

2009 HOUSE FINANCE AND TAXATION

HB 1082

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1082

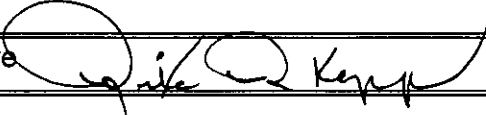
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6833/6834

Committee Clerk Signature



Minutes:

Chairman Belter: We will open the hearing on HB 1082.

Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax

Commissioner: I am here today to testify in support of HB 1082. (See Testimony #1.)

Chairman Belter: Are there any questions of committee members? Further testimony in favor of 1082? Any opposition to 1082? Any neutral testimony on 1082? If not, we will close the hearing.

Representative Grande moved to recommend a "Do Pass" on HB 1082.

Representative Brandenburg seconded.

A voice vote was taken on the amendment. **Yea: 12, Nay: 0, Absent 1.**

Representative Winrich will carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/26/2009

Amendment to: HB 1082

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 1082 with Senate Amendments provides clarification and consistency to sections of code that represent the way the tax is currently being administered. There is no fiscal impact.

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.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/30/2009

FISCAL NOTE
Requested by Legislative Council
03/05/2009

Amendment to: HB 1082

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			(\$295,000)	(\$25,000)		
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).*

Section 1 of HB 1082 with Senate Amendments reduces the taxable share of gross receipts from coin operated amusement devices from 80% to 40%.

The other sections provide clarification and consistency to sections of code that represent the way the tax is currently being administered.

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.*

Section 1 of HB 1082 with Senate Amendments is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$320,000 during the 2009-11 biennium, as shown above.

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.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/11/2009

FISCAL NOTE
Requested by Legislative Council
12/22/2008

Bill/Resolution No.: HB 1082

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 1082 provides clarification and consistency to sections of code that represent the way the tax is currently being administered. There is no fiscal impact.

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.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/10/2009

FDate: January 12, 2009
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1082

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken X Do Pass

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	X		Rep. Rod Froelich		
Vice Chairman David Drovdal	✓		Rep. Scot Kelsh	✓	
Rep. Mike Brandenburg	X		Rep. Louis Pinkerton	X	
Rep. Glen Froseth	X		Rep. Arlo Schmidt	X	
Rep. Bette B. Grande	X		Rep. Lonny Winrich	✓	
Rep. Craig Headland	✓				
Rep. Dave Weiler	X				
Rep. Dwight Wrangham	X				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep. Winrich

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

REPORT OF STANDING COMMITTEE

HB 1082: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1082 was placed on the Eleventh order on the calendar.

2009 SENATE FINANCE AND TAXATION

HB 1082

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1082

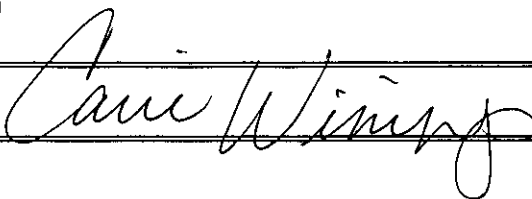
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9910

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on HB 1082.

Myles Vosberg, Director of the Tax Administration Division, Office of the State Tax

Commissioner: See Attachment #1 for testimony in support of the bill.

5.12 Senator Anderson: Under Section 3 is that more with individuals or can it be with a company that is selling used cars?

Myles Vosberg: It would apply to both, but more commonly it would apply to individuals.

Senator Anderson: How was the six years determined?

Myles Vosberg: That is consistent to how we apply the statute of limitations for other tax types.

Chairman Cook: In section 5, the refinery, does that only apply to blended fuel?

Myles Vosberg: We are attempting to clarify and include the smaller users, those that are blending their own fuel.

Chairman Cook: That is what the refiner means here?

Myles Vosberg: Refiner is defined in the law, but that includes the individuals or someone that is blending or creating fuel. We were finding that there were individuals that were blending their own fuel by adding some type of vegetable oil or a non diesel product and that product is

also subject to the tax. We want to clarify to those individuals that the law applies to them as well.

Chairman Cook: Does it affect the refinery in Mandan?

Myles Vosberg: It really does not.

Chairman Cook: How would I know that in reading this bill?

Myles Vosberg: They are already paying the tax if they are using the blended fuel themselves.

