

2009 HOUSE FINANCE AND TAXATION

HB 1574

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No HB 1574

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: # 8324

Committee Clerk Signature

*Quila Koye (mk)*

Minutes:

**Rep Belter:** Opened the hearing for HB1574

**Rep Nelson:** I am the Representative from District 7.

Attachment # 1

I have passed around some explanation of what has happened this past year to retail gas stations to update their pumps by 4/16/09. When fuel prices, this past year, exceeded \$4.00 some of the pumps could not calculate the dollar amount and what they are doing is calculate by ½ gallons. This did cause some confusion for some of the general public. The PSC then threw a directive is to have pumps that calculate per gallon over \$4.00.

Most stations have done this, but there are some low volume dealer's that this increase in cost for them it creates some great hardships.

The cost to replace these pumps is around \$12,000 to \$15,000 per pump.

This bill would allow the dealers that make these updates to use 25% of these investments as an income tax credit.

Attachment #2

Proposed Amendment

This would limit the taxable years to 5 years.

**Rep Winrich:** There must be other instances where some changes in technology to upgrade their equipment. Is there any precedence that we are setting here? Have we done any of this in the past?

**Rep Nelson:** I can't site a specific instance, but if I had to guess, I would have to say yes they are. I would remind you that this is an issue where the pump itself is safety or anything else, but the high price is what caused this. The pumps are checked and are correctly regulated.

**Rep Winrich:** So you are saying the free market killed us.

**Rep Nelson:** It is just a matter of fact the high prices were the cause. It is not the cause of the retailer.

**Rep Kelsh:** Does the new pump have unlimited price range.

**Rep Nelson:** My guess is yes. Mike Rudd is here from the Petroleum Marketing and could better answer the questions.

**Chairman Belter:** Do you have any idea how many pumps are out there that have not been changed over?

**Rep Nelson:** I don't. Mike Rudd has done some studies on that. If the amendments would be attached to the bill and a FN is required at that point I think we could find out.

**Chairman Belter:** Looking whether the language addresses if the pumps are already in and they just want to update them, would they qualify for this?

**Rep Nelson:** That is not my intention. If you are remembering that the retrofit is only available to anyone who made these changes after April 1, 2008 until April 16, 2009. If they retrofitted for another reason, it would be a good question.

**Wade Williams:** I have for your information the bills that cost me to install the pumps

Attachment #3

Besides this bill there is an additional cost of \$900.00 for hoses and nozzles. On a good month I will make between \$1000.00 and \$1200.00 a month. I have 6 employees, which one of them makes nineteen hundred for a full time employee the remaining employees make \$3600.00 a month. I have 2 bays in my shop which make about \$3000.00 to \$4000.00 a month. The pictures are for your information showing the newer style pumps which are able to go to \$10.00 and the older style pumps which I could retrofit them to go to \$4.00.

I would like to for you to see that this bill will be passed.

**Mike Rudd:** I am the President of the North Dakota Petroleum Marketing.

One of the questions asked was if these pumps were retrofitted, would they be fine of up to any amount of gallons? Yes they would. Once they have the retrofitted piece put into the pumps there should be no more issues with four dollar and above gasoline.

We feel that there at least 200 pumps out there in North Dakota and is maybe a larger number than most people would think. Some of the pumps that are in the rural area play a vital role in the communities. Some are there for emergencies purposes, ass fire departments and ambulances, as well as residential purpose.

I would urge a do pass on HB 1574.

**Rep Grande:** You stated that once they are retrofitted they can go above the four dollar amount. It appears to me that when Mr. Williams spoke he said his retrofits were only good for four dollars.

**Wade Williams:** The pumps I have would not go higher than four dollars. That was all.

Those pumps had spindles in them and the biggest spindle that you could get in them was for four dollars.

**Rep Grande:** So you could not retrofit those?

**Wade Williams:** Not the Red pumps. The White pumps go to ten dollars.

**Rep Headland:** So the new go to ten?

**Mike Rudd:** The new digital ones that they are retrofitting for, will go anywhere from five to fifteen hundred dollars.

**Rep Froseth:** You said there are 200 pumps in the rural area. Aren't there any pumps in the major cities that are up dated if there aren't, why?

**Mike Rudd:** I sure there are some in some smaller stations that have auto repair shops etc. would have some older pumps. There is also a waiting period of 6 to 9 months to get in that part once you order it.

**Chairman Belter:** What does a new digital pump cost?

**Mike Rudd:** A new digital pump will cost in the 15 to 1800 dollar range.

**Chairman Belter:** I am wondering if this tax credit is enough to make this change over.

**Mike Rudd:** That was the discussion with Rep Nelson. Who can we help here? There are a lot of pumps, unlike Mr. Williams's situation; they could replace the face for 500 to 1500 dollars.

