

# MICROFILM DIVIDER

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



ROLL NUMBER
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DESCRIPTION

1312

2001 HOUSE FINANCE AND TAXATION

HB 1312

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1312

House Finance and Taxation Committee

Conference Committee

Hearing Date January 22, 2001

Tape Number	Side A	Side B	Meter #
1	X		112
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

**REP. AL CARLSON** Opened the hearing.

**REP. DOUG LEMIEUX, DIST. 9, ROLETTE, ND** Introduced the bill to change the way special fuels are taxed. He stated he was not sure where the fiscal note came from, and why it was so excessive, other than the fact, that the fuel prices have gone through the roof. He stated Rep. Clark would have some amendments to include natural gas.

**REP. CARLSON** Stated the tax department prepared the fiscal note on January 19, 2001, and you are saying the one they gave you was revenue neutral, when you originally prepared it, and this one is showing 1.2 million dollars negative.

**JOAN GALSTER, MOTOR FUEL SUPERVISOR, STATE TAX DEPARTMENT.**

Appeared to answer questions. She stated the fiscal note was prepared based on the approximate average of ninety cents per gallon. When they prepared the statistics for the first six months which we are in now, the average price was used based on the last six months, which was \$1.01.

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House Finance and Taxation Committee

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They thought \$1.01 was a little high, so they used the 90 cents. Part of the culprit is propane, which is part of this. Propane used to be fairly inexpensive in comparison to probably a diesel fuel. It too has gone up in price. Regarding a previous fiscal note, I do remember being asked for some numbers by Kathy Strombeck, who does our fiscal notes, and I think at that time, the question was for heating fuel, and I think that is probably the only numbers she put together. This is probably a better picture now, whether it will be the 1.2 million, will depend on the price. If the price goes down to seventy five cents per gallon, we would be revenue neutral.

It was mentioned that there might be an amendment for natural gas, natural gas is not a special fuel. It will not fit into this bill.

**REP. CARLSON** Asked whether the useage has stayed fairly constant .

**JOAN GALSTER** The useage did go down from 1998, but now it is already higher

**REP. CARLSON** When you look at the two, if prices were to fall, there is no question, it would be a revenue loss.

**JOAN GALSTER** If the prices were to fall, it would become more revenue neutral. If the prices would fall below 75 cents per gallon, it would start to be revenue positive. The higher the prices, the more the loss, because the two percent tax is gained from the cost of the fuel.

**REP. DROYDAL** When the crude oil prices go up, the state gets additional revenue, do we get more additional revenue off excise tax when they are raising prices of crude, then we are losing by passing this bill?

**JOAN GALSTER** Stated she didn't have an answer for that question.

**REP. LLOYD** Have we ever used a percent in place of a cent per gallon.

**JOAN GALSTER** The special fuel tax on heating fuel or dyed fuel is two percent of the cost at this time.

**REP. LLOYD** Have we ever used that same percent or a similar percent on other fuels?

**REP. WINRICH TO REP. LEMIEUX** In your written testimony, you indicated at the current two percent tax, that a large purchaser of fuel pays less tax per gallon than an average consumer will, will you explain that?

**REP. LEMIEUX** When the two percent is calculated on the sale price of the fuel, in other words if I come in as a large farmer and purchase a ten thousand gallon unit of diesel fuel, I would pay approximately ten cents per gallon less than my neighbor who buys fuel in one thousand gallon lots. And, if the neighbor doesn't have a check at the time of delivery, most dealers charge a charge price, and it might be a six to ten cent cash discount. So, if I buy my fuel at ten thousand gallons a shot, I have from a ten to twenty cent price advantage, therefore, I pay less tax.

**BRIAN KRAMER, NORTH DAKOTA FARM BUREAU** Testified in support of the bill. When the price of fuel goes up, farmers are taxed at a higher rate. This would freeze the revenues in a neutral position based on the testimony of Rep. Lemieux. If we continue with the two percent as is, it will be a windfall for the state. Freeze that rate at a level we have been accustomed to. A flat rate would be much easier to calculate. We feel that would be much easier for those who are collecting the tax, and for those that are paying the tax.