Chairman Cook: Not fuel they are selling?

Myles Vosberg: No.

Senator Triplett: You are not double taxing anyone are you?

Myles Vosberg: No.

Senator Dotzenrod: Section 3, if someone has not used a vehicle for some time and then they want to relicense it, does any of the changes here affect what they would pay?

Myles Vosberg: Only if they change ownership.

Chairman Cook: Any further testimony? (No) Closed hearing on HB 1082.

Chairman Cook: Committee your wishes?

Senator Oehlke: Moved a Do Pass.

Senator Anderson: Seconded.

A Roll Call Vote was taken: Yea 6, Nay 0, Absent 1 (Senator Miller).

Senator Anderson will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1082

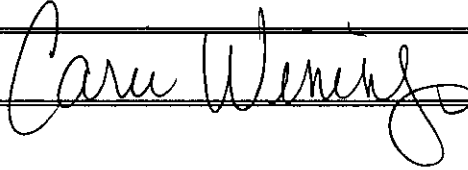
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9971

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on HB 1082.

Chairman Cook: To Senator Oehlke, you have a motion.

Senator Oehlke: Moved to Reconsider Action.

Senator Anderson: Seconded.

Senator Oehlke: Explained that he had an opportunity to talk to some people and it occurred to me that after we passed this, that I should have caught the vending machine reference to the bill. I bill that failed on the floor to remove the tax on amusement devices, this might be a vehicle that we can amend somehow to incorporate that. I reviewed that with Myles Vosberg and we figured out that there is wording in code that it is 80% of 5% and my proposal will be to reduce that to 40% of 5%. That would be my idea. I would like to bring an amendment along those lines.

Chairman Cook: Committee your wishes?

A Roll Call Vote was taken: 6 yea, 0 nay, 1 absent (Senator Miller).

The bill will be reconsidered by the committee.

(It was understood that the bill would have to go to appropriations)

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1082

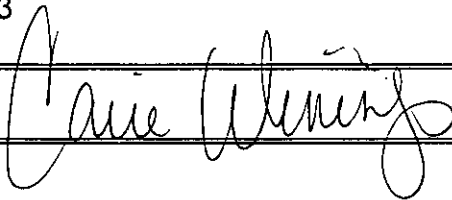
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 03/03/2009

Recorder Job Number: 10043

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on HB 1082.

Senator Oehlke: See Attachment #1 for proposed amendments. Explained amendment, and mentioned that the fiscal impact should be minimal.

Senator Oehlke: Moved the amendment.

Senator Dotzenrod: Seconded.

Chairman Cook: Discussion?

Senator Triplett: The only concern that I have is one of adding a defeated bill into another bill, and what the results will be for the current bill. Could anyone tell me how this bill did the first time around?

Senator Oehlke: We passed it, it came out of Appropriations as a Do Not Pass, and then on the floor Senator Mathern carried it and said that he tried to get someone from the other party to carry this and no one would and then he said they felt that it was not the right method to eliminate the tax. It failed 24/22 on the floor. Probably one of the only ones we would be able to do it with.

Senator Triplett: That takes care of my concerns.

Chairman Cook: Asks Donnita Wald to speak to the amendments.

Donnita Wald, Legal Council with the Tax Department: I want to say that we have no issues of policy with these amendments, but we are concerned that this is our sales tax technical bill this session. We typically don't have bills with fiscal notes on them and there are some very important aspects within this bill that we are concerned about. If the policy is not adopted that we hope we can get our regular fixes back.

Chairman Cook: I would guess that if this gets over to the house and ends up in a conference committee and if things look risky that we will have to find a vehicle to get your corrections back or quickly confer and get this off of it.

Donnita Wald: Thank You.

Senator Oehlke: I am sorry to give the tax department heart burn.

A voice vote was taken: Yea 7, Nay 0, Absent 0.

Motion carried.

Senator Miller: Moved a Do Pass As Amended, and Re-Referred to Appropriations.

Senator Oehlke: Seconded.

Chairman Cook: Discussion?

A Roll Call Vote was taken: Yea 7, Nay 0, Absent 0.

Senator Oehlke will carry the bill.

Date: 03/02/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1082

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Senator Oehlke Seconded By Senator Anderson

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	—		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 6 No 0

Absent 1 Miller

Floor Assignment Senator Anderson

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

REPORT OF STANDING COMMITTEE (410)
March 2, 2009 11:43 a.m.