**Rep Winrich:** I was wondering if someone from the Tax Department could answer a question about the bill?

**Mary Loftgaard:** I am with the Associate Director of the Tax Administrator for the Tax Commissioner.

**Rep Winrich:** The bill on line 10 and 11 and also the amendment specifically talks about retrofitting fuel dispensing units to enable them to dispense fuel at a higher price. Would the example Mr. Williams gave were he could not retrofit the pumps but would install new pumps, would they qualify for a tax credit?

**Mary Loftgaard:** I haven't heard the example but in response to your question, my read would be. "no they would not qualify." It would be just a retrofit.

**Rep Nelson:** I would disagree with that annualizes, because if you would have an older pump that could not be retrofitted to calculate over 4 dollars a gallon; the retrofit is a new pump, isn't it?

**Rep Winrich:** I don't think so.

**Rep Nelson:** I certainly can work on that with your permission Mr. Chairman.

**Rep Belter:** Closed the hearing.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1574

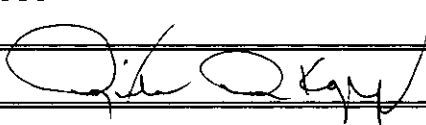
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/02/09

Recorder Job Number: 8385

Committee Clerk Signature



Minutes:

**Chairman Belter opened the hearing on HB 1574.**

**Rep. Winrich:** I understood that it was Rep. Nelson's intention that people who installed new pumps, would also qualify for this tax credit, but the answer from the tax department was that as the bill is written, they would not. I think Rep. Nelson probably wants to have some more amendments drafted.

**Chairman Belter:** I understood the problems and the costs that they were talking about. Do we, as taxpayers, use dollars to help somebody recover the cost caused by the market they were in? And at the same time, we don't use taxpayer dollars to cover the costs created by collecting taxes. I have a little problem supporting this bill.

**Rep. Grande:** I move a "do not pass".

**Rep. Pinkerton:** It looks like the easy way to deal with this bill would be probably repeal that act that made them move it up to \$4.00. It was mandated that they change their pumps. They could double the price according to the old law.

**Chairman Belter:** I don't believe that the PSC....it was an administrative rule, wasn't it?

(inaudible).

**Representative Grande:** It was administrative law.

**Chairman Belter:** I don't know that I can support the bill, but I do think it should be amended because if we are going to pass the bill, it seems to me that we need to clarify that this is also for new pumps and not just retrofits. Do we have the language here so we can just change it? That is fine with me.

**Representative Headland:** In response to what you just said, do we want to encourage them to buy new pumps just for the tax credit if they can retrofit the current pump they have and make it work? The tax credit will be substantially larger if we allow them to purchase new pumps.

**Chairman Belter:** I understand what you are saying, but I think the whole intent of Representative Nelson was looking at this little gas station that has one pump in the middle of nowhere and can't afford to do this. He is trying to help them out. The big "c" stores have gone ahead and done this already. He is just trying to help the little gas stations. I am not going to support the bill, but I see your point.

**Representative Headland:** If these large corporate-type stations change out all their pumps, there should be a lot of used pumps around that could be retrofitted. Maybe there would be some cost savings for those people. I just don't know that we want to pass anything that would encourage them to spend more just for the tax credit. Maybe they wouldn't.

**Chairman Belter:** Any other comments?

**Representative Froseth:** It was pointed out, I don't know for sure, but I think it included new pumps also which cost \$12-15,000 so if you took \$12,000, that would be a \$3,000 tax credit times 200 for a \$600,000 fiscal note. If you just went to \$500 to \$1,500 to change those gears, for an average of \$1,000 times 200 pumps would be \$20,000 fiscal note. Our fiscal note shows undeterminable. There has got to be a pretty good fiscal note on this one way or the other.



**Representative Winrich:** I tend to agree with Representative Headland and I do not sense there is a lot of support for this bill around the table. I don't agree with what Representative Nelson said in response to my first question about whether we have done anything like this before. I doubt that we have, but I do think that we should consider the bill that Representative Nelson wants to present and I don't think that this is it.

**Chairman Belter:** Committee members, do we want to try to amend this?

**Representative Grande:** Do you want to amend this? Do you want it to say after the word disposed.....?

**Chairman Belter:** I will talk with Representative Nelson and see what he wants put on here; but as Representative Winrich said, I don't think this is doing what his intent was. Let's just hold this and talk with him and see.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1574

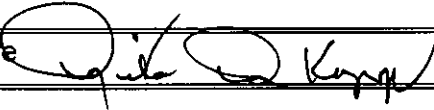
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8507

Committee Clerk Signature



Minutes:

**Chairman Belter:** Let's look at HB 1574. Does anybody have amendments?

**Representative Grande:** I move Representative Nelson's .0102 amendments.

**Representative Winrich:** What day did we hear that bill?

**Chairman Belter:** Yesterday. We have a motion from Representative Grande to move the .0102 Nelson amendments and a second from Representative Brandenburg. Any discussion? **(The motion carried by a voice vote.)** We have HB 1574 before us. What are your wishes?

