

2011 HOUSE TRANSPORTATION

HB 1153

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1153
01/14/2011
Job # 12908

☐ Conference Committee

Committee Clerk Signature

Jeannette Cook

Explanation or reason for introduction of bill/resolution:

HB 1153 is a bill relating to exemptions from motor vehicle excise tax.

Minutes:

Senator Larson: This bill discusses a motor vehicle that is acquired by inheritance. I have had to deal with many trusts recently. We want to do is the transfer of a motor vehicle previously transferred under the subdivision E, which returns the ownership to the previous owner, and the transfer of a motor vehicle without monetary consideration from a revocable living trust to the trustor or the spouse, child, or sibling of the trustor. Then we don't have to pay a registration fee again, or if it is donated to a family member, and the family member can't use the vehicle, it will have to come back into the trust. We want to get rid of the fee scale to make it so it can come back in.

Chairman Ruby: Is this for registration fees or exise tax?

Senator Larson: It is for registration fees.

Senator David Hogue, District 38: I think the bill pertains to the excise tax not the registration. There is a narrow window of exceptions. For example, if a nonprofit corporation buys a bus to transport senior citizens; we don't tax that motor vehicle. If you actually assemble a car yourself, we don't tax you for that. The broadest exception to the tax is for gifts between family members. It isn't taxed if a parent gives it to a child, a spouse gives it to the other spouse, or a brother gives it to a sister. HB 1153 on page 2 lines 1-4 is trying to make clear that often times that for estate planning purposes a irrevocable lifetime trust will be created, and through that trust they will transfer the motor vehicle into the trust. That is nontaxable. The trust will give the vehicle to a child or to a brother or sister, which is not a taxable event under today's law. HB 1153 makes it clear that if for some reason the person who received the motor vehicle gives it back to the parent or spouse that too is not taxable. I don't think that there will be any fiscal impact. This was suggested in the last session by an estate planning attorney, and we weren't able to get it in in time. It is to make clear that if a parent can transfer a car to a child without tax consequence, then the child should be able to give it back to the parent.

Chairman Ruby: Is this most likely to happen if someone received a vehicle from a trust and they didn't need it, they would then send it back to the trust? The number of cases would be minimal.

Senator Hogue: That is a likely scenario.

Representative Owens: Subsection E and G make sense to me, but Subsection F is confusing to me. If you reorganize a business, change the name, and transferred it, why would you return it to the original business or owner in that case? Is that supposed to be Subsection C not E, because your whole explanation sounded like Subsection F should refer back to Subsection C, the trust.

Senator Hogue: I think that legislative council inserted Subsection F, and it addresses a situation where you have a failed reorganization. That is not a clarification that we sought when we asked to draft 1153, but I think it makes the same perfect sense as it does for a trust. If the transfer from the donor to the donee is tax free, it makes sense that the transfer back from the donee back to the donor should be tax free. That is the intent.

Representative Owens: Your answer is makes sense for Subsection C. To go back to your other argument about the trust giving a vehicle to a child and a child returning it, I am not seeing that bill allows for that. What am I missing here? What I see in Subsection C, where you can give the gift to the husband, wife, child, etc. or transfer it into a trust. Then G talks about transferring it without monetary consideration from the trust to the child. Are you saying that covers the return of it?

Senator Hogue: Yes, the trustor is going to be the person who created the trust and is permitting the transfer that would be tax free under C. Adding the word trustor, makes it so that the trustor can get the vehicle back, and it will be a tax free event.

There was no further support for HB 1153.

There was no opposition for HB 1153.

Myles Vosberg, North Dakota Tax Department gave neutral testimony on HB 1153.

Myles Vosberg: We did have the same question as Representative Owens had about page 2. On page 2 lines one and two, where it talks about a transfer of a vehicle, we would like a clarification there. If a motor vehicle was transferred under reorganization, does the vehicle have to go back and be transferred into the same name as is was originally registered. For example, if you have two organizations that merged together into one entity, and the vehicle was transferred back out again, would the name on the title have to go back to the original corporation? Normally, in reorganization when two corporations are joined together, the original corporations are dissolved. Therefore, there would be nothing to transfer it back to. We wanted clarification to understand the intent of this for administration purposes, so we are administrating this in the manner intended.

Chairman Ruby: Under the previous owner would that be the person who was the primary shareholder of one of the entities that were merging?

Mike Vosberg: We are assuming that the name would have to be the same as it was before the first transfer occurred. Then when it transfers back again, the title would have to be in the same name as it was originally.

Chairman Ruby: Would you prefer language that said previous owner or principle holder of company, if the company was the owner?