Module No: SR-37-3796
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1082: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1082 was placed on the Fourteenth order on the calendar.

Date: 03/02/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1082

Senate Finance and Taxation Committee

Check here for Conference Committee Reconsider

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Oehlke Seconded By Anderson

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	—		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 6 No 0

Absent 1 Miller

Floor Assignment _____

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

#1

PROPOSED AMENDMENTS TO HOUSE BILL 1082

Prepared March 2, 2009

Page 1, line 1, after "reenact" insert "subdivision c of subsection 1 of section 57-39.2-02.1,"

Page 1, after line 10, insert:

"SECTION 1. AMENDMENT. Subdivision c of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty forty percent of the gross receipts collected from coin-operated amusement devices.

Page 4, line 18, replace "3" with "4"

Page 4, line 19, replace "4, 5, 7, and 8" with "5, 6, 8, and 9"

Page 4, line 20, replace "6" with "7"

Renumber accordingly

Date: 03/03/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1082

Senate Finance and Taxation Committee

Check here for Conference Committee Amendment

Legislative Council Amendment Number March 2nd, Attachment # 1 in notes

Action Taken Do Pass Do Not Pass Amended

Motion Made By Senator Oehlke Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	/		Sen. Arden Anderson	/	
Sen. Joe Miller - Vice Chairman	/		Sen. Jim Dotzenrod	/	
Sen. David Hogue	/		Sen. Constance Triplett	/	
Sen. Dave Oehlke	/				

Total: Yes 7 No 0

Absent 0

Floor Assignment _____

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

Date: 03/03/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: 1082

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number Re-refer Appropriations

Action Taken Do Pass Do Not Pass Amended ^{As}

Motion Made By Miller Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 7 No 0

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

HB 1082: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1082 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subdivision c of subsection 1 of section 57-39.2-02.1,"

Page 1, after line 10, insert:

"SECTION 1. AMENDMENT. Subdivision c of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to ~~eighty~~ forty percent of the gross receipts collected from coin-operated amusement devices."

Page 4, line 18, replace "3" with "4"

Page 4, line 19, replace "4, 5, 7, and 8" with "5, 6, 8, and 9"

Page 4, line 20, replace "6" with "7"

Re-number accordingly

2009 SENATE APPROPRIATIONS

HB 1082

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1082

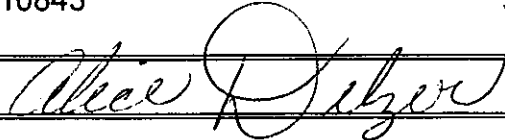
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-12-09

Recorder Job Number: 10842 and 10843

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order in reference to HB 1082 in regards to relating to sales tax on sales through vending machines; the definition of low-speed vehicle and the time for audit and protest for motor vehicle excise tax purposes, motor vehicle fuel tax definitions, the motor vehicle fuel tax and special fuels tax imposed on fuels produced by a refiner, and minimum refunds for motor vehicle fuel tax purposes.

The first part of the hearing (starting at 3.51 on Job #10842 and including a portion of Myles' testimony)

Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner (4.21) testified in favor of HB 1082 and provided written testimony # 1. He stated that HB 1082 was a bill that was introduced by the Tax Commissioner and it contains administrative changes. When that bill was in the Senate Finance and Tax the committee amended the bill and added in section one which creates a reduction in sales tax for coin operated amusement. The original bill had no fiscal note until it was amended by the Senate Finance and Tax Committee. Would you like me to go through the whole bill or just section 1?

Chairman Holmberg said just give us the highlights and then go into the fiscal section of the bill because we have had one bill already on vending machines.

Myles: explained the sections of the bill. (started new job #10843 at this time) (2.23)

Chairman Holmberg: The fiscal note came about because of section 1.

Myles: That is correct. There was no fiscal note until it was amended in the portion for the coin operated amusement program.

Senator Krebsbach: What is the difference in this fiscal note and the fiscal note that was on the original bill?

Myles: The fiscal note is half of what it was before.

Senator Krauter asked if this also reduces the state aid distribution.

Myles: stated that is correct. 8% of all the sales tax revenue goes to the state aid distribution so the portion you see on the fiscal note for the other funds is the state aid distribution.

