

2009 HOUSE FINANCE AND TAXATION

HB 1083

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1083

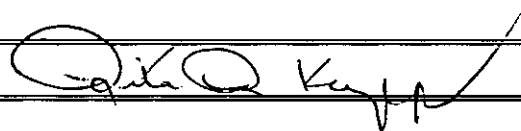
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6835

Committee Clerk Signature



Minutes:

Chairman Belter: We will begin the hearing on HB 1083.

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

Commissioner: I am here today on behalf of the Commissioner to testify in support of HB 1083. (See Testimony #1).

Chairman Belter: Any questions? Further testimony in support of 1083?

Tax Commission Cory Fong: I think this bill makes a lot of sense. I realize that there is a significant fiscal note, but I think this bill allows us to get back into synch and is good for retailers who for a long time have struggled to remember to get their returns in early in that last month of the biennium. I would hope that the committee would give this favorable consideration. Again, I realize it has a fiscal effect, but keep in mind it is a tiny issue. I think it makes a lot of sense that in this biennium, with the resources we have, that we get back in synch. Thank you for your consideration and we hope that you will give it a "Do Pass".

Chairman Belter: Was this included in the Governor's budget?

Commissioner Fong: Mr. Chairman, it was not.

Representative Weiler: Commissioner, on the fiscal note, it shows it was a decrease in revenue for this term, but if they are going to change it, for the 2009-2011 biennium, shouldn't there be additional revenue to make this neutral over four years? It doesn't have that on here.

Commissioner Fong: I apologize. I tried to grab the fiscal note before I left, but it wasn't tied to the bill on the system so I haven't seen it. According to Kathy Strombeck, we are going to be pushing that revenue into the next biennium so it will be revenue plus for the next biennium, but a revenue shortfall for 2009-2011 as I see it.

Representative Weiler: Would you have your staff review so that the revenue shift shows up? We understand here but we need some clarification.

Commissioner Fong: Again I think this makes a lot of sense for the retailers out there who struggle with this and we end up assessing penalties and interest for that one month. This is the time to do it.

Chairman Belter: Any questions? Further testimony in favor of 1083? Any opposition to 1083? If not, we will close the hearing on 1083. Committee members, do you want to wait for clarification on the fiscal note or are you ready to act on this?

Representative Grande: Mr. Chairman, it shows it on the narrative so it is clear there. I don't know that it has to show in the box as long as they make that correction, I think we can act on it.

Vice Chairman Drovdal: Mr. Chairman, I think we can act on it.

Representative Wrangham moved "Do Pass".

Representative Pinkerton seconded.

A voice vote was taken on the bill: **Yea: 11, Nay: 1, Absent: 1 (Froelich)**

Representative Wrangham will carry the bill.

Chairman Belter: We will reopen the hearing on HB1083.

Myles Vosberg, Tax Commissioner's Office: This morning when we talked about HB1083, which changes the June 22 due date to June 30 at the end of each biennium, there was a question on the fiscal note relating to biennium 2009-2011 because by changing the due date, revenue from this biennium will flow into the next biennium. The question was asked why we don't show an increase of revenue in the 2009-2011 biennium. The reason for that is that at the end of fiscal year 2011, because the due date is permanently changed, revenue that would have been reported in 2011 in June will now actually flow into the next biennium. So there is an offset. We gain at the beginning of the biennium, but we lose at the end of the biennium so the net impact for the next biennium will balance out to zero. Kathy did explain that in the fiscal note in section 3. She talks about the gain and the shift of fiscal 11 but a similar shift at the end of year fiscal 12.

Representative Weiler: We are still gaining \$16 million somewhere because we are losing it this current biennium so it has got to show up some place.

Myles Vosberg: Yes, we are losing it at the end of the biennium, but we are still gaining it this biennium. The purpose of the June due date was that every biennium keep that revenue current so that by changing this, and there is an emergency clause on this bill that would show the May monthly due date will be June 30 which will decrease the revenue this biennium but shift it into the beginning of the next year. But at the end of next biennium, the due date is still June 30 and so without this law change, May revenue would have stayed in June. With this change, it will actually flow forward to the next biennium. So each biennium, it keeps flowing forward. It is a total timing difference but the net effect for next biennium is zero—an increase at the very beginning and decrease at the very end of the biennium that offset each other.

