

2009 HOUSE JUDICIARY

HB 1199

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1199

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/20/09

Recorder Job Number: 7265, 7266

Committee Clerk Signature *Penrose*

Minutes:

Chairman DeKrey: We will open the hearing on HB 1199.

Melissa Hauer, General Counsel, ND Insurance Department: Support (attachment).

Explained the bill. This bill will give us another tool to collect amounts owed to the Department. Child support takes priority over our department. We tried to come up with a fiscal note, but we have no idea who will qualify for a refund, what the refund amount might be that would come to the Department, etc. and there shouldn't be any extra expenses.

Rep. Delmore: You said there was an almost million dollar judgment against someone. Why would it be so hard to go after that.

Melissa Hauer: We try to collect in any way we can, including garnishment.

Rep. Delmore: Of all the agencies on the list, does your agency take priority because of the highest amount owed to you.

Melissa Hauer: No, child support has a higher priority.

Rep. Klemin: Is there an order of priority among the agencies.

Melissa Hauer: Yes, there is an order of priority. The Tax Commissioner's office has the highest priority, Child Support agency, and then it goes by the date when the agency's request was submitted.

Rep. Boehning: How would this work with the vouchers returning funds to property tax owners with the rebates.

Melissa Hauer: I would defer to the Tax Dept.

Rep. Wolf: What is the order of priority.

Melissa Hauer: Tax dept., child support agency, and then by request date.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.
Neutral testimony.

Jill Weigel, Taxpayer Services, Tax Department: The property tax credit can be seized by an offset.

Rep. Boehning: What if you're not a property owner, say in the case of a husband and wife owning a piece of property, and the tax return is filed jointly. Is the offset applied to the return.

Jill Weigel: To answer that, you have your tax return, when it processes through, you have a credit against your tax liability. Now the county certifies that you are the property owner and the funds come out of the Refund Reserve fund, and it is subject to offset.

Rep. Boehning: What if the husband and wife file jointly, do you take the whole refund.

Jill Weigel: They would take the tax credit or refund based on that joint return. Now the agency is responsible for determining whether or not there is an innocent spouse situation at hand. If the refund is attributable to one of the two spouses on the tax return, they could file an innocent spouse claim against that refund, then the agency responsible for that claim is notified and a decision is made.

Chairman DeKrey: Thank you. Any further testimony in HB 1199. What are the committee's wishes in regard to HB 1199.

Rep. Delmore: I move a Do Pass.

Rep. Wolf: Second.

 12 YES 0 NO 1 ABSENT

DO PASS

CARRIER: Rep. Zaiser



FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: HB 1199

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).*

This bill allows for the setoff of income tax refunds for debts owed to any fund or program administered by the Insurance Commissioner.

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 fiscal impact of this bill would be negligible. The Office of State Tax Commissioner would use existing systems to implement and does not anticipate any additional administrative expenses. The Insurance Department would not have to purchase additional software or equipment to transfer the data to the Tax Department.

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.*

Due to factors outside the control of the Department, revenue under this bill cannot be estimated. Any revenue collected will be deposited into the Unsatisfied Judgement Fund, Insurance Regulatory Trust Fund, Fire & Tornado Fund, State Bonding Fund, or Petroleum Release Compensation Fund as appropriate.

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.*

This bill will not affect expenditures.

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.*

This bill will not affect appropriations.

Name:	Larry Martin	Agency:	Insurance Department
Phone Number:	328-2930	Date Prepared:	01/16/2009

Date: 1/20/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1199

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				

Total (Yes) 12 No —

Absent 1

Floor Carrier: Rep. Zaiser

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

REPORT OF STANDING COMMITTEE (410)
January 20, 2009 10:38 a.m.

Module No: HR-11-0573
Carrier: Zaiser
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1199: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1199 was placed on the
Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1199

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1199

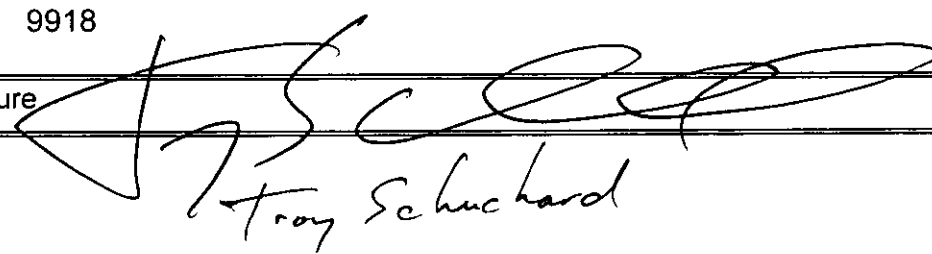
Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9918

Committee Clerk Signature



Troy Schuchard

Minutes:

Chairman Klein: Opened the hearing on HB 1199, all members present.