Senator Krauter had questions regarding the state aid distribution fund and made reference to cities and counties.(3.37)

Myles: The reason it is on the top it goes from the general fund to the state aid distribution fund and from there the treasurer distributes the money.

Senator Warner stated he thought it would be incredibly hard to audit amusement devices. Are their counters to know how many times they have been played? Or are we just taking their word as to what their gross revenues are? (4.34)

Myles: It is a cash business and so when you have a cash business it's always difficult. We could do a few things like trace deposits and those types of things we do when we are auditing that they are accounting for all the money, but it is very difficult to trace. .

Chairman Holmberg stated we can look at this tomorrow. He then closed the hearing on HB 1082.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1082

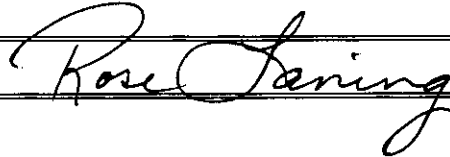
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11336 (starting at 24:19)

Committee Clerk Signature



Minutes:

Chairman Holmberg opened discussion on HB 1082 relating to sales tax on sales through vending machines, and the motor vehicle fuel tax and special fuels tax.

Chairman Holmberg reminded the committee that the tax department is very concerned that we involve ourselves too much in coin operated and forget that the bill itself has what they view as very needed technical changes in the law. We either take out the vending section or leaving it in and passing the bill.

V. Chair Grindberg: Is this the same issue relating to vending machines? I thought that was amusement.

Chairman Holmberg: Basically the same thing, is it not?

Senator Krebsbach: The initial bill eliminated the tax for the coin operated machine people. This just reduces the percentage that they are now paying. I believe they are now paying 80% and it was cutting it in half – so it would be half the obligation or the revenue.

V. Chair Grindberg: We had this bill that came through at the request of the tax commissioner. Was this section 1 amended into the bill on the House side? Or in the Senate Finance and Tax?

Chairman Holmberg: They put that bill back in.

V. Chair Grindberg: So when we acted on the other bill, we had no knowledge that this was coming.

Senator Mathern: This was done afterwards in response to our action.

Chairman Holmberg: The action of the full senate. Is the issue one we can handle right now? I mean, either you are for it, and the difference is, instead of eliminating the tax, it reduces it. And what was the fiscal impact?

V. Chair Bowman: \$300,000 in general funds and \$25,000 other funds.

Senator Krebsbach: The coin operated machines are the only ones that are paying this. Laundry coin operated people do not pay it, nor do some of the others, but this is just on the, I'm going to call it the entertainment machines. They have been here many times with this issue and they've always been told to come back when there's money.

Senator Robinson: They're all here!

Chairman Holmberg: There is a copy of the amendment in your book which the Senate Finance and Tax put on which dropped the tax and this would be an issue that this is well within the pervue of this committee because it has to do with raising or reducing the revenues for the state.

Senator Mathern: Can you tell us again the percent that this reduces?

Chairman Holmberg: It goes from 80% to 40%.

Senator Christmann: The rest of this, outside of section #1, are what we need to do?

Chairman Holmberg: Yes.

Senator Warner moved to delete section 1 of the bill.

Senator Fischer seconded.

Senator Mathern: Could you describe the effect of your motion?

Senator Warner: It would simply leave things as they are now and it would be taxed at the current rate and it would have no fiscal effect.

Voice vote passed.

Section one has been deleted.

Senator Warner MOVED DO PASS AS AMENDED on HB 1082.

Senator Fischer seconded.

A Roll Call vote was taken. Yea: 14 Nay: 0 Absent: 0

Senator Warner will carry the amendment.

Chairman Holmberg closed the hearing on HB 1082.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1082

In lieu of the amendments adopted by the Senate as printed on pages 656 and 657 of the Senate Journal, House Bill No. 1082 is amended as follows:

Page 3, line 24, overstrike "A" and insert immediately thereafter "For all motor vehicle fuel purchases during a calendar year, a" and overstrike ", for"

Page 3, line 25, overstrike "all motor vehicle fuel purchases during a calendar year,"

