

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1055

2005 HOUSE FINANCE AND TAXATION

HB 1055

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1055**

House Finance and Taxation Committee

Conference Committee

Hearing Date **January 17, 2005**

Tape Number	Side A	Side B	Meter #
1		X	2.3

Committee Clerk Signature

Janice Stein

Minutes:

REP. WES BELTER, CHAIRMAN, Called the committee hearing to order.

REP. MARGARET SITTE, DIST. 35, BISMARCK Introduced the bill. See attached written testimony.

GARY ANDERSON, DIR. OF INCOME & SALES TAX, STATE TAX DEPARTMENT'

Testified in a neutral position. He stated he did work with Rep. Sitte and her concern in this bill. Presently, the law provides that if farm machinery or a motor vehicle is destroyed or totally lost, the compensation received by the individual, the value of that can be used as a credit for the purchase or replacement of the equipment. The law, at the present time, only provides the opportunity to use that credit or total loss statement, one time.

REP. BELTER there is a fiscal note on this, if you had a car that is destroyed in a fire, and you go buy a new one, the way the current law is, you have to pay the excise tax on the whole value of the car?

GARY ANDERSON, That is correct.

REP. BELTER Under this bill, you would be able to deduct the value of that destroyed vehicle.

GARY ANDERSON You purchased a car, which is later destroyed, and the compensation you received from your insurance company is reflected by a total loss statement, you would be able to take that total loss statement with you when you purchase the replacement vehicle, and the dealer would treat that much like a trade-in credit. You would only pay taxes on the remaining balance.

REP. BELTER My point is, if that car had not been destroyed by fire and you traded it in, you would only pay sales tax on the too boot price of the vehicle, in a sense, this bill is doing the same thing.

GARY ANDERSON Actually what happened, when a vehicle is destroyed, usually the insurance will take possession of that vehicle at that point, the individual is given compensation for the lost vehicle. The individual has the option to purchase the vehicle, and generally if they do that, it is basically salvage value, it reduces the value of compensation that they get.

Generally, they will offset part of the compensation, and as a result, when they go to purchase, they will get it on the net price. It is not unusual for an individual to purchase the salvage value of that vehicle and retain it, they still can take the total loss statement and use it as a purchase as a deduct against the next vehicle one time.

REP. BELTER They can do that currently?

GARY ANDERSON Yes, the problem is that, if you have a vehicle that is twenty thousand dollars in value, and it is totally destroyed at the present time, you are compensated for the whole twenty thousand from the insurance company. If you decide you are going to purchase a car for

ten thousand at the present time as a replacement, what happens under existing law right now, you are able to take that total loss statement for twenty thousand, right now, and apply it toward that ten thousand dollar vehicle, there obviously isn't any tax due, but you aren't able to carry that other ten thousand, under current law, for another purchase. This bill will provide the carrier of that total loss statement, to use it more than once.

KEITH KAISER, DIR. OF THE MOTOR VEHICLE DIV. OF THE DEPARTMENT OF TRANSPORTATION Testified in support of the bill. As this bill relates to motor vehicle excise tax, it is concluded that this bill will not have an impact on us. As it is now, you will get to use your credit, whether you buy up or buy down, our intent, if this bill passes, we will collect that original insurance loss statement that you get, note on it the amount of the credit you used, and you can use it later.

REP. WRANGHAM Will we have to do some changing in the bill now then, the bill allows for dealers, will you just handle it in your office?

KEITH KAISER We would handle that within our office. We would expect that the dealer would submit that original copy, we would make the copy for our files from the original copy and send the original back to the owner, with a note that says you have X amount of dollars in credit remaining.

BOB LAMP, REPRESENTING AUTOMOBILE DEALERS ASSOCIATION AND THE NORTH DAKOTA IMPLEMENT DEALERS ASSOCIATION Testified in support of the bill. He stated their organizations were directly involved in this legislation when it was passed originally. They think it is a good amendment to that section of the code.

With no further testimony, the committee meeting was closed.

COMMITTEE ACTION 1-17-05 Tape #2, Side A, Meter #21.9

REP. DROVDAL Made a motion for a **Do Pass**.