**Representative Winrich:** Is this really the bill Representative Nelson wanted to put in?

**Chairman Belter:** Well, I'm not sure.

**Representative Winrich:** I thought he wanted to include new pumps and it doesn't according to the interpretation I have. I understood him to say when he was here ...

**Representative Grande:** I have looked at that; I have been trying to figure that out too, but how do you put it in that the owner needs to retrofit, but if he can't retrofit, we will allow him to put in a new pump? I don't know how you put in the wording for that and what the intent is behind that and how is he going to prove to you, the Tax Department, or whoever that I made every effort to do this, but I couldn't so I did this.

**Chairman Belter:** Go ahead, Representative Weiler.

HB

**Representative Weiler:** I would think that an individual in that situation is not going to be able to afford the new piece of equipment and maybe they can afford to retrofit. But they are getting a tax credit either way, correct?

**Representative Grande:** If they put in a new, they don't get one.

**Vice Chairman Drovdal:** Will you go through the chairman, please?

**Representative Weiler:** I am sorry, Mr. Chairman. What was my question?

**Vice Chairman Drovdal:** You may answer, Representative Grande.

**Representative Weiler:** I've got it.

**Vice Chairman Drovdal:** Any other discussion? Is there a motion on the floor? We have adopted the amendments; is there a motion?

**Representative Grande:** I will move a "do not pass as amended"; I just don't think it is workable.

**Vice Chairman Drovdal:** We have a motion by Representative Grande for a "do not pass" and a second from Representative Wrangham. Any more discussion?

**Representative Grande:** I understand his intention and I understand the rural aspect of this, but it doesn't seem to be a real workable situation for us to do it in a tax credit piece like this so that is why I made the motion.

**Vice Chairman Drovdal:** Any other discussion?

**Representative Pinkerton:** This bill kind of bothers me that we came out; apparently the whole thing was set off by the fact that they couldn't move the devices up to \$4 a gallon or higher and gas is at \$1.87 or something now. Most of these are really rural areas out in Bantry or some place. I kind of think; no gas pump at Bantry any more, maybe like Upham, it seems like we should just be able to put a little sticker on there to say this is double the price and people are... its is kind of a nanny society.

**Vice Chairman Drovdal:** Is that a motion to replace?

**Representative Pinkerton:** No, it is just a statement. I am going to vote for this because I think that we caused the problem.

**Vice Chairman Drovda:** Any other discussion? Seeing none, I will ask the clerk to take a roll call vote on **“do not pass as amended”** on HB 1574. (A roll call vote resulted in 7 ayes, 5 nays, 1 absent/not voting (Froelich). Representative Brandenburg will carry the bill.)

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1574**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 9081

Committee Clerk Signature

Minutes:

**Chairman Belter:** Let's look at HB 1574. They ran into problems with proper meter readings. They did indicate they weren't pushing the issue either.

**Representative Headland:** Could we limit it not to new pumps, but just retrofitting existing pumps? Therefore, if stations decided to change out pumps, maybe there would be some pumps available for retrofitting. I guess I just didn't think we needed to allow them to buy new \$15,000 pumps and take it off their income taxes.

**Representative Grande:** This only addresses retrofitting, not new pumps.

**Representative Weiler:** Is this something the state has done to law that causes them to have to change these pumps out or retrofit them? What is the purpose of this?

**Representative Drovdal:** Some of these are old pumps and they couldn't program the pumps to go over \$4; \$3.99 was the highest.

**Representative Weiler:** Representative Kelsh, you said something about the PSC.

**Representative Kelsh:** In the testimony that was handed out, there was an order from the Public Service Commission that they had to upgrade their pumps to reflect the true price and they had a year in which to do it. It was dated April 16, 2008.

**Representative Brandenburg:** The price of gas has gone down. Is this even needed?

**Chairman Belter:** The order is still in effect. They need to have pumps capable of going to \$4. The Commissioner came to me this morning because I checked with him last week. He said he thought it was the position of the PSC that they did not want to change their order. They understand the problem that it has created. Consequently, they have not been running around forcing people in these small towns to do it, but they did not want to rescind. At least, that was his feeling through conversation with others; they didn't take a vote on it.

**Representative Weiler:** What is the penalty for these old stations if they do not replace or retrofit their pumps?

**Chairman Belter:** It was my impression they are not imposing any penalty at this time. The indication I got was more or less the commission was saying, "Get it fixed."

**Representative Pinkerton:** I think this is a pretty lousy piece of government. If people are smart enough to run a gas pump, they are smart enough to figure out when the price is double. To top it off, gas is \$1.87 now and to demand that private business has to now spend thousands of dollars and come back and ask government to pay part of that cost. That stinks.

