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ROLL NUMBER

DESCRIPTION

1107

2005 HOUSE FINANCE AND TAXATION

HB 1107

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1107**

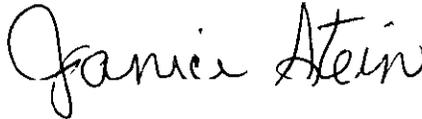
House Finance and Taxation Committee

Conference Committee

Hearing Date **January 10, 2005**

Tape Number	Side A	Side B	Meter #
1	x		54

Committee Clerk Signature



Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

DANIEL ROUSE, LEGAL COUNSEL TO THE NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER. Testified in support of the bill. See attached written testimony, together with a copy of the fiscal note.

REP. GRANDE You talked about will this be used for income tax, if state income tax were due, they would garnish it back out of the federal tax rebate?

DANIEL ROUSE Yes, I don't want to use the word "garnishment", but essentially, that is how it will feel to the taxpayer, if they have a federal refund that is due, if there is a "hit" that matched, they will pull that out.

REP. GRANDE On page 2, you talked about sheriff's fees, what does that have to do with income tax?

DANIEL ROUSE If a person doesn't pay their taxes, and it goes through the normal collection process in our tax department, if I have to turn around and sue the person to get their attention and get them to pay the tax, in most cases, we use the various county sheriffs to go out and actually serve the papers, and the sheriffs charge a fee for that for mileage and miscellaneous expenses which they are entitled to under state law. They send us a bill for that, and we pay that bill directly, and when we go to the court, we had those costs, usually twenty five to thirty five dollar range.

REP. WEILER How many cases are there where people actually get money from the federal government, yet they owe money to the state?

DANIEL ROUSE He wasn't sure how many there were.

REP. WEILER If I am supposed to get money back from the federal government, shouldn't I be able to get that back regardless?

DANIEL ROUSE Related back to 1996, Congress passed the Debt Collection Improvement Act, as part of that, they authorized the treasury department to create this offset program. It is legal.

REP. WEILER You made a comment, that the sheriff had some expenses, and you pass those along to the state, so the state government is actually paying the sheriff to do their job?

DANIEL ROUSE That is another chapter of the century code, where the public official, in this case the sheriff, exercises responsibility at the request of another state agency, they are, by that law, entitled to a fee. They are also entitled to mileage reimbursement. They bill it to the various state agencies, and they recoup that. The taxpayer pays for that as well.

REP. HEADLAND What is this period that taxpayers are allowed to be delinquent before this "hit" will take place?

DANIEL ROUSE If we are successful, we are going to proceed cautiously. Before the state can submit this, there has to be characterization in that debt that it is fixed and final, either by way of a judgment, or any of the state law entitlements. If we apply this, we will be fairly down stream in the collection process. It varies from individual debtor to individual debtor from a year to two years. Presently, under state law, there are a number of checks and balances.

REP. HEADLAND Will this be on any amount, if the state is owed thirty dollars, are we going to go after them in this manner?

DANIEL ROUSE There is a minimum threshold, which is fairly low, I believe it is twenty five dollars, which the state can have in its application. This is speculation, but I would hazard to say, we are not likely to look at this as a tool for such a small amount.

REP. BELTER Is this only for personal income tax?

DANIEL ROUSE Yes

REP. BELTER What is the standard situation where you would use this, is it people who owe tax who don't have any money, or people who are in a tax dispute?

DANIEL ROUSE If there is an ungoing dispute, the treasury department doesn't even want to get involved. We would use this as a collection tool, in a fairly down stream resort.

REP. KELSH Can a child support delinquency be taken from a federal refund?

DANIEL ROUSE As I understand, through this program, there are federal child support payments, which are recouped first. If we are successful in this regard, we are number five on the list.

REP. SCHMIDT Asked for the number of taxpayers in regard to this situation.

DANIEL ROUSE Stated he would get that for the committee. He estimated it was approximately fifteen or sixteen hundred people.

REP. WEILER Asked for the amount of money this entailed also.