REP. IVERSON Second the motion. **Motion carried.**

After discussion, the committee decided to find out more information regarding this bill. Rep. Drovdal withdrew his motion, and Rep. Iverson, withdrew his second to the motion. The bill will be acted on at a later date.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1055**

House Finance and Taxation Committee

Conference Committee

Hearing Date **January 18, 2005**

Tape Number	Side A	Side B	Meter #
2		X	19

Committee Clerk Signature

Minutes:

COMMITTEE ACTION

REP. OWENS Made a motion for a **DO PASS**.

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

10 YES 3 NO 1 ABSENT

REP. CONRAD Was given the floor assignment.

FISCAL NOTE
Requested by Legislative Council
12/17/2004

Bill/Resolution No.: HB 1055

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$106,000)		(\$9,000)	
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1055 allows sales & use, farm machinery gross receipts, and motor vehicle excise tax exemptions in the amount of insurance compensation for stolen or totally destroyed farm machinery, or motor vehicles. The exemption applies to the purchases of replacement farm machinery or motor vehicles and can be accumulated on multiple replacement purchases until used in full.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1055 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$115,000 during the 2005-07 biennium. This represents a reduction in sales & use tax of \$15,000 and motor vehicle excise tax of \$100,000 for the 2005-07 biennium.

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

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

Name: Kathryn L. Strombeck
Phone Number: 701.328.3402

Agency: Office of Tax Commissioner
Date Prepared: 01/14/2005

Date: 1-18-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1055

House FINANCE & TAXATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do

Pass

Motion Made By

Rep Drovdal

Seconded By

Rep. Iverson

- Representatives
- BELTER, WES, CHAIRMAN
 - DROVDAL, DAVID, V-CHAIR
 - BRANDENBURG, MICHAEL
 - CONRAD, KARI
 - FROELICH, ROD
 - GRANDE, BETTE
 - HEADLAND, CRAIG
 - IVERSON, RONALD
 - KELSH, SCOT
 - NICHOLAS, EUGENE
 - OWENS, MARK
 - SCHMIDT, ARLO
 - WEILER, DAVE
 - WRANGHAM, DWIGHT

Yes No

✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓

Representatives Yes No

Total (Yes) 10 No 3

Absent

Floor Assignment

Rep Conrad

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

REPORT OF STANDING COMMITTEE (410)
January 18, 2005 4:19 p.m.

Module No: HR-11-0669
Carrier: Conrad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1055: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1055 was placed on the Eleventh order on the calendar.

2005 SENATE FINANCE AND TAXATION

HB 1055

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1055**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **March 8, 2005**

Tape Number	Side A	Side B	Meter #
# 1	X		0.3 - 10.0

Committee Clerk Signature



Minutes:

CHAIRMAN URLACHER CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1055.

REP. SITTE: appeared as prime sponsor of the bill with written testimony stating this really helps those citizens in the lower realm of our society who have maybe over purchased and now realize that they can't afford a vehicle that is worth more and now want to buy 2 lesser vehicles and so they can apply tax on more than one.

SEN. URLACHER: that wouldn't come into play in anyway if there was a turn back a vehicle and purchase another vehicle?

ANSWER; it just deals with those vehicles that are totaled in one way or another destroyed.

GARY ANDERSON: Tax Dept. Appeared stating the streamline is not really a determining of whether create extra work as you know the farm machinery for streamlining would be moved over to the gross receipts tax but in affect would carry over the same provision that required talks

about destroyed loss. That was carried over, therefore that's why the bill addresses both the sales tax law and the gross receipts law.

SEN. COOK: explain in layman's terms how this would work.

ANSWER: if a farmer a piece of machinery that he had previous paid sales tax on if that equipment were destroyed the way the law reads is that the insurance proceeds that you received, the total of that credit that he gets to carry over when he goes out to purchase another new piece of equipment. If he purchases used equipment, there is no sales tax on it anyway but he goes out and purchases new equipment regardless of the value, he gets to carry that credit over. Under the new bill if that he didn't use up all of the credit, he would be able to use it on a subsequent purchase as long as he does so within a 3 year statutory period of time. The same provision applies for motor vehicles in the fact that today if you have a vehicle that you destroyed and of course you paid tax on those, you get to carry the credit again if the insurance proceeds that you received back, you get to carry that credit over to the purchase of another vehicle. Again if that vehicle is up to or equal to the value of the insurance proceeds, you get to carry those proceeds over under the new bill. Again, it applies only to situations where its total losses occur within the farm machinery and motor vehicles, if its only a partial the insurance companies sets 68% damage and they don't total it out, these provisions do not apply

SEN. URLACHER: now on farm machinery, it would be rare for a total destruction unless its was a fire or something.