Melissa Hauer: General Counsel for North Dakota Insurance Department testified in favor of HB 1199. (See attachment #1)

Senator Potter: Have you gone through any experiences with this and how much this will cost?

Melissa Hauer: We wouldn't expect any additional court costs at this time because this bill is intended to add this provision to the already available avenues we currently have in place.

Senator Horne: Let's just so I owe a student loan and wasn't paying it and I was due a North Dakota tax refund. You would contact ND Tax Department and convince them to reroute the tax refund to you instead of sending it to the individual?

MH: That is exactly the way it works.

Nathan Bergmum: Representing the North Dakota Tax Department testified in favor of HB 1199.

Senator Potter: Is there any evidence we lose the time value of money this way. It seems to me that if I know you are going to withhold my tax refund, I am going to make sure I don't have a tax refund. Has that ever been looked at?

Nathan Bergmum: I don't believe anyone has ever looked into that. I do see where that might come up but I don't believe it will be an issue.

Chairman Klein: Closed the hearing on HB 1199.

Senator Nodland: Motion for a Do Pass

Senator Wanzek: Seconded

Chairman Klein: Motion for a Do Pass was adopted, 6-0

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Date: 3/2/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1199

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Nodland Seconded By Senator Wanzek

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

HB 1199: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1199 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1199

HOUSE BILL NO. 1199

Presented by: **Melissa Hauer**
 General Counsel
 North Dakota Insurance Department

Before: **House Judiciary Committee**
 Representative Duane DeKrey, Chairman

Date: **January 20, 2009**

TESTIMONY

Good morning, Chairman DeKrey and members of the committee. My name is Melissa Hauer and I am the General Counsel of the North Dakota Insurance Department. I appear before you today to testify in support of House Bill No. 1199.

This bill would allow the North Dakota Insurance Department a less costly and less time-consuming way of recovering money that is owed to the state. The Insurance Department administers several funds that function essentially like insurance such as the State Bonding Fund, the State Fire and Tornado Fund, and the Unsatisfied Judgment Fund. They pay claims for certain losses that occur. For example, if a person employed by a county embezzles funds, the State Bonding Fund can reimburse the county for that loss. The embezzler is usually then ordered by a court to make restitution to the State Bonding Fund. If the person does not make the required payments, the Insurance Department must take certain steps to try to collect just like any other creditor would, including asking the sheriff for assistance in locating the debtor's property and executing on the judgment.

This bill would allow the Insurance Department the ability to recoup money owed to it by offset of any income tax refund due to the debtor. All of the money owed to the Department has already been determined by a court and a judgment has been entered against the debtor. This offset process is already provided for in statute for other

agencies such as the Department of Human Services, Job Service North Dakota, Workforce Safety and Insurance, North Dakota Guaranteed Student Loan Program, Industrial Commission, and certain housing authorities. If an individual owes money to one of these agencies, the Tax Commissioner can offset that individual's income tax refund payment or withhold the entire amount to satisfy the debt.

Currently, the State Bonding Fund has 24 judgments in its favor with balances owing of \$1,381,330.30; the State Fire & Tornado Fund has 11 subrogation claims with balances of \$1,186,927.59 (1 judgment alone is \$945,425.00); and the total amount owed to the state's Unsatisfied Judgment Fund is \$131,878.

The current statute provides that these agencies may submit any debts in excess of \$25 to the Tax Commissioner for collection through income tax refund setoff. Upon request of a claimant agency, the Tax Commissioner must setoff any refund against the sum certified by the claimant agency. The statute also requires notice to be provided to the debtor which includes a description of the manner in which the debt arose, the amount of the claimed debt, the intention to setoff the taxpayer's refund against the debt, and the amount of the refund in excess of the claimed debt. The taxpayer/debtor also has the opportunity to give written notice to contest the setoff and to have a hearing. In the case of a joint return, a special notice must be provided that states that the debt is not claimed against the joint taxpayer and that he or she may be entitled to receive a refund if it is due the taxpayer regardless of the debt asserted against the taxpayer's spouse.

The proposed change would simply add the Insurance Commissioner to the list of state entities allowed to seek income tax refund setoff for debts owed to it. This bill would not change the notice required to taxpayers, the right to a hearing to contest the debt, or any of the other processes currently in place for income tax refund setoff.

We respectfully request that the committee give a "do pass" recommendation to this bill.

I would be happy to try and answer any questions the committee members may have.

Thank you.

*Same
2 page
testimony
given to
Senate
as attachment #1*