DANIEL ROUSE Stated it fluctuated, it would be three to three and a half million.

RICK CLAYBURGH, STATE TAX COMMISSIONER Testified in support of the bill. He stated it is an agency bill which he would hope will pass. He stated they have worked with Congress and the IRS regarding the ability to have this reciprocal opportunity. Congress passed a law a number of years back, but it had such tight restrictions, that made the bill unworkable for states. This would be good for the state and the taxpayers.

REP. WRANGHAM The three to three and a half million, what we are talking about is uncollectable tax dollars, and all other measures have been taken to collect this money and it is to the point where the state will have to write it off, to have that much on the books continually, sounds like an awful lot of money to me. Could we expect that if this bill passes, that this amount will be reduced by half, due to collections?

RICK CLAYBURGH Gave a background of the accounts receivable. He stated it rotated throughout the month. He stated there could be a line of ten to twelve million dollars in the accounts receivable line, that is money owed, but what is really owed is three to three and a half million, which is some of the money for the offset program. We actually have an accounts receivable which is more in the range of six million dollars, which we are constantly working to get the dollars in. If you look at the numbers, the tax department brings in somewhere in the

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House Finance and Taxation Committee

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range of about 1.6 - 1.7 billion dollars, that three to three and a half million is actually low. It will be a continual accounts receivable.

REP. WRANGHAM What percentage of the three million dollars is over three years in arrears?

RICK CLAYBURGH Stated he would have to run some numbers to get that, he would get that information to the committee.

With no further testimony, the hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1107**

House Finance and Taxation Committee

Conference Committee

Hearing Date **January 24, 2005**

Tape Number	Side A	Side B	Meter #
1	X		36.5

Committee Clerk Signature

Minutes:

COMMITTEE ACTION

RICK CLAYBURGH, STATE TAX DEPARTMENT Reviewed the bill for committee members,

DAN ROUSE, LEGAL COUNCIL FOR THE STATE TAX DEPARTMENT Also appeared before the committee to answer any questions the committee members might have.

REP. WRANGHAM Made a motion for a do not pass.

REP. BRANDENBURG Second the motion. Motion failed.

Some of the committee members felt there should be more years added for people who could be having a couple of bad years. Rep. Wrangham wanted to amend the bill to say two years instead to get their delinquent debt paid. After more discussion,

REP. IVERSON Made a motion for a **Do Pass**.

REP. GRANDE Second the motion. **Motion Carried. 10 Yes 1 No 3 Absent**

FISCAL NOTE
Requested by Legislative Council
12/22/2004

Bill/Resolution No.: HB 1107

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1107, if enacted, will enable the Tax Department to participate in the US Treasury refund offset program, possibly resulting in a speed-up of certain delinquent individual income tax revenue collections. The amount of potential additional revenue due to the state's participation in this program cannot be determined.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Kathryn L. Strombeck
Phone Number: 328-3402

Agency: Office of Tax Commissioner
Date Prepared: 01/07/2005

Date: 1-24-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. **HB 1107**

House **FINANCE & TAXATION**

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

D N

Motion Made By

Rep

Seconded By

Rep

failed

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	A				
DROVDAL, DAVID, V-CHAIR		✓			
BRANDENBURG, MICHAEL		✓			
CONRAD, KARI		✓			
FROELICH, ROD		✓			
GRANDE, BETTE		✓			
HEADLAND, CRAIG		✓			
IVERSON, RONALD		✓			
KELSH, SCOT	A				
NICHOLAS, EUGENE	A				
OWENS, MARK		✓			
SCHMIDT, ARLO		✓			
WEILER, DAVE		✓			
WRANGHAM, DWIGHT	✓				

Total (Yes)

13

No

10

Absent

3

Floor Assignment

Rep.

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

Date: 1-24-05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1167

House FINANCE & TAXATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **Do Pass**

Motion Made By **Rep. Iverson** Seconded By **Rep. Grande**

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT		✓			

Total (Yes) **10** No **1**

Absent **3**

Floor Assignment **Rep. Weiler**

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

REPORT OF STANDING COMMITTEE (410)
January 24, 2005 3:44 p.m.

