equipment used in those areas would also be exempt. Available cost estimates are not sufficient to compute an exact fiscal effect of the sales tax provisions of HB 1520 for the plant because those estimates include items not subject to sales tax, a notable example being labor.

Based on limited available information, an extremely tentative rough estimate of some of the fiscal effects of the sales tax provisions of HB 1520 is as follows:

	NCP (column 1)		Other Ag. Processors (column 2)		Other Companies (column 3)	
	Retroactive	Prospective	Retroactive	Prospective	Retroactive	Prospective
Sales Tax on Machinery/Equip.	Not Appl.	$.6 to $1.2 M *	Inc. in Col 3	Unknown	$.7 to $2.1 M (including Ag. processors)	Unknown
Sales Tax on Construction Materials	Not Appl.	$.5 to $1.0 M	$.075 to $.2 M	Unknown	Not Appl.	Not Appl.

* In addition, NCP would receive an estimated $2.4 to $4.8 million in sales tax exemptions for machinery and equipment under current law.

Prepared by: State of North Dakota
Office of State Tax Commissioner
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June 29, 1994