

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1313

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Dennis H. H. H. H.  
Operator's Signature

10/3/03  
Date

2003 HOUSE FINANCE AND TAXATION

HB 1313

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1313**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 21, 2003

Tape Number	Side A	Side B	Meter #
1	X		41.9
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

**REP. WESLEY BELTER, CHAIRMAN**, Called the hearing to order.

**REP. ROBIN WEISZ, DIST. 14** Introduced the bill. This is a very simple bill, but does have very profound impact. For too long, the state has ignored our total infrastructure. We have a very integrated system. He stated, in the 1800's I think our nation looked forward to the rails being a very intracal part of the infrastructure of this country, because of that, we had several programs that made for the development of rail systems throughout the country. North Dakota was a great benefactor of some of that system. What I see is happening today, is a dramatic shift to what is happening to the rail system of North Dakota. This bill addresses that.

We are adding a two percent special fuel tax on to the rail industry to support the infrastructure of this state, both in roads and rails. We are seeing a dramatic decrease of branch lines in this state. A lot of that is due to the economic costs of trying to maintain that. When we close those branch lines, we see a corresponding decrease in our survivability of our rural communities. We

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*Danica Hallmark*  
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Page 2  
House Finance and Taxation Committee  
Bill/Resolution Number HB 1313  
Hearing Date January 21, 2003

are seeing an increased impact on the roads and highways, because our commodities are still going somewhere, it is still moving. This bill says that we can't separate our modes of transportation, that somehow, we need to promote the growth of the rail industry. By allocating fifty percent of these funds, it will help maintain the viability of the branch lines that have not already closed. It also addresses some of the impact we are having to our roads because of this consolidation.

**REP. BELTER** Related to page 4, do local rail projects only include actual rail projects, or is it broader than that, for instance, if a new terminal is built, and they need a mile of road to get to the terminal, is that a rail project?

**REP. WEISZ** I would interpret it too be for the rails, it would not be used for the building of a road going into the terminal.

**DAN KUNTZ, BNSF Railroad** Testified in opposition of the bill. He stated they have a couple of serious concerns regarding the bill. The first is a legal concern. Related back to the middle 80's to a law which was passed which would not allow states to impose taxes that discriminated against rail carriers. He felt this tax would fall squarely within that prohibition. The other concern is a practical concern. Burlington Northern Santa Fe, purchases about forty four million gallons of fuel in North Dakota, per year. That works out to a cost, based upon current prices, of about thirty five million dollars of fuel per year purchased in North Dakota. Any kind of shift in the cost structure, will influence purchase position.

**REP. HEADLAND** How much fuel does a locomotive carry?

**DAN KUNTZ** Deferred the question to Mr. Risch, he thought it was about five thousand gallons.

Page 3

House Finance and Taxation Committee

Bill/Resolution Number HB 1313

Hearing Date January 21, 2003

**TOM KELSCH, REPRESENTING THE CANADIAN PACIFIC RAILROAD** Testified in

opposition of the bill. Stated they purchase approximately 5.7 million gallons per year, which amounts to approximately one hundred seventy thousand dollars.

**REP. BELTER** Compared this to the trucking industry, it wouldn't make any difference where you would buy your fuel,

**TOM KELSCH** They purchase where the price is sensitive to their appropriation.

He wasn't sure if they would continue to purchase fuel in North Dakota.

**JOHN RISCH, REPRESENTING THE UNITED TRANSPORTATION UNION** Testified

in opposition. Stated they opposed the bill because of a issue of fairness. This imposes a tax on their employers and doesn't impose a tax on the competitors of their employers. He gave an example of what happened in 1992 on the federal level when they imposed a tax on fuel on the trucking industry, airline industry, and barges on the railroad. Since that time, the trucking industry was able to convert that 4.3 cents a gallon tax into the highway trust fund, the airlines were able to convert their tax into the airline trust fund, and the barges on the railroad are left to pay this 4.3 cents per gallon tax into the general fund for deficit reduction. It caused an unfair competitive advantage.

He stated he works as a railroad engineer out of Mandan, ND. He works both in Glendive and in Dilworth. Most of the fueling takes place in Mandan. When his train comes into Dilworth, if he needs fuel, he will put just enough fuel in to get to Mandan, likewise in Glendive, Montana, they do the same. They could easily fuel in Dilworth and Glendive, if it was cost effective to do that. The largest locomotives carry five thousand gallon tanks. They can go about fifteen hundred miles before fueling.

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Page 4  
House Finance and Taxation Committee  
Bill/Resolution Number HB 1313  
Hearing Date January 21, 2003

**RON NESS, NORTH DAKOTA PETROLEUM COUNCIL** Testified in opposition of the bill. He stated the amount of diesel fuel sold to railroads in Mandan, is the key element to why there is a refinery in Mandan. They could easily by-pass Mandan and fill in Montana.

**REP. FROELICH** Does someone in this room, have a cost comparison right now, with Montana, Minnesota, Canada, South Dakota, can somebody tell us what the tax structure is and the fuel cost?

**RON NESS** The railroad could give you the average rack price for Dilworth, Mandan and Glendive. He stated he could get that information.

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

Appeared to answer any questions. She stated that Minnesota does not have a sales tax. She answered the previous question regarding the truckers. There is a use tax, so that when railroads buy fuel, they buy it everywhere in the state. They owe a tax based on the average rail mile in North Dakota, but they can use tax credits on tax they paid in another state.

**REP. BELTER** What impact would this have?

**JOAN GALSTER** I am not sure, our tax is a percent of the cost, which is always a factor. I think they will always buy their fuel wherever it is most cost effective.

**REP. WINRICH** Questioned whether someone from the Attorney General's Office could advise on the legal problem that Mr. Kuntz cited.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION** 1-21-03 Tape #1, Side B, Meter #25.6

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

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Page 5  
House Finance and Taxation Committee  
Bill/Resolution Number HB 1313  
Hearing Date January 21, 2003

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

14 YES                      0 N                      0 ABSENT

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

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10/3/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/21/2003

**REVISION**

Bill/Resolution No.: HB 1313

**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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$2,940,000		
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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 1313 imposes an additional special fuels tax at the rate of 3% on the sale of special fuels sold for a railroad purpose.

**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 additional 3% special fuels tax is expected to increase revenues by \$2.94 million in the 2003-05 biennium. This revenue is to be distributed 50% to the highway tax distribution fund and 50% to a fund for local rail projects.

**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	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/21/2003

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Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/14/2003

Bill/Resolution No.: HB 1313

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$4,800,000		
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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 1313 imposes an additional special fuels tax at the rate of 3% on the sale of special fuels sold for a railroad purpose.

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.*

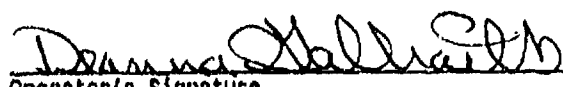
The additional 3% special fuels tax is expected to increase revenues by \$4.9 million in the 2003-05 biennium. This revenue is to be distributed 50% to the highway tax distribution fund and 50% to a fund for local rail projects.

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	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/20/2003

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Date: 1-21-03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1313

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

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

Action Taken

Do Not Pass

Motion Made By

Rep. Drovdal

Seconded By

Rep. Grosz

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Grosz

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

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Dennis Hall Smith

10/3/03

Date

**REPORT OF STANDING COMMITTEE (410)**  
January 21, 2003 1:15 p.m.

Module No: HR-11-0837  
Carrier: Grosz  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1313: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO**  
**NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1313 was placed**  
**on the Eleventh order on the calendar.**

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