**Representative Drovdal:** I think Representative Pinkerton hit on why the PSC got involved in it. I know the small gas station in my town did just exactly that. He put down a note on the pump that the price was double. If was \$4.00, he put the pump at \$2.00. Somebody apparently called in and said they weren't doing this correctly; they were misfiguring and the customer was paying more than they thought they should have. The problem, in that particular case solved itself, as I think in many cases it will, because his pump wore out and he had to replace it anyway. You can't get parts so I think the problem will take care of itself by attrition.

**Chairman Belter:** Representative Pinkerton, I need to clarify this, but I think these changes originated from the federal government.

**Representative Winrich:** The PSC letter says that it is the device owner/operator's responsibility to insure that all their dispensers are able to calculate the correct price. Retail fuel device owner and operators are required to update any dispenser that is not able to calculate the correct price. If the price is under \$4.00, they are okay. The first paragraph says it is motivated by the fact that the price is over \$4.00 when it is written; but now that it is under \$4.00, it seems to me that they are in compliance.

**Vice Chairman Drovdal:** But the second to the last line says...

**Representative Winrich:** OK. Never mind.

**Chairman Belter:** I will check with Representative Nelson and ask what his intent is here. Also, there is a bill in the Senate dealing with ethanol pumps and I think the Majority Leader wanted to make sure that this bill was worked in conjunction with that piece of legislation.

**Representative Weiler:** When these businesses upgrade these pumps, it's a business expense, isn't it?

**Representative Brandenburg:** But the problem is when you go out to a small town that probably pumps 50 gallons a day. They more or less just have the pump for the few people in town who want it. They are hardly making any money on it because they can't afford to buy fuel in tanker loads. They don't dare hold that much inventory because the price could change and they would be put out of business. Those people are really in a tough spot and that is really what we are dealing with.

**Representative Weiler:** Mr. Chairman, were these pumps \$10-12,000 to buy a brand new one?

**Representative Grande:** Regulations change all the time in a lot of different industries and we don't come through and do a tax break for every one of them.

**Chairman Belter:** Okay, let's take a break.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1574

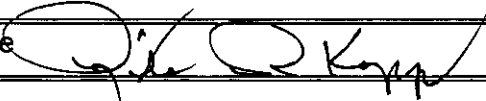
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 9117

Committee Clerk Signature



Minutes:

Job 9117- Reconvening in the afternoon.

**Chairman Belter:** Apparently what he has done here is provide a \$100,000 grant that will be administered by the PSC for retrofitting pumps between April 1, 2008 and April 1, 2009.

**Representative Headland:** It doesn't indicate what the grant would be or anything relative, if it is administered on a first-come, first-served basis and when the \$100,000 is gone, it's gone.

**Chairman Belter:** That is a problem. There doesn't seem to be any limit on each individual grant.

**Vice Chairman Drovdal:** What is the definition of retrofitting? I am thinking you take the current pump and reprogram it or put new insides in, but the testimony held that Representative Nelson wanted to pay for completely replacing the pump. If that is the case, are we going to pay a proportion because they have to buy a whole new pump because it can't be retrofitted? That was also part of the testimony that some cannot be retrofitted.

**Chairman Belter:** The way this amendment reads, as I understand it, is only for retrofits as the bill was only for retrofits. Is that the way everyone sees it?

**Vice Chairman Drovdal:** I believe you are correct. Both the bill and the amendment were written only for retrofit, but some of the testimony at the hearing stated that some of the pumps



cannot be retrofitted so they had to replace the pumps. At that time, Representative Nelson said he wanted to give them some help there. That's not the intent of this amendment. I don't think it is accomplishing what he wants to accomplish.

**Chairman Belter:** Committee members, what are your wishes? You have the amendments before you. I would entertain a motion to adopt the amendments. We have a motion from Representative Drovdal and a second from Kelsh.

**Representative Winrich:** Mr. Chairman, do we need to have a motion to reconsider the bill?

**Chairman Belter:** We have a motion from Representative Drovdal and a second from Representative Kelsh. **The motion to reconsider the bill carried.** Representative Froseth moved the .0201 amendments and a second from Representative Drovdal. Any discussion?

**The amendments were approved. Representative Grande moved a "do not pass as amended" and a second from Representative Headland.** Any discussion?

**Representative Headland:** It doesn't specify how much the grant would be, how much the PSC gives to each person. There are too many unanswered questions. I just cannot support it for those reasons.

A roll call vote resulted in a **"do not pass as amended" on HB 1574** resulted in **8 ayes, 4 nays, and 1 absent/not voting. Representative Brandenburg will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/12/2009

Amendment to: HB 1574

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations			\$100,000			

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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).*

Engrossed HB 1574 appropriates \$100,000 for grants related to retrofitting fuel dispensing units.

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.*

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.*

\$100,000 is appropriated from the general fund to the public service commission for retrofitting expenses.