Mike Vosberg: If the previous owner was an individual, we would assume that it would go back into that individual's name. If the previous owner was a corporation, then it would be in the same corporation name. If the original corporation was dissolved, it the intent to still have an exempt transaction? If for some reason, that vehicle get transferred out of that newly reorganized entity?

Chairman Ruby: I would say only if it could go back to the previous owner. If it can't, it has to be taxed.

Mike Vosberg: If that is the case, we would like clarification on that.

There was no further testimony on HB 1153 and the hearing was closed.

Representative Frantsvog moved a DO PASS on HB 1153.

Representative Owens seconded the motion.

Representative Frantsvog: At what point is a corporation legally dissolved?

Representative Weisz: Corporations are officially dissolved when the Secretary of State tells you they are dissolved. If you don't keep them updated, after a certain period of time they will arbitrarily dissolve a corporation, or you can do the paperwork and have it dissolved.

Chairman Ruby: I agree that this won't be used a lot. Apparently it was an issue with a case that happened with a trust. It was brought to us in the Minot area. The bill was generated. It just seems the right thing to do, even if it minimally happens. It doesn't seem right to charge excise tax on it going back.

A roll call vote was taken. Aye 14 Nay 0 Absent 0

The motion carried.

Representative Louser will carry HB 1153.

FISCAL NOTE

Requested by Legislative Council
01/07/2011

Bill/Resolution No.: HB 1153

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

This bill makes minor changes to the vehicles that qualify for exemption from motor vehicle excise taxes.

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.*

The provisions of this legislation should not have any significant fiscal impact.

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 provisions of this legislation should not have any significant fiscal impact.

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.*

The provisions of this legislation should not have any significant fiscal impact.

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.*

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/07/2011

Date: 1-11-11Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1153House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Frantsvog Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz	X				

Total (Yes) 14 No 0Absent 0Floor Assignment Rep. Louser

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

REPORT OF STANDING COMMITTEE

HB 1153: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1153 was placed on the
Eleventh order on the calendar.

2011 SENATE TRANSPORTATION

HB 1153

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1153
March 4, 2011
14974

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A constituent from Minot brought his concern to a legislator of the need to correct the law relating to exemptions from motor vehicle excise tax.

Minutes:

No written testimony

Chairman Senator G. Lee opened the hearing on HB 1153 relating to exemptions from motor vehicle excise tax.

Representative Ruby, District 38, introduced HB 1153. He said that HB 1153 corrects an issue that we have in our law. If you have a vehicle and you gift it to a child or sibling it is exempted from the excise tax. The problem is if you get the vehicle back it is subject to the excise tax. This bill corrects this so that in the case that it would go back to the previous owner, it would be exempted from the tax.

Senator Nodland asked if a farm or a business was a sole proprietor and they created a partnership, LLC, or something, would this bill exempt them.

Representative Ruby said that in their discussions in the House hearing, and the way that it is written, it would exempt the excise tax.

No opposing testimony.

Senator Mathern asked the Tax Department what vehicles this would be limited to.

Myles Vosberg, State Tax Department, said that they anticipate this affecting a very small number of vehicles. He said that there are two components here: One is the trust situation where a vehicle is put in a trust and it comes back out to the same owner. The second situation is on page one, in subdivision e, where currently there is an exemption for business reorganization. An example would be a sole proprietor decides to incorporate the business. As long as the ownership is essentially the same, before and after the reorganization, and the retitling occurs within a hundred and eighty days, that transaction is exempted. What this bill does is allows the vehicle to be transferred out again.

Senator Mathern asked if this applies to commercial vehicles that are owned by individuals.

Mr. Vosberg replied that the ownership really didn't matter. He said that he didn't think this would happen very often.

Senator Sitte asked if it would be a problem if a vehicle is exchanged between two brothers across state lines.

Mr. Vosberg said that HB 1153 didn't change that but within the state you have the ability to change within family members without the tax.

Senator Lee asked if in Subsection e, where it refers to business reorganization, if that also applied to a bankruptcy.

Mr. Vosberg replied that a bankruptcy doesn't apply here because you would probably have a change of ownership. Under this reorganization, the key factor is that the vehicles have to have the same owners before and after.

Senator Lee referred to section g, where they are talking about the trustor, and asked why that would happen.

Mr. Vosberg said that he didn't know exactly why they would want to take it back out of the trust but this would exempt them from paying the excise tax twice.

Senator Lee closed the hearing on HB 1153.

Senator Nodland moved a **Do Pass** on HB 1153.

Senator Oehlke seconded the motion.

Roll call vote: 6-0-0. **Motion carried.**

Carrier is **Senator Nodland**.

Date: 3-4-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1153

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

HB 1153: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1153 was placed on the
Fourteenth order on the calendar.