Representative Weiler: I understand. I am very glad that I voted no on this.

Chairman Belter: Thank you Myles for that clarification. We will close the hearing on HB1083.

January 12, 2009

Chairman Belter: We made a mistake on this bill in not referring it to Appropriations. Just to let you know that it will automatically be referred.

FISCAL NOTE
Requested by Legislative Council
12/22/2008

Bill/Resolution No.: HB 1083

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	(\$15,560,000)	(\$1,353,000)				
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).*

HB 1083 removes the requirement that monthly sales tax filers file their May monthly return "early" at the end of each biennium. The bill enables monthly filers to file their May returns (in odd-numbered years) as they do all 23 other returns they file each biennium.

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 2 of the bill is an emergency clause enabling this bill to become effective for May 2009 returns due at the end of June 2009.

Section 1 of the bill will cause a shift of revenues totaling an estimated \$16.913 million from the 2007-09 biennium into the 2009-2011 biennium. There is no net change in overall revenues.

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

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

If enacted, HB 1083 will cause a shift in state general fund revenues of \$15.56 million from the last days in FY 09 to the first days in FY 10. A similar shift will occur in the last days of FY 11 into the first days in FY 12; therefore there is no net impact to the 2009-2011 biennium, merely a increase at the beginning days of the biennium and a decrease at the very end of the biennium. The State Aid Distribution Fund will experience a similar revenue shift totaling an estimated \$1.353 million.

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:	01/09/2009

Date: January 12, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1083

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 _____ Seconded By _____

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

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep Wrangham

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

REPORT OF STANDING COMMITTEE (410)
January 12, 2009 10:37 a.m.

Module No: HR-05-0160
Carrier: Wrangham
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1083: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1083 was placed on the Eleventh order on the calendar.

2009 SENATE FINANCE AND TAXATION

HB 1083

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1083

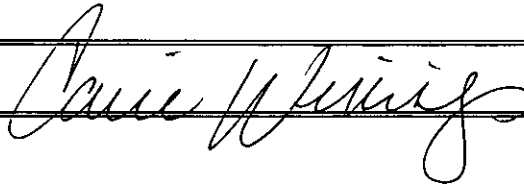
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/03/2009

Recorder Job Number: 10044

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on HB 1083.

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

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

4.27 Chairman Cook: If we move this back, how long do you think it will be before there is a legislative session where they need the money again?

Myles Vosberg: It is a good question.

Senator Triplett: Comment.

Senator Dotzenrod: The general fund effect is 15.5 million dollars, in the executive budget, is that part of their calculation for their numbers to have that as a negative or is this something that would not show and the legislature would have to make this as an adjustment to the executive budget?

Myles Vosberg: This would be an adjustment to the existing budget.

Chairman Cook: It would affect the ending fund balance for the end of this biennium, but it would not affect the ending fund balance for the next biennium.

Myles Vosberg: It shifts revenue at the end of every biennium. So by changing the date there is going to be less revenue here and then it kind of perpetually shifts at the end of each biennium from here on.

Chairman Cook: You will do your talking in Appropriations. Surprised not dinged by streamline sales tax.

Myles Vosberg: Under streamline you cannot have a deadline earlier than the 20th of the month. There is nothing that says they have to be consistent.

Chairman Cook: There is nothing that says we have to be consistent?

Myles Vosberg: I believe other states have done this. We hear a lot about this at the end of each biennium from the retailers, other than that, no.

Chairman Cook: Closed hearing.

Senator Triplett: Moved a Do Pass.

Senator Anderson: Seconded.

Vice Chairman Miller: Comment on fiscal note.

Chairman Cook: Any further discussion?

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

Senator Dotzenrod will carry the bill.

Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: 1083

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Re-Refer to ~~Appropriation~~

Action Taken

☒ Do Pass

☐ Do Not Pass☐ Amended

Motion Made By

Senator Triplett

Seconded By

Senator Anderson

[illegible]

Total: Yes

No

Absent

Floor Assignment

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

REPORT OF STANDING COMMITTEE

HB 1083: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

HB 1083

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1083

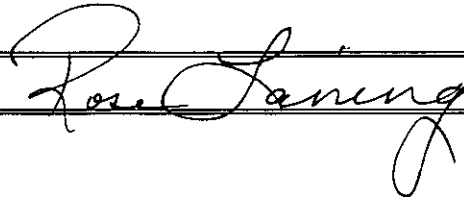
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10779

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order on HB 1083 which relates to the due date for sales tax returns in odd-numbered years.

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

Commissioner introduced and testified in support of HB 1083. (See attachment #1)

Senator Christmann: I'm looking at our budget status report 3/5/09, page two reflects this bill as \$15.5 M decrease, but I assume bill has emergency clause. Did the governor not contemplate doing this in budget? Shouldn't we add \$15M?

Becky Keller, Legislative Council: It may be because there is a wash between 2009-11 to 2011-13. What you lose in one you gain in the other. Looking at the fiscal note.

Senator Christmann: I think I understand the bill – want to understand the fiscal note.

Myles Vosberg: It perpetually pushed the money ahead every biennium. The same thing will happen the next biennium. It picked up happened in the 80s

V. Chair Grindberg: What if we did nothing and left it the same and didn't pass the bill. Why are we doing this now?

Myles Vosberg: This does create some problems, for example when you require retailer to file once every 24 months. They forget. Once every two years.

V. Chair Grindberg: It's because of the surplus; it's good to make the shift. So we should be able to reduce your budget.

Senator Kilzer: Are you real hardnosed about being a week late in filing.

Myles Vosberg: The penalty noticed go out by law. First time we might waive it, but.

Senator Fischer: We can take \$15 M out of Tax budget.

V. Chair Grindberg: In this day and age with notifying late fees. I understand the request, but with point and click

Cory Fong, Tax Commissioner, State of North Dakota: I would like to stress that this is a retailer friendly bill. This is a hiccup for retailers who have to change their process once every two years. They don't have to shift gears. This is the time to do it with the budget surplus. It made sense to bring it forward. The governor's office knew we were bringing it forward. Keep in mind it's not a revenue loss, just a perpetual shift.

Senator Mathern: During perpetual time and we never changed this and there's hiccup in budget. How difficult would it be to go back to this if we passed this? Is this bill dramatic to reinstate.

Cory Fong: I wasn't around the first time this happened. We send notices to folks and hope that's permanent. We're trying to make it easier for retailer. They are not in the business of collecting taxes, which is why we are trying to make it easier.

Senator Robinson: Does tax collections remain strong?

Cory Fong: Yes, that's not collections, just taxable sales and purchases. However, we all have to be aware of things on the national level.

Senator Krebsbach: If you have retailer who submit their taxes early, would that be reflected in June.

Cory Fong: It's based upon when it is received.

Chairman Holmberg: closed the hearing on HB 1083.

V. Chair Grindberg: Suggest we sit on this one awhile.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1083

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-03-09

Recorder Job Number: 11723

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee to order regarding HB 1083 regarding collections of sales taxes once every 24 months. It comes in early. We've had lots of time to think about it.

SENATOR WARDNER MOVED A DO PASS ON HB 1083. SECONDED BY SENATOR CHRISTMANN.

Chairman Holmberg had a question for Roxanne of Legislative Council. Some years ago we had a suggestion that in order to save money we would ? (inaudible) employees from the next biennium at the end of the biennium we would move their payroll and take the money out of the next biennium which would save X amount of dollars and that was rejected twice as being a method of just making the books look good and not making much difference. How would this be handled. We have right in front of us today the new sheet and the bill 1083 on the second page of the footnote, if we pass this what happens to the numbers that are at the bottom of page one and middle of page two. How is this accounted for?

Roxanne Woeste, Legislative Council the reduction in 1083 is already reflected in your budget status report.

V. Chair Grindberg This request was not in the executive original recommendation.

Further discussion followed.

V. Chair Grindberg I am not going to support the bill. I would be more comfortable if we would amend this into the OMB bill so that at the end of session if it needs to be adjusted we have this discretion because I don't know where things are going with the major budget yet. I am coming down to a fiscal perspective not what a "it's right".