<b>Name:</b>	Kathryn L Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	02/13/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1574

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 1574 creates a corporation and individual income tax credit for the cost of retrofitting fuel dispensing units to enable them to dispense fuel at higher costs than the original unit design.

**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 1574 allows a tax credit equal to 25% of the retrofitting expenses paid by the taxpayer.

The number of units that might be retrofitted if this bill is enacted, and the costs associated with the retrofits cannot be determined.

**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>	01/30/2009

VR  
2/3/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1574

Page 1, line 10, after "expended" insert "during the taxable year"

Page 1, line 12, after the underscored period insert "For the first taxable year beginning after December 31, 2008, the credit under this section also applies retroactively to expenditures for retrofitting fuel dispensing units from April 1, 2008, through April 1, 2009. The unused portion of the credit for retrofitting fuel dispensing units from April 1, 2008, through April 16, 2009, may be carried over for up to five taxable years after the taxable year the expenditure was made."

Renumber accordingly

Date: February 3, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1574

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number 0102

Action Taken  Do Pass  Do Not Pass  Amended (Not)

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

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

Absent \_\_\_\_\_

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

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

Motion Carries

Date: February 3, 2009

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1574

House FINANCE AND TAXATION Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Grande Seconded By Wrangham

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		
Vice Chairman David Drovdal	/		Representative Kelsh		/
Representative Brandenburg	/		Representative Pinkerton		/
Representative Froseth	/		Representative Schmidt		/
Representative Grande	/		Representative Winrich		/
Representative Headland		/			
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 7 No 5

Absent 1 (Froelich)

Floor Assignment Representative Brandenburg

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

### REPORT OF STANDING COMMITTEE

HB 1574: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1574 was placed on the Sixth order on the calendar.

Page 1, line 10, after "expended" insert "during the taxable year"

Page 1, line 12, after the underscored period insert "For the first taxable year beginning after December 31, 2008, the credit under this section also applies retroactively to expenditures for retrofitting fuel dispensing units from April 1, 2008, through April 1, 2009. The unused portion of the credit for retrofitting fuel dispensing units from April 1, 2008, through April 16, 2009, may be carried over for up to five taxable years after the taxable year the expenditure was made."

Renumber accordingly

Date: February 10, 2009

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1574**

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Reconsider

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

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

Absent \_\_\_\_\_

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

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

*Motion Carries*



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1574

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for grants to the owners of fuel dispensing units that were required to be retrofitted to accommodate sales of higher-priced fuels; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission for the purpose of providing grants to owners of fuel dispensing units that were required during the period from April 1, 2008, through April 1, 2009, to be retrofitted to accommodate sales of higher-priced fuels, for the biennium beginning July 1, 2009, and ending June 30, 2011. To receive a grant from the appropriation provided in this section, the owner of a fuel dispensing unit must file an application with the public service commission, on a form provided by the public service commission, providing the information necessary to verify the expense incurred and the necessity of retrofitting a fuel dispensing unit to dispense fuels at a higher cost than the maximum cost for which the unit was originally designed and manufactured. The grants provided by this section are to offset costs for expenditures to retrofit fuel dispensing units from April 1, 2008, through April 1, 2009."

Renumber accordingly

VK  
2/11/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1574

In lieu of the amendments as printed on page 373 of the House Journal, House Bill No. 1574 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for grants to the owners of fuel dispensing units that were required to be retrofitted to accommodate sales of higher-priced fuels; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission for the purpose of providing grants to owners of fuel dispensing units that were required during the period from April 1, 2008, through April 1, 2009, to be retrofitted to accommodate sales of higher-priced fuels, for the biennium beginning July 1, 2009, and ending June 30, 2011. To receive a grant from the appropriation provided in this section, the owner of a fuel dispensing unit must file an application with the public service commission, on a form provided by the public service commission, providing the information necessary to verify the expense incurred and the necessity of retrofitting a fuel dispensing unit to dispense fuels at a higher cost than the maximum cost for which the unit was originally designed and manufactured. The grants provided by this section are to offset costs for expenditures to retrofit fuel dispensing units from April 1, 2008, through April 1, 2009."