Module No: HR-15-0957
Carrier: Weiler
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1107: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (10 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1107 was placed on the Eleventh order on the calendar.

2005 SENATE FINANCE AND TAXATION

HB 1107

2005 SENATE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. **HB 1107**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **March 1, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		39.2 - 48.6

Committee Clerk Signature



Minutes:

CHAIRMAN URLACHER CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1107.

DAN ROUSE: legal counsel to the Tax Dept. Appeared in support with written testimony stating this bill would enable the Tax Dept. To participate in the Treasury Offset Program (TOP). Participation in the TOP allows a state to submit names and other personally-identifying information about a taxpayer that owes money to the state for unpaid income tax to the Treasury Dept.

SEN. EVERY: does the TOP apply to corporate taxpayers as well?

ANSWER; at this point no, they are taking it in baby steps and at this point they are only allowing states to participate to collect unpaid individual income tax.

RICK CLAYBURGH: Tax Commissioner appeared in support with no written testimony stating this is an agency bill. I appear as Tax Commissioner asking for your support for a number

of reasons. Why not do it for this, we now do it for a number of areas within the State of ND, child support, housing, workforce safety, a number of areas that we do refund offset and again we used to do it for the IRS. We had come up with an agreement, it was going through Congress and a staffer for one of the Senators put into legislation or put in word language basically to stop all of the benefit that we had negotiated with members of Congress and it came to a halt. We have now worked out the issues, the Treasury is responsible for this, either there are a lot of restrictions in place but still from a policy perspective as commissioner we would ask that you allow ND to participate under the restrictions that are in place and in a situation where we have a State tax debt, we can offset or go to the IRS through the process that has been set up by Treasury to allow to potentially offset a federal income tax refund for a legitimate owed State income tax debt.

Closed the hearing.

SEN. WARDNER: made a **MOTION FOR DO PASS**, seconded by Sen. Every

ROLL CALL VOTE: 6-0-0 Sen. Bercier will carry the bill.

Date: 3-1-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1107

Senate

Finance and Taxation

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Wardner

Seconded By

Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent

Floor Assignment

0
Bercier

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

REPORT OF STANDING COMMITTEE (410)
March 1, 2005 11:38 a.m.

Module No: SR-37-3817
Carrier: Bercier
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1107: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1107 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1107

**Testimony before the House Finance & Taxation Committee
House Bill 1107**

January 10, 2005

Daniel L. Rouse, Legal Counsel to the North Dakota Office of State Tax Commissioner.
Phone: (701) 328-2781; E-mail: drouse@state.nd.us

Mr. Chairman, Members of the Committee:

My name is Dan Rouse. I am Legal Counsel to the North Dakota Office of State Tax Commissioner ("Tax Department"). I am here to testify in support of House Bill 1107, which was introduced at the Tax Department's request. There is a fiscal note.

House Bill 1107, if enacted, would enable the Tax Department to participate in the Treasury Offset Program (TOP), a government-wide debt collection program administered by the United States Department of Treasury. In short, participation in the TOP allows a state to submit names and other personally-identifying information about a taxpayer that owes money to the state for unpaid income tax to the U.S. Treasury Department. That information goes into a database. Once the state certifies that to the best of its knowledge, due process has been provided to the taxpayer, and the debt is delinquent, valid, legal, and not in bankruptcy or foreclosure, the Treasury Department accepts into the database the state's request for offset. If a taxpayer has a federal income tax refund due and the system matches that refund to the name in the database, that is considered a "hit." If a "hit" occurs, then the state which participated is able to recover the debt owed to the state from that federal refund.

Under the TOP, presently, states are only allowed to receive an offset from federal income tax refunds to satisfy state income tax debts. Further, before an offset is allowed, the TOP requires that the state first notify the affected taxpayer by certified mail

of the state's intent, give the taxpayer at least 60 days within which to present evidence that all or a part of the liability is not past-due or not legally enforceable, and ensure that the state has considered any such evidence presented.

