

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2018**

Bill/Resolution No.: SB 2083

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0		\$(2,500)		\$(2,500)	
<b>Expenditures</b>						
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Provides for the refund of fees associated with erroneous filings by investment firms and registered professionals and federal covered securities.

- 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.*

This bill would decrease general fund revenues by and estimated \$1500 for firms and professionals and \$1000 for securities.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Diane Lillis

**Agency:** ND Securities Department

**Telephone:** 701-328-4712

**Date Prepared:** 12/26/2018

**2019 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2083**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2083  
1/7/2019  
Job # 30456

- Subcommittee  
 Conference Committee

Committee Clerk: Amy Crane

### Explanation or reason for introduction of bill/resolution:

Relating to the manual exemption from registration of securities, and refund of filing and registration fees

### Minutes:

Att # 1 – Karen Tyler

**Chairman Klein:** Opened the hearing on SB 2083. All members were present.

**(0:04) Commissioner Karen Tyler, North Dakota Securities:** See Attachment #1 for testimony in support of the bill.

**(10:43) Senator Burckhard:** Can I call you Karen? You said that this has been adopted by 30 other jurisdictions, is that thirty other states or townships?

**Commissioner Tyler:** That's other states.

**Chairman Klein:** This is a good practice. So you are just cracking down on the bad guys. Are there still any bad guys out there?

**Commissioner Tyler:** Absolutely, there are plenty of bad guys to keep us busy. Most recently its in the crypto currency space. But yes, the case load is high.

**Chairman Klein:** You are a self-funding agency?

**Commissioner Tyler:** We would like to be a self-funding agency, but no we are a general fund agency.

**Chairman Klein:** Closed the hearing on SB 2083.

**Senator Kreun:** Commented on the positives of North Dakota being into the digital age and competing nationally and worldwide and able to make it better and easier for people to do business in ND.

**Senator Kreun: Moved a Do Pass.**

Senate Industry, Business and Labor Committee  
SB 2083  
1/7/2018  
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**Senator Burckhard: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Vice Chairman Vedaa will carry the bill.**



**REPORT OF STANDING COMMITTEE**

**SB 2083: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2083 was placed on the Eleventh order on the calendar.

**2019 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2083**



# 2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

SB 2083  
2/27/2019  
32891

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang

## Explanation or reason for introduction of bill/resolution:

Manual exemption from registration of securities & refund of registration fees.

## Minutes:

Attachment 1

**Chairman Keiser:** Opens the hearing on SB 2083

**Karen Tyler~ND Securities Commissioner:** Attachment 1.

**9:45**

**Chairman Keiser:** Questions for Karen Tyler? Anyone else here to testify in support of SB 2083, opposition, neutral? Closes the hearing on SB 2083. What are the wishes of the committee?

**Vice Chairman Lefor:** Moves a Do Pass.

**Rep Adams:** Second.

**Chairman Keiser:** Further discussion?

**Roll call was taken on SB 2083 for a Do Pass with 13 yes, 0 no, 1 absent & Rep Bosch is the carrier.**

Date: Feb 27, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2083

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or  
Description: \_\_\_\_\_

Recommendation

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions

- Reconsider     \_\_\_\_\_

Motion Made by Rep Lefor    Seconded By Rep Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	Ab	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep D Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	X		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	X	

Total (Yes) 13    No 0

Absent 1

Floor Assignment Rep Bosch

**REPORT OF STANDING COMMITTEE**

**SB 2083: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
SB 2083 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2083**

**SB 2083**

**Testimony of North Dakota Securities Commissioner Karen Tyler  
Before the Senate Industry, Business and Labor Committee**

**January 7, 2019**

Testimony in support of SB 2083, introduced at the Commissioner's request.

This bill modernizes an outdated securities registration exemption and allows the Commissioner to refund certain filing fees.

**Manual Exemption**

This change is based on a model legislation proposal that has been adopted by 30 states thus far.

As a threshold matter, all securities must be registered unless an exemption from registration is available. There are many exemptions to registration and they are found under 10-04-05 and 06 of the Securities Act. The specific exemption we are addressing here is a transactional exemption under 10-04-06.

This exemption applies not to the original issuance of the securities, but to the secondary or resale of the security, and it applies to securities of issuers that may not be public reporting companies with the SEC, but about which much information is publicly available.

The public information may be found in certain published manuals which is why this exemption is referred to as the Manual Exemption. You will see the list of qualifying manuals starting at line 22 on page 1.

The Standard and Poor's Corporation Records manual is no longer published so we want to eliminate that reference from statute. We also want to add a new electronic source of this type information, and that is the OTCQX and OTCQB

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markets of OTC Markets Group. If companies are using these markets for the trading of their securities, then they are reporting to OTC Markets Group the same or more extensive information that is available through the printed manuals and it is publicly available.

We are also eliminating an outdated requirement that the companies using this manual exemption must be U.S. based. There are many large, established international companies that may choose to use the OTCQX for their American Depository Receipts that trade in the U.S. and then list their stock on their own domestic stock exchange.

Again, this change is based on a model legislation proposal that has been adopted by 30 states thus far.

### **Refund of Fees**

For certain securities, federal law pre-empts us from requiring registration, but we can require what is called a "notice filing" - the issuer of the securities must put us on notice that they are selling in the state. Examples of these notice filers are mutual funds and unit investment trusts. A fee accompanies these notice filings, and sometimes the filings are made in error. And while the fund company can terminate the erroneous filing, under current law, we are unable to refund the fee. While there was a time this was a more labor-intensive process for the department, and a non-refundable fee may have been justified, today it is a much more efficient, technology assisted process. We feel it is unfair to retain the fee.

The amendments to eliminate the "non-refundable" nature of the fee can be found at line 30 on page 2 and line 6 on page 3.

Investment firms and professionals who want to do business in the state must register here and that registration is accompanied by a filing fee. The applicable filing fees are identified starting at line 31 on page 3. This registration process is highly automated and occurs through a system called the Central Registration

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Depository. When errors occur and a firm or professional is erroneously registered in North Dakota, they can terminate the registration, but we are unable to refund the fee. Again, as a result of technology advancements improving the efficiency of the registration process, we feel it is unfair to retain the fee. The amendment to change the non-refundable fee status is at line 6 on page 4.

Impact on revenue of these changes will be negligible. The occurrence is rare. The Department will generate over \$22 million in revenue from these sources this biennium. The fiscal note on this bill is \$2500.

Thank you for your consideration of this testimony in support of SB 2083.

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SB 2083

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