Renumber accordingly

Date: 2/10/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1574

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number 0201

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Froseth Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

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

Absent \_\_\_\_\_

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

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

Amendments carry

Date: 2/10/09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1574

House FINANCE AND TAXATION Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Corrado Seconded By Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovdal	/		Representative Kelsh		/
Representative Brandenburg			Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt		/
Representative Grande	/		Representative Winrich		/
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 8 No 4

Absent 1 (Brandenburg)

Floor Assignment Rep Brandenburg

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

**REPORT OF STANDING COMMITTEE**

**HB 1574: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1574 was placed on the Sixth order on the calendar.**

In lieu of the amendments as printed on page 373 of the House Journal, House Bill No. 1574 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for grants to the owners of fuel dispensing units that were required to be retrofitted to accommodate sales of higher-priced fuels; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission for the purpose of providing grants to owners of fuel dispensing units that were required during the period from April 1, 2008, through April 1, 2009, to be retrofitted to accommodate sales of higher-priced fuels, for the biennium beginning July 1, 2009, and ending June 30, 2011. To receive a grant from the appropriation provided in this section, the owner of a fuel dispensing unit must file an application with the public service commission, on a form provided by the public service commission, providing the information necessary to verify the expense incurred and the necessity of retrofitting a fuel dispensing unit to dispense fuels at a higher cost than the maximum cost for which the unit was originally designed and manufactured. The grants provided by this section are to offset costs for expenditures to retrofit fuel dispensing units from April 1, 2008, through April 1, 2009."

Renumber accordingly

2009 TESTIMONY

HB 1574

AB 1574  
February 2, 2009  
Attachment #1



Public Service Commission  
State of North Dakota

COMMISSIONERS

Susan E. Wehald, President  
Kevin Cramer  
Tony Clark

Executive Director  
Ilona A. Joffeost-Saccoo

600 E. Boulevard Ave. Dept 408  
Bismarck, North Dakota 58505-0480  
web: www.nd.gov/psc  
e-mail: ndpsc@nd.gov  
TTY 800-366-6888 or 711  
Fax 701-328-2410  
Phone 701-328-2400

TO: All Fuel Device Owners and Operators  
FROM: Kevin <sup>VH</sup>Hanson, Assistant Director, Testing and Safety Division  
DATE: April 16, 2008  
RE: Non-Digital Fuel Measuring Devices

The rising price of fuel is causing problems for non-digital retail fuel dispensers that cannot register a price of \$4.00 a gallon or higher. North Dakota Administrative Code requires retail fuel dispensers to be able to calculate the total sale price at the dispenser at the time of sale. Normally, violation of this rule would cause the dispenser in question to be rejected for repair.

**It is the device owner/operator's responsibility to ensure that all of their dispensers are able to calculate the correct price.** Retail fuel device owner/operators will be required to update any dispenser that is not able to calculate the correct price.

Please understand that the Commission is not requiring owner/operators to upgrade to digital. Also, the Commission is not requiring immediate compliance with the North Dakota Administrative Code, but is giving owner/operators a full year to get their older pumps into compliance.

All affected retail fuel dispensers unable to calculate correct price must be upgraded to comply by April 16, 2009.

Because this problem is nationwide and it may take time to order parts, we are asking owners and operators of non-compliant dispensers to do the following until they correct the problem:

- Post a weatherproof sign on each outside retail fuel dispenser, in a location conspicuous to the public, indicating the means that will be used to calculate the product price. An example would be a sign indicating that the displayed price is only 1/2 the total and must be doubled to indicate the total.

Owner/operators of affected retail fuel dispensers may not postpone upgrading of affected retail fuel dispensers even if the price of fuel drops below \$4.00 per gallon.

If you have any questions, I may be contacted at (701) 328-3337. Thank you for your cooperation.

c: Liquid Service Companies  
Petroleum Marketers Association

Mechanical analog indicating dispensers must comply with:

**S.1.6.5. Money-Value Computations;**

- (b) The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Table 1.  
 (Amended 1984, 1989, and 1993)

**S.1.6.5.1. Money-Value Divisions, Analog.** - The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Table 1. (Not the graduated interval x 2) (Amended 1991).

Table 1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers				
Unit Price		Money Value Division	Maximum Allowable Variation	
From	To and including		Design Test	Field Test
0	0.25/liter or \$1.00/gallon	1¢	± 1¢	± 1¢
0.25/liter or \$1.00/gallon	0.75/liter or \$3.00/gallon	1¢ or 2¢	± 1¢	± 2¢
0.75/liter or \$3.00/gallon	2.50/liter or \$10.00/gallon	1¢ or 2¢	± 1¢	± 2¢
0.75/liter or \$3.00/gallon	2.50/liter or \$10.00/gallon	5¢	± 2 1/2¢	± 5¢

If you have any questions I may be reached at 701-328-3337 or Email at [kihanson@state.nd.us](mailto:kihanson@state.nd.us)

Kevin Hanson, Assistant Director  
 Testing & Safety Division



**North Dakota Public Service Commission  
Testing and Safety Division**

All retail motor fuel dispensers MUST comply with:

**NIST Handbook-44, Section 1.10. General Code**

**G-S.5.5. Money Values, Mathematical Agreement.** - Any recorded money value and any digital money-value indication on a computing-type weighing or measuring device used in retail trade shall be in mathematical agreement with its associated quantity representation or indication to the nearest 1 cent of money value. This does not apply to auxiliary digital indications intended for the operator's use only, when these indications are obtained from existing analog customer indications that meet this requirement. (Amended 1973)

Digital indicating dispensers must comply with:

**NIST Handbook-44, Section 3.30**

**Liquid-Measuring Devices, S. Specifications**

**S.1.6.5. Money-Value Computations.**

- (a) *A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less.*  
*[Effective and nonretroactive as of January 1, 1991].*

**S.1.6.5.5. Display of Quantity and Total Price.** - *When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least 5 minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.*

*[Effective and nonretroactive as of January 1, 1994.]*  
(Added 1992)(Amended 1996)

certified meter by any new or newly expanded anhydrous ammonia dealer is prohibited.