A ROLL CALL VOTE WAS CALLED ON A DO PASS ON 1083 RESULTING IN 12 YEAS, 2 NAYS, 0 ABSENT. SENATOR DOTZENROD OF FINANCE AND TAX WILL CARRY THE BILL.

Chairman Holmberg closed the hearing on HB 1083.

Date: 4/3/0
Roll Call Vote #: /

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1083

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Wardner Seconded By Christmann

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Fischer	<input checked="" type="checkbox"/>		Senator Lindaas	<input checked="" type="checkbox"/>	
V. Chair Bowman	<input checked="" type="checkbox"/>		Senator Warner	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator Krauter	<input checked="" type="checkbox"/>	
Senator Christmann	<input checked="" type="checkbox"/>		Senator Seymour	<input checked="" type="checkbox"/>	
Chairman Holmberg		<input checked="" type="checkbox"/>	Senator Mathern	<input checked="" type="checkbox"/>	
Senator Kilzer	<input checked="" type="checkbox"/>				
V. Chair Grindberg		<input checked="" type="checkbox"/>			

Total Yes 12 No 2

Absent _____

Floor Assignment F & Tap Datzman

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

REPORT OF STANDING COMMITTEE (410)
April 3, 2009 10:54 a.m.

Module No: SR-57-6112
Carrier: Dotzenrod
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1083: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS**
(12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1083

TESTIMONY

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

HOUSE BILL 1083

January 12, 2009

*Same given
to Senate
Approps - x
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 on behalf of the Commissioner to testify in support of House Bill 1083.

This bill, which was introduced by the Tax Commissioner, will eliminate the early due date of the May monthly sales and use tax returns at the end of each biennium. The early due date, which occurs only once every two years creates substantial compliance difficulties for taxpayers and this biennium offers a good opportunity to remove the inconvenience of this departure from the standard due date.

BACKGROUND

All sales and use tax returns are due on the last day of the month following the reporting period with one exception. That exception is the May return in odd-numbered years, which is due June 22 rather than June 30. The purpose of this early due date is to retain as much sales tax revenue as possible from May sales activity in the current biennium. Sales tax returns are filed timely if they are postmarked on the due date and it is common for retailers to mail returns and payments on or near the due date. As a result, a majority of returns are not received and processed until the month after the due date when the due date is the last day of the month. Revenue is recognized in the month (and the biennium) when it is received.

During the 1983 session, the legislature was looking for sources of revenue to help balance the budget. To help increase revenue in the 1984-85 biennium, the legislature moved the due date of monthly sales tax returns from the last day of the month to the 22nd. In the following session, the due date was rolled back to the last day of the month except for the 1987 May return. After one more "temporary" early due date in 1989, the biennial June 22nd due date became permanent in 1991.

REASONS FOR PROPOSED CHANGES

Administration of the early due date is burdensome for retailers.

- Retailers forget about the early due date because it occurs only once every twenty-four months.
- Automated systems that prepare returns require complex and expensive programming to accommodate the early due date.
- Retailers operating in multiple states are already subject to different filing dates in various state and local jurisdictions.
- Returns filed late are subject to 5 percent penalty.
- Many retailers that receive penalty notices do not understand why they are being penalized for late filing and payment.

The infrequent early due date also increases cost and administrative burden for the Tax Commissioner's Office.

- Additional programming is required in the Tax Commissioner's processing system to account for the early due date.
- Costs are incurred to print and mail notices reminding retailers about the early due date. We have found that these notices help improve compliance but do not resolve the problem of late returns.
- Costs are incurred to generate and mail penalty notices and to respond to questions from taxpayers regarding the notices.

Although House Bill 1083 has a large fiscal note associated with it, the decrease in revenue is a shift from this biennium to the next. There is no permanent cost associated with the change.

CONCLUSION

The Tax Commissioner believes eliminating the early due date for the May monthly return due at the end of each biennium is a win/win situation as it will ease the administrative burden of sales tax for both retailers and the Tax Commissioner. I ask you to give House Bill 1083 favorable consideration. I will be happy to answer any questions you may have.