ANSWER; generally with farm machinery generally the case is its burned up for whatever reason. Farm machinery we see less of, of that occurring, motor vehicles seem to be the predominant issue there.

SEN. URLACHER: so under the fiscal effect probably won't be as severe as you indicated?

ANSWER; in looking at the, it was determined that we figured there were fewer than 10 newer pieces of farm machinery during the year and looking at that we figured about \$12,000 of that _____ would represent farm machinery. The balance would represent motor vehicle and motor vehicles indicated that there approximately 512 instances in 2004 where both ___ not used in total. That may not be a significant number that credit carry over may not be that significant

BOB LAMP: on behalf of both Automobile Dealers Assoc. and ND Implement Dealers Association in support stating they think this is descent enhancement for that law.

KEITH KISER: with the Dept. Of Transportation appeared in support stating there is a need for people losing credit on buying a lesser vehicle.

SEN. WARDNER: the credit comes in when purchasing below what you first paid.

ANSWER; yes that's right, if you buy a replacement vehicle for less than the amount of the credit you got (insurance settlement) then your losing that excise tax credit on whatever that difference was. This would address that on how you could use that credit multiple times until you've used it up fully.

Closed the hearing.

SEN. WARDNER: made a **MOTION FOR DO PASS AND REFER TO APPROPRIATIONS**, second by Sen. Bercier.

ROLL CALL VOTE: 6-0-0 Sen. Cook will carry the bill.

Date: 3-8-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1055

Senate **Finance and Taxation** Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass + Refer to Approp's

Motion Made By

Wardner

Seconded By

Bercier

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes)

6

No

0

Absent

0

Floor Assignment

COOK

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

REPORT OF STANDING COMMITTEE (410)
March 8, 2005 11:58 a.m.

Module No: SR-42-4378
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1055: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1055 was rereferred to the Appropriations Committee.

2005 SENATE APPROPRIATIONS

HB 1055

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1055

Senate Appropriations Committee

Conference Committee

Hearing Date 03/14/05

Tape Number	Side A	Side B	Meter #
1	x		0-950

Committee Clerk Signature



Minutes: **Chairman Holmberg** opened hearing on HB 1055.

Rep. Margaret Sitte, District 35 appeared in support of HB 1055. Written testimony was provided, see appendix I. Rep. Sitte gave an overview and background of the bill. Rep. Sitte read testimony verbatim. No questions were asked of Rep. Sitte

Keith Kiser, Director Motor vehicle Department, DOT appeared in support of HB 1055. Mr. Kiser stated that this issue comes up from time to time. Stating that the norm is when a person has a car stolen or totaled they usually buy a more expensive replacement car. There are circumstances that people purchase something of lesser value. This bill allows people to use the credit on one or more occasions.

Sen. Christmann: How long do you have under the current law to use the credit and does it have to be for the first vehicle?

Mr. Kiser: There is a three year statute of limitations on using the credit, you do not have to use it on the first vehicle you buy those three years, but you do have to use it in the three years.

Sen. Mathern: What is the present rate?

Mr. Kiser: It is 5 percent, the same as sales tax.

Gary Anderson, Director of Income Sales and Special Taxes, Tax Department appeared in support of HB 1055. Mr. Anderson stated that this still effects farm machinery, the only farm machinery subject to taxes is new machinery. This bill would effect the loss of new machinery and the subsequent purchase of replacement machinery. The tax department has supported this bill.

Sen. Christmann: The fiscal note, how is that divided up?

Mr. Anderson: 30% for farm machinery, the rest is the motor vehicle excise tax.

A **DO PASS** motion was made by Sen. Grindberg, seconded by Sen. Bowman. A roll call vote was taken, 14 yeas, 0 nays and 1 absent vote was taken. The carrier of the bill will be Sen. Cook.