**REP. RENNERFELDT** Wouldn't there be a controversy between the big farmer and little farmer?

**BRIAN KRAMER** According to Rep. Lemieux's remarks, it would equalize some of that, as far as what you are paying per gallon. Those larger farmers would pay more in actual dollars than the small farmers would, because they are using more gallons, but on a per gallon basis, it would equalize that.

**DAN KUNTZ, BURLINGTON NORTHERN, SANTA FE RAILROAD COMPANY.** Testified in support of the concept of this bill, as this money goes into the highway trust fund. Generally, the railroad does not like the idea of paying taxes to support a mode of transportation they compete with, but, to the extent it pays those taxes, it appreciates the stability and predictability that this bill would provide.

**REP. CARLSON** Asked what they would have paid last year.

**DAN KUNTZ** That is what I am trying to find out, as I understand, the railroad contracts for fuel over a long period of time, but I think what they paid, historically, over the last couple years, is probably below the seventy five percent level, so even at a penny and a half, this probably represents somewhat of a increase to the railroad, depending what new contracts are coming in, which are probably above seventy five cents.

**REP. SCHMIDT** What kind of discount do you get?

**DAN KUNTZ** Stated he couldn't tell exactly what the discount was, they probably contract with the refinery for a long period of time, so depending upon the time period the contract comes in, I am sure it will reflect a lower price, then what a farmer can purchase diesel fuel from a jobber.

**REP. CARLSON** Asked Joan Galster if she had figures as to what the railroad had paid.

**JOAN GALSTER** Stated she didn't have dollar amounts which would be the railroad portion, but the railroad is the third largest user of the fuel tax that this represents. The largest is agriculture, the second is heating fuel and the third is the railroad. The railroad's usage, too, has dropped from prior years. The fiscal year, 2000, the railroad used forty six million gallons. Typically, from my own knowledge of the railroad's quarterly report, they do typically, pay less than some others. Probably sixty cents per gallon, because they buy in such large amounts and pick it up at the pipeline terminals.

**REP. CARLSON** Asked if she had the total revenues raised from this excise tax.

**JOAN GALSTER** From the excise tax for fiscal year 2000, it was five million dollars, the first six months of this current fiscal year, has been three million. In fiscal year, 1998, it was five million, fiscal year 1999, it was four million.

**REP. CARLSON** We are on track for six million this year.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION 1-23-01, Tape #2, Side B, Meter #557**

Committee members had a lengthy discussion. They decided not to add amendments to add in natural gas to this bill. Because of the high fuel costs, committee members felt they couldn't pass this bill.

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

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

**11 YES 3 NO 1 ABSENT**

**REP. LLOYD** Was given the floor assignment.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/17/2001

Bill/Resolution No.: HB 1312

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				(\$1,213,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$713,000)					

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1312 changes the special fuels tax from 2% to one and one-half cents per gallon.

**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.*

The change in the special fuels tax rate is expected to reduce total revenues by -\$1.926 million in the 01-03 biennium. The highway distribution fund will lose 63% of this amount with the remainder reducing distributions to counties, and further distributions to cities and townships.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Tax Department
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/19/2001

Date: 1-23-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1312

House FINANCE & TAXATION Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Not Pass

Motion Made By Rep. Drovdal Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	A	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO		✓
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY		✓
KELSH, SCOT	✓				
KROEBER, JOE		✓			
LLOYD, EDWARD	✓				

Total (Yes) 11 No 3

Absent 1

Floor Assignment Rep. Lloyd

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



**REPORT OF STANDING COMMITTEE (410)**  
January 23, 2001 4:49 p.m.

Module No: HR-11-1483  
Carrier: Lloyd  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1312: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO NOT PASS (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1312 was placed on the Eleventh order on the calendar.**

2001 TESTIMONY

HB 1312

## HOUSE FINANCE AND TAX

January 22, 2001

Testifying by Representative Doug Lemieux

HB1312 will change the way special fuels are taxed. Presently all sales of special fuels i.e. home heating fuel, propane all fuels used in off road use are taxed at 2% of the retail price. If you are a large purchaser of fuel you will actually pay less tax per gallon than an average consumer will.

By charging a fixed rate of 1.5 cents/gallon we would maintain the income that has been historically generated. All users will pay an equal amount of tax for the fuel consumed.