

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1063

2001 HOUSE FINANCE AND TAXATION

HB 1063

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1063**

House Finance and Taxation Committee

Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
1	X		2,240
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing with one committee member absent.

RON BERTSCH, SUPERVISOR OF TAX COLLECTIONS, STATE TAX

DEPARTMENT, Testified in support of the bill. See attached written testimony.

REP. WINRICH Asked Mr. Bertsch to elaborate as to what is a member-controlled limited liability company.

RON BERTSCH Limited liability companies have been controlled by managers and governors.

This includes the members with the managers and governors.

REP. WINRICH Asked whether this was a special section in the law.

DONNITA WALD, STATE TAX DEPARTMENT, Responded, stating yes it was.

REP. CARLSON Asked whether this change was only in this law.

DONNITA WALD, Stated she hoped she caught all of the sections with this change.

With no further testimony, the hearing was closed.

Page 2
House Finance and Taxation Committee
Bill/Resolution Number HB 1063
Hearing Date January 23, 2001

COMMITTEE ACTION Tape #2, Side A, Meter #2355

REP. BENNER Made a motion for a do pass.

REP. CLARK Second the motion. Motion carried.

13 Yes 1 No 1 Absent

REP. WINRICH Was given the floor assignment.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: HB 1063

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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 1063 is expected to have a fiscal impact less than \$5000 during the 01-03 biennium.

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	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/04/2001

Date: 1-23-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1063

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Renner Seconded By Rep Clark

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	A	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD		✓			

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep Winrich

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

REPORT OF STANDING COMMITTEE (410)
January 23, 2001 4:41 p.m.

Module No: HR-11-1480
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1063: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1063 was placed on the Eleventh order on the calendar.

2001 SENATE FINANCE AND TAXATION

HB 1063

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1063

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 3/6/01

Tape Number	Side A	Side B	Meter #
1	x		0-7.5
Committee Clerk Signature <i>Lynelle W. Kraft</i>			

Minutes:

Senator Urlacher: Opened the hearing on HB 1063, relating to the personal liability of members in a member-controlled limited liability company for unpaid tobacco products, income withholding, sales or use, motor vehicle fuel, importer for use, special fuels, and aviation fuel taxes.

Ron Bertsch: State Tax Dept., testified in support. Written testimony attached.

Senator Wardner: If they don't pay their taxes, if you can't get the taxes out of the company, you can go after individuals?

Ron Bertsch: Yes. If the entity is active, we can pursue them. Once they become defunct, we have to collect from individual managers or governors who have committed previously to being personally responsible.

Senator Urlacher: They would be able to put up a bond to pay off their liability?

Ron Bertsch: Yes.

Senator Urlacher: What is the amount of that bond? How is that established?

Ron Bertsch: That's established by the sales tax section based on gross sales.

Senator Urlacher: It would be quarterly volume?

Ron Bertsch: Yes.

Senator Kroeplin: The taxes that we're talking about, the LLC's have already collected them, but not remitted?

Ron Bertsch: Yes.

Senator Christmann: What are some examples of member-controlled LLC's?

Ron Bertsch: The members names other than managers or governors are listed on the application for the LLC.

Dan Rouse: State Tax Dept., explained member-controlled LLCs. There aren't a whole lot of them in ND. The responsibility for the management is spread out among the various members.

Senator Urlacher: So the liability could mean one or two individuals or it could be a number of individuals?

Ron Bertsch: Yes.

Senator Urlacher: They would each have to apply a bond to protect themselves?

Ron Bertsch: I believe that if an LLC put up a bond, it would be large enough to cover the individuals.

Senator Urlacher: Closed the hearing.

Discussion followed.

COMMITTEE ACTION:

Motion made by Senator Christmann for a DO PASS, Seconded by Senator Wardner.

Vote was 6 yeas, 0 nays, 0 absent and not voting. Bill carrier was Senator Wardner.

Date: 3/6/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1063

Senate Finance and Taxation Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken NO PASS

Motion Made By Christmann Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2001 1:39 p.m.

Module No: SR-38-4902
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1063: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1063 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1063

TESTIMONY BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE
ON HOUSE BILL 1063

JANUARY 15, 2001

Chairman Carlson, members of the House Finance and Taxation Committee, my name is Ron Bertsch, Supervisor of Tax Collections for the State Tax Commissioner. I am here today to testify in support of House Bill 1063 at the request of the Tax Commissioner.

The present law states that Governors and Managers of a Limited Liability Company are personally liable for the failure to file and pay Tobacco, Income Withholding, Sales or Use, Motor Vehicle Fuel, Importer for Use, Special fuels and Aviation taxes. House Bill 1063 adds Members of a Member-Controlled Limited Liability Company to be also held personally liable, because with this type of entity the Tax Commissioner is prohibited from holding anyone personally responsible for the taxes due once the Limited Liability Company is defunct. Passage of House Bill 1063 would allow the Tax Commissioner to pursue individual Members who are responsible for the filing and payment of the tax for the delinquent taxes listed in this law, which would ensure that all delinquent taxes can be pursued and hopefully collected.

The Tax Commissioner requests that this Committee give House Bill 1063 favorable consideration.

TESTIMONY BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE
ON HOUSE BILL 1063

March 6, 2001

Chairman Urlacher, members of the Senate Finance and Taxation Committee, my name is Ron Bertsch, Supervisor of Tax Collections for the State Tax Commissioner? I will testify in support of House Bill 1063 at the request of the Tax Commissioner.

The present law states that Governors and Managers of a Limited Liability Company can be held personally liable for the failure to file and pay Tobacco, Income Withholding, Sales or Use, Motor Vehicle Fuel, Importer for Use, Special fuels and Aviation taxes. House Bill 1063 would make Members of a Member-Controlled Limited Liability Company also personally liable, because with this type of entity the Tax Commissioner is presently prohibited from holding any Member personally responsible for taxes due once the Limited Liability Company is defunct. Passage of House Bill 1063 would allow the Tax Commissioner to pursue individual Members who are responsible for the filing of returns and the payment of the tax for the delinquent taxes listed in this law. Passage of House Bill 1063 would ensure that all delinquent taxes are pursued and hopefully collected.

The Tax Commissioner requests that this Committee give House Bill 1063 favorable consideration.