Date 3/14/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HB~~ HB 1055

Senate SENATE APPROPRIATIONS

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By G Seconded By B

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER		
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment FIN -> Sen Cook

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

REPORT OF STANDING COMMITTEE (410)
March 14, 2005 8:53 a.m.

Module No: SR-46-4819
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1055: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1055 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1055

House Bill 1055 relating to motor vehicle excise tax exemptions

Testimony of Representative Margaret Sitte,

January 17, 2005

Mister Chairman and members of the committee, for the record, I am Representative Margaret Sitte, sponsor of House Bill 1055.

Last summer an angry constituent called me. A vehicle of his had been totaled, and he had replaced it with a vehicle of lesser value. When he wanted to apply his excise tax credit on the replacement vehicle, he realized he would lose more than half the value of the credit, yet he was not able to apply it on more than one vehicle. In checking with Keith Kiser at Motor Vehicle and with Gary Anderson at the Tax Department, I learned that this issue arises five or six times each year. Both departments were helpful in deciding how to fix the problem, and I commend them for their assistance.

The solution is to change the law to allow the citizens of North Dakota to apply the tax they have already paid on one or more replacement vehicles. To be fair, we included farm machinery as well as motor vehicles. On page 2, section C, you see that if the entire credit has not been used, the seller keeps a copy of the notarized statement, and if the entire credit has been used, the seller keeps the original notarized statement to verify the credit allowed.

When I saw the bill, I asked how a simple idea could result in such a long bill. The answer is that this area of law is intertwined with streamlined sales tax.

I urge you to give a favorable vote to these proposed changes and to help North Dakota citizens get the tax credit they deserve.

House Bill 1055 relating to motor vehicle and farm equipment excise tax

March 8, 2005

Mister Chairman and members of the committee, for the record, I am Representative Margaret Sitte from District 35 in central Bismarck, sponsor of House Bill 1055.

Last summer an angry constituent called me. A vehicle of his had been totaled, and he had replaced it with a vehicle of lesser value. When he wanted to apply his excise tax credit on the replacement vehicle, he realized he would lose more than half the value of the credit, yet he was not able to apply it on more than one vehicle. In checking with Keith Kiser at Motor Vehicle and with Gary Anderson at the Tax Department, I learned that this issue arises five or six times each year. Both departments were helpful in deciding how to fix the problem, and I commend them for their assistance.

The solution is to change the law to allow the citizens of North Dakota to apply the tax they have already paid on one or more replacement vehicles. To be fair, we included farm machinery as well as motor vehicles. On page 2, section C, you see that if the entire credit has not been used, the seller keeps a copy of the notarized statement, and if the entire credit has been used, the seller keeps the original notarized statement to verify the credit allowed.

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I urge you to give a favorable vote to these proposed changes and to help North Dakota citizens get the tax credit they deserve.

App I

House Bill 1055 relating to motor vehicle excise tax exemptions

Testimony of Representative Margaret Sitte,

March 14, 2005

Mister Chairman and members of the committee, for the record, I am Representative Margaret Sitte, sponsor of House Bill 1055.

Last summer an angry constituent called me. A vehicle of his had been totaled, and he had replaced it with a vehicle of lesser value. When he wanted to apply his excise tax credit on the replacement vehicle, he realized he would lose more than half the value of the credit, because he was not able to apply it on more than one vehicle. In other words, if he had a \$20,000 vehicle that was stolen or totaled, he would receive a credit for the excise tax he had paid. If he decided to replace it with a \$10,000 vehicle, he would lose half the credit.

In checking with Keith Kiser at Motor Vehicle and with Gary Anderson at the Tax Department, I learned that this issue arises a few times each year. Both departments were helpful in deciding how to fix the problem, and I commend them for their assistance. They suggested that citizens be allowed to apply the remainder of their excise tax credit on other vehicles over a three-year period.

Allowing the citizens of North Dakota to apply the tax they have already paid on one or more replacement vehicles is a matter of fairness. We have also included farm machinery, again as a matter of fairness. On page 2, section C, you see that if the entire credit has not been used, the seller keeps a copy of the notarized statement to use on his next purchase. If the entire credit has been used, the seller keeps the original notarized statement to verify the credit allowed.

I urge you to help North Dakota citizens get credit for the taxes they have paid.