**History:** Effective July 1, 1997.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-02, 64-02-13

\* **69-10-01-13. Enforcement.** An operator of a commercial weighing and measuring device shall ensure that the device is designed, constructed, operated, and maintained to meet applicable standards in state and national institute of standards and technology handbook no. 44 requirements (1999 edition). The commission may require proof of compliance. The commission may file a complaint for noncompliance, and, in addition to other appropriate sanctions, assess civil penalties under North Dakota Century Code chapter 49-07 after notice and opportunity for hearing on the complaint.

**History:** Effective May 1, 2005; amended effective July 1, 2008.  
**General Authority:** NDCC 49-07, 64-02-03  
**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-01-14. Inspection and testing accessibility.** A commercial weighing or measuring device must be installed so that it is easily accessible for inspection and testing.

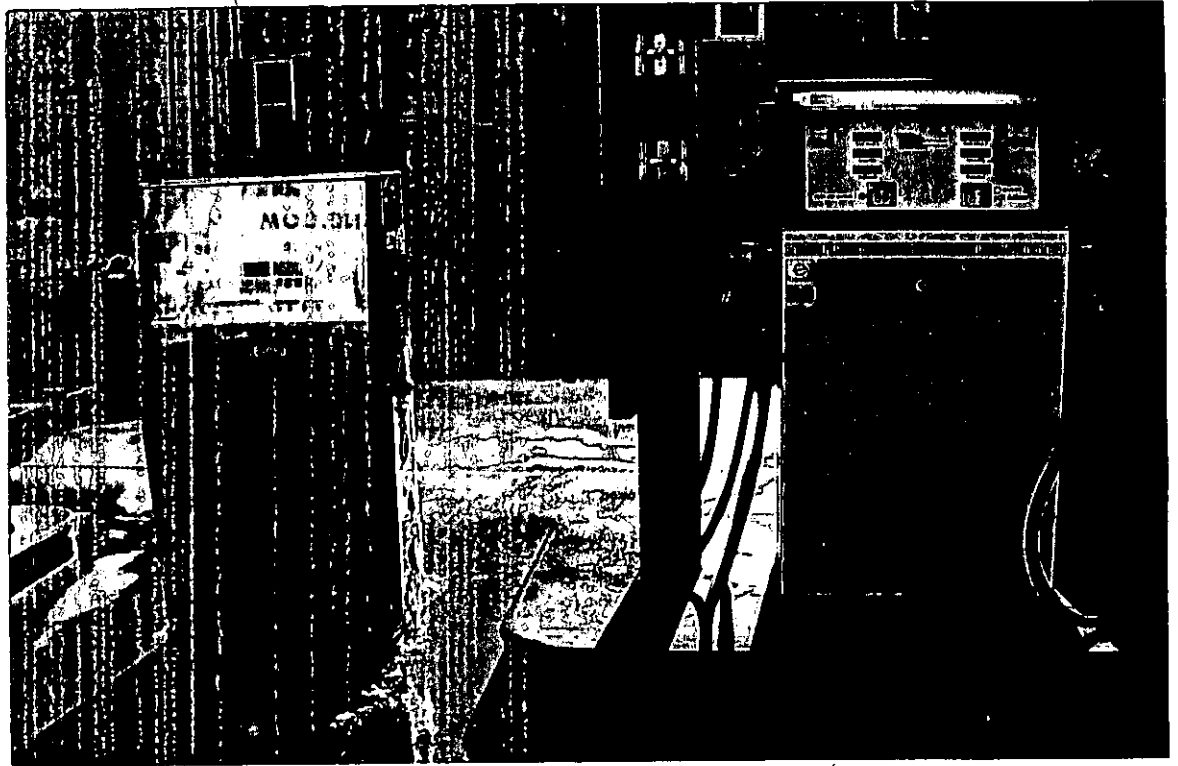
**History:** Effective May 1, 2005.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-02, 64-02-13