Renumber accordingly

Date: 3-20-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1082

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number Delete Section 1

Action Taken Do Pass Do Not Pass Amended

Motion Made By _____ Seconded By _____

*voice
vote
passed*

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer			Senator Warner		
Senator Christmann			Senator Robinson		
Senator Krebsbach			Senator Krauter		
Senator Bowman			Senator Lindaas		
Senator Kilzer			Senator Mathern		
Senator Grindberg			Senator Seymour		
Senator Wardner					
Chairman Holmberg					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-20-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1082

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

6th order

Motion Made By Warner Seconded By Fischer

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson	✓	
Senator Fischer	✓		Senator Lindaas	✓	
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg	✓		Senator Mathern	✓	
Senator Kilzer	✓				
V. Chair Grindberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Warner carry amendment

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

REPORT OF STANDING COMMITTEE

HB 1082: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1082 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 656 and 657 of the Senate Journal, House Bill No. 1082 is amended as follows:

Page 3, line 24, overstrike "A" and insert immediately thereafter "For all motor vehicle fuel purchases during a calendar year, a" and overstrike ", for"

Page 3, line 25, overstrike "all motor vehicle fuel purchases during a calendar year,"

Renumber accordingly

2009 TESTIMONY

HB 1082

TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE

HOUSE BILL 1082

January 12, 2009

Same testimony given to Senate Finance + Taxation.

Chairman Belter, members of the House Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner and I am here today to testify in support of House Bill 1082.

BACKGROUND

This bill was introduced by the Tax Commissioner to address administrative issues encountered by our Department. These changes, which apply to sales tax, motor vehicle excise tax, motor fuels tax and special fuels tax, will have no fiscal impact. The changes are intended to clarify administrative processes or make current processes more consistent with other similar taxes.

EXPLANATION OF THE BILL

Section 1 - Outdated Sales Tax Language. Section 1 of the bill simply removes outdated language that references a change put in place in 1969.

Section 2 – Definition of Low-Speed vehicle. Motor vehicle excise tax applies to all motor vehicles required to be registered under the motor vehicle registration laws. Last session, the definition of low-speed vehicle was modified in the motor vehicle registration laws. Section 2 will update the same definition in the motor vehicle excise tax law so it is identical to the definition in the registration law.

Section 3 – Assessments of Motor Vehicle Excise Tax. The language inserted in Section 3 clarifies that the Tax Commissioner has three years from the date of purchase to assess unpaid motor vehicle excise tax. If the underpayment is twenty-five percent or more, the assessment deadline is extended to six years. This statute of limitations is consistent with the sales tax law, and the new language will more clearly identify the statute of limitations for motor vehicle excise tax. Section 3 also extends the time a taxpayer has to protest an assessment of tax from fifteen to thirty days, which is the standard protest period allowed for other similar taxes.

Section 4 – Motor Fuel Definitions. Section 4 contains the following changes for motor vehicle fuel tax.

1. Consumer is included in the definitions of “import” and “importer” to assure that product imported into the state for personal use by individuals or companies that are not licensed are subject to motor fuel tax. An example is motor fuel that may have been purchased in bulk in another state and brought into North Dakota by an individual or company for use in a farming operation or construction project.
2. “Licensed motor vehicle” is modified to include motor vehicles that are required to be licensed under the law but the owner failed to license. The intent is to clarify that even though the operator of a motor vehicle failed to license that vehicle it was still considered a licensed motor vehicle for application of the motor vehicle fuel law.
3. The change in the definition of “motor vehicle fuel” is intended to exclude product from motor fuel tax when used as a component or additive to another product. This exclusion currently exists in the special fuel tax statute. For example, product that fits the definition of motor fuel but used to make antifreeze or used as antifreeze in a processes containing liquids is not taxed as motor fuel.

Section 5 – Refiners. The addition of refiner in Section 5 requires taxpayers that blend and use their own fuel to be responsible to report and remit tax on this fuel. This change will codify current administrative practice.

Section 6 – Minimum Refund Claim. Under current law, a refund of motor vehicle fuel tax may not be issued unless the request exceeds five dollars. Section 6 changes the minimum refund amount to be equal to or greater than five dollars to be consistent with the minimum refund amount found in most other taxes.

Sections 7 & 8. Special Fuel Taxes. The changes found in these two sections are the same changes in the Special fuels tax law regarding Import, Importer, Licensed Motor Vehicle, and Refiner that are made in motor vehicle fuel tax in Sections 4 and 5 of the bill.