Additionally, there is a provision in the TOP that requires states to refund back to the Treasury Department any refund it received that is subsequently determined by the Treasury Department to have been paid to the state in error. This accounts for part of the reason the Tax Department requires a standing appropriation in order to participate in the TOP.

Presently, there are 37 states that participate in the TOP. However, please keep in mind that only 42 states have an individual income tax requirement. Further, the TOP has been in place for over five years now, and is seen universally by participating states as yet another successful tool for collection of debts owed to the states.

There is a \$20 fee associated with each "hit" or match between a federal refund due to a taxpayer and information in the database provided by the state. However, there are a variety of ways that a state may handle that cost, including taking it out of the offset received from the TOP, and, paying it directly to the TOP and including it as another expense of collection that is then recouped from the taxpayer (such as the case presently with sheriff's fees for service of process). This accounts for the other reason the Tax Department requires a standing appropriation in order to participate in the TOP.

North Dakota's participation in the TOP will not be unusual for the state. Presently, the state, through its Tax Department, has a state income tax refund offset program whereby other state agencies may obtain repayment of debts owed to that agency, and the state, by offset of a refund owed to that taxpayer. Additionally, for many

years, the Tax Department has offset taxpayers' individual income tax refunds to reduce that taxpayer's liability owed to the state for past years' tax debts.

In short, the Tax Department would easily be able to pick up the ball and run with this program. The Tax Department's staff is constantly looking for innovative and cost-effective ways to increase or accelerate our collection of unpaid tax debts. Our participation in the TOP will add yet another option for us to carry out that task on behalf of the state and its citizens. Accordingly, Mr. Chairman, and members of the Committee, we ask for your favorable consideration of House Bill 1107. I will be happy to respond to any questions. Thank you.

**Testimony before the Senate Finance & Taxation Committee
House Bill 1107**

March 1, 2005

Mr. Chairman and Members of the Committee, my name is Dan Rouse. I am Legal Counsel to the North Dakota Tax Department. I am here to testify in support of House Bill 1107, introduced at the Tax Department's request. There is a fiscal note.

House Bill 1107 would enable the Tax Department to participate in the Treasury Offset Program (TOP), a government-wide debt collection program administered by the United States Department of Treasury. In short, participation in the TOP allows a state to submit names and other personally-identifying information about a taxpayer that owes money to the state for unpaid income tax to the Treasury Department. That information goes into a database. Once the state certifies that to the best of its knowledge, due process has been provided to the taxpayer, and the debt is delinquent, valid, legal, and not in bankruptcy or foreclosure, the Treasury Department accepts into the database the state's request for offset. If a taxpayer has a federal income tax refund due and the system matches that refund to the name in the database, a "hit" occurs. The participating state is then able to recover all or a part of the debt owed to the state from that federal refund.

Before an offset is allowed, the TOP requires that the state first notify the affected taxpayer by certified mail of the state's intent, give the taxpayer at least 60 days within which to present evidence that all or a part of the liability is not past-due or not legally enforceable, and ensure that the state has considered any such evidence presented.

There are two reasons the Tax Department requires a standing appropriation to participate in the TOP: first, participating states must refund back to the Treasury Department any refund it receives that is subsequently determined by the Treasury

Department to have been paid to the state in error; and second, because there is a \$20 fee associated with each "hit" or match between a federal refund due to a taxpayer and information in the database provided by the state.

Presently, North Dakota has a state income tax refund offset program whereby other state agencies may obtain repayment of debts owed to that agency, and the state, by offset of a refund owed to that taxpayer. Additionally, for many years, the Tax Department has offset taxpayers' individual income tax refunds to reduce that taxpayer's liability owed to the state for past years' tax debts.

Thirty-seven of the forty-two states with individual income tax filing requirements participate in the TOP. The TOP has been in place for over five years now, and is seen universally by participating states as a success. Our participation in the TOP will give us another tool to use in carrying out our job.

Accordingly, Mr. Chairman, and members of the Committee, I ask for your favorable consideration of House Bill 1107. I will be happy to respond to any questions.