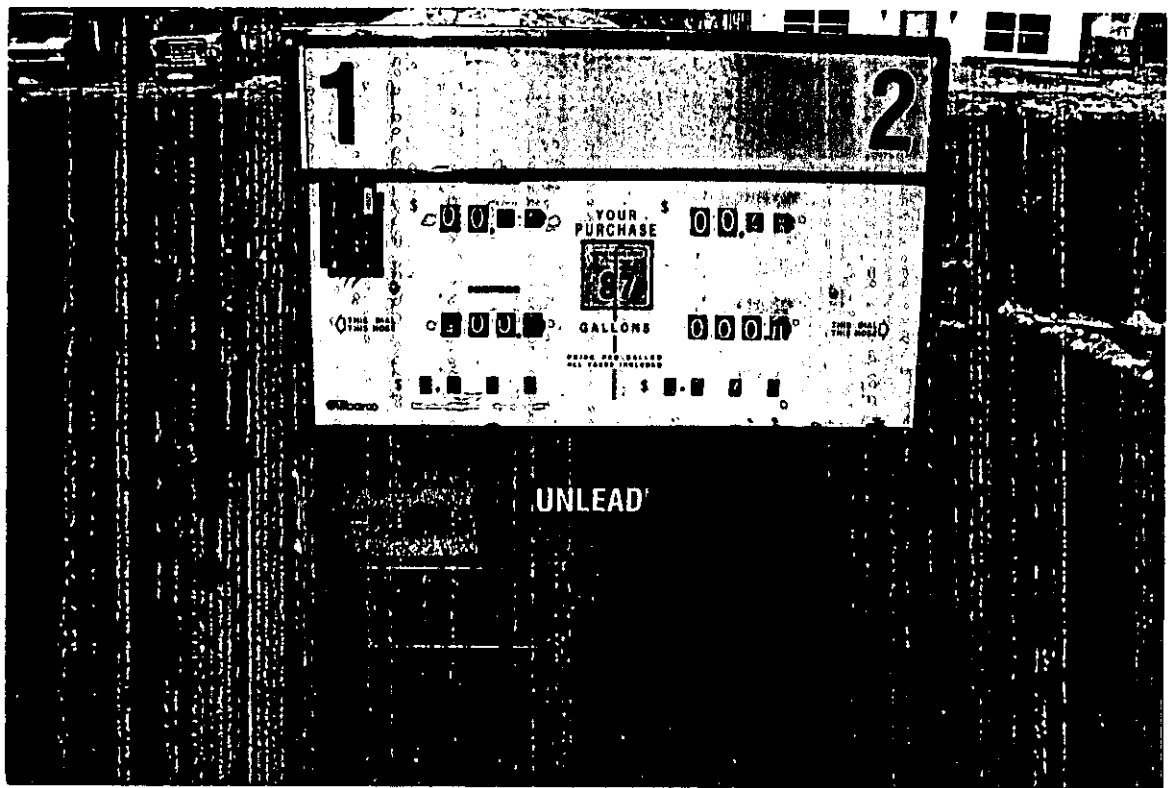
**69-10-01-15. Devices taken out of service.** When a state weights and measures inspector or a registered service person removes a commercial weighing or measuring device from service, the inspector or registered service person shall notify the commission in writing within seven working days of the removal.

**History:** Effective May 1, 2005.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-01-16. Service contracts.** Registered service companies shall notify the commission of any service contract that provides for annual certification of a commercial device. Notification must be given no later than thirty days from the date of the verbal or written contract. Commercial devices under service contract that have not been tested within twelve months may be scheduled for testing by the commission.

**History:** Effective May 1, 2005; amended effective July 1, 2008.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-02, 64-02-13





# R & R Petroleum Equipment Sales, Inc.

Attachment # 3 INVOICE

5 County Road 81 North  
 Fargo, North Dakota 58102  
 / 293-1707  
 1-800-333-9769  
 FAX 701-293-0310



DATE	INVOICE NO.	PAGE
11/10/08	67055	1
Invoice		

J & L SERVICE 215 5TH ST NW JAMESTOWN, ND 58401	S H I P T O	0 J & L SERVICE 215 5TH ST NW JAMESTOWN, ND 58401
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DESCRIPTION	JOB NUMBER
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CUSTOMER ORDER NO.	ORDER DATE	CUSTOMER NUMBER	SALES MAN	PURCHASE ORDER NO.	SHIPPING INSTRUCTIONS	SHIP DATE	
54679	11/10/08	JL SERVICE	JIM			11/10/08	
ORDERED	QUANTITY	REMAINING	UNIT	STOCK NUMBER / DESCRIPTION	UNIT PRICE	DISCOUNT	EXTENDED PRICE

FINAL BILLING  
 REPLUMB ISLANDS, INSTALL NEW  
 ISLANDS, 3 EACH PUMPS AND  
 TMS CONSOLE

1.00	1.00	EA		\$42,829.00	0.000	\$42,829.00
JOB 54679 BILLED COMPLETE						

DUE UPON RECEIPT	SALE AMOUNT	\$42,829.00
	( 0.000)	\$0.00
	( ND JOB)	\$0.00
		\$0.00
	TOTAL	\$42,829.00
		\$0.00
		\$42,829.00