CONCLUSION

The changes found in House Bill 1082 are intended to clarify the law and make administrative practices more uniform among tax types. The Tax Commissioner respectfully requests that you give favorable consideration to House Bill 1082.

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
SENATE APPROPRIATIONS COMMITTEE**

HOUSE BILL 1082

March 12, 2009

Chairman Holmberg, members of the Senate Appropriations Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner and I am here today to testify in support of House Bill 1082.

BACKGROUND

This bill, which originally consisted of Sections 2 through 9, was introduced by the Tax Commissioner to address administrative issues encountered by our Department. These changes, which apply to sales tax, motor vehicle excise tax, motor fuels tax and special fuels tax, have no fiscal impact. The changes are intended to clarify administrative processes or make current processes more consistent with other similar taxes. Section 1 of the bill was recommended and amended into HB1082 by the Senate Finance and Taxation Committee. The Tax Commissioner estimates Section 1 will decrease state sales tax revenue by \$320,000 during the 2009-11 biennium.

EXPLANATION OF THE BILL

Section 1 – Coin-operated Amusement. Currently 80 percent of the gross receipts from coin-operated amusement are subject to sales tax. Section 1 of the bill reduces the taxable portion of gross receipts from 80 percent to 40 percent.

Section 2- Outdated Sales Tax Language. Section 2 of the bill simply removes outdated language that references a change put in place in 1969.

Section 3 – Definition of Low-Speed vehicle. Motor vehicle excise tax applies to all motor vehicles required to be registered under the motor vehicle registration laws. Last session, the definition of low-speed vehicle was modified in the motor vehicle registration laws. Section 3 will update the same definition in the motor vehicle excise tax law so it is identical to the definition in the registration law.

Section 4 – Assessments of Motor Vehicle Excise Tax. The language inserted in Section 4 clarifies that the Tax Commissioner has three years from the date of purchase to assess unpaid motor vehicle excise tax. If the underpayment is twenty-five percent or more, the assessment deadline is extended to six years. This statute of limitations is consistent with the sales tax law, and the new language will more clearly identify the statute of limitations for motor vehicle excise tax. Section 4 also extends the time a taxpayer has to protest an assessment of tax from fifteen to thirty days, which is the standard protest period allowed for other similar taxes.

Section 5 – Motor Fuel Definitions. Section 5 contains the following changes for motor vehicle fuel tax.

1. Consumer is included in the definitions of “import” and “importer” to assure that product imported into the state for personal use by individuals or companies that are not licensed are subject to motor fuel tax. An example is motor fuel that may have been purchased in bulk in another state and brought into North Dakota by an individual or company for use in a farming operation or construction project.
2. “Licensed motor vehicle” is modified to include motor vehicles that are required to be licensed under the law but the owner failed to license. The intent is to clarify that even though the operator of a motor vehicle failed to license that vehicle it was still considered a licensed motor vehicle for application of the motor vehicle fuel law.
3. The change in the definition of “motor vehicle fuel” is intended to exclude product from motor fuel tax when used as a component or additive to another product. This exclusion currently exists in the special fuel tax statute. For example, product that fits the definition of motor fuel but used to make antifreeze or used as antifreeze in a processes containing liquids is not taxed as motor fuel.

Section 6 – Refiners. The addition of refiner in Section 6 requires taxpayers that blend and use their own fuel to be responsible to report and remit tax on this fuel. This change will codify current administrative practice.

Section 7 – Minimum Refund Claim. Under current law, a refund of motor vehicle fuel tax may not be issued unless the request exceeds five dollars. Section 6 changes the minimum refund amount to be equal to or greater than five dollars to be consistent with the minimum refund amount found in most other taxes.

Sections 8 & 9 - Special Fuel Taxes. The changes found in these two sections are the same changes in the Special fuels tax law regarding Import, Importer, Licensed Motor Vehicle, and Refiner that are made in motor vehicle fuel tax in Sections 5 and 6 of the bill.

CONCLUSION

Section 1 of House Bill 1082 will reduce the percent of gross proceeds from coin-operated amusement that is subject to sales tax. The changes found in Sections 2 through 9, which were introduced by the Tax Commissioner’s Office, are intended to clarify the law and make administrative practices more uniform among tax types. The Tax Commissioner respectfully requests that you give favorable consideration to House Bill 1082.