

2013 SENATE FINANCE AND TAXATION

SB 2330

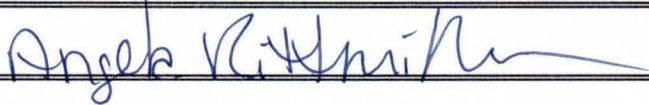
2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2330
2/6/2013
Job Number 18358

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-38-35.2, subsection 1 of section 57-38-45, and section 57-38-62 of the North Dakota Century Code, relating to income tax penalties, interest, and underpayment of estimated taxes; and to provide an effective date.

Minutes:

Chairman Cook opened the hearing on SB 2330.

Senator Mathern introduced SB 2330.

Senator Burckhard - You talked about current interest rates being way less than 12%, they are quite a bit less than 6% these days are they not?

Senator Mathern - Another idea which is what's the actual situation is with federal government IRS is that it's floating interest rate penalty. That would be another concept to add into this bill.

Senator Miller - The floating idea, do you have any suggestions?

Senator Mathern - If you would go that route I would suggest maybe even some way make it in relation to what the federal government does so it would be easier for the citizen to say whether it's federal or state, we use a certain kind of formula.

Donnita Wald, Tax Department provided some technical information explaining the fiscal note and discussion followed. (9:30)

Joe Becker, Tax Department spoke of some changes Senator Mathern would be interested in making to the bill because of concern over the size of the fiscal note. (14:00)

Senator Triplett - If quarterly changes are too frequent and is just a hassle, maybe something that generally tracks the IRS rates but only makes the change annually or something like that.

Chairman Cook - Annually is what I'm thinking and if a certain difference exists between what we are charging and what we should be charging.

Senator Triplett - Say the average of the 4 quarterly rates from 2011 that the IRS charges and just say that's the rate you're going to charge for 2012 or something. Then it might not be as up to date but we wouldn't go so far out of balance as we are now.

Joe Becker - The things that come to mind is that when the federal government handles this they have to determine the rate in advance so that they can administratively get the systems ready to go for the next quarter. If you wanted to go down that course we'd have to put together some language to give us an opportunity to determine what your criteria will be.

Senator Miller - How about this idea that the tax commissioner has the authority to adjust the rate in a biannual process between 6%-20%?

Donitta Wald - On the floating rate there is just one thing I want to make sure that if you do that, the law is very specific as to what the calculation of the interest rate is because that is a legislative function and not an executive function, just like tax rates and how much tax credits are.

Senator Triplett - I've been troubled by this for some time. Just the notion the state government is not flexible enough. Banks figure out how to change their interest rates with the market, the federal IRS apparently figures out how to change their interest rates to follow the market, and I think we should too. If it's too much for this committee to do in this moment in time I think it would be nice if we could at least add a study resolution on to the end of this bill that would encourage the Legislative Council to take it up as an across the board for all tax types for the future.

Chairman Cook closed the hearing on SB 2330.

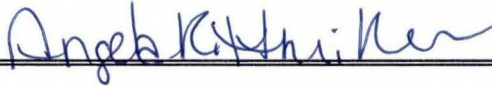
2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2330
2/11/2013
Job Number 18674

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-38-35.2, subsection 1 of section 57-38-45, and section 57-38-62 of the North Dakota Century Code, relating to income tax penalties, interest, and underpayment of estimated taxes; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2330.

Senator Dotzenrod - There's part of this bill, an aspect to it that didn't come out I don't think. When they have a tax payer that doesn't pay and gets behind and they have a tax bill, it's my understanding they can use these higher rates as a way to negotiate down and get a payment made.

Chairman Cook - So you would like to leave in subsection c of section 2 you would like to see the 1% stay there for additional taxes found in the case of an audit?

Senator Dotzenrod - That would be my preference.

Chairman Cook - That is line 18 of page 2, that's the only one you would want to change?

Senator Dotzenrod - I'm not sure, line 8 on page 2 where the 12 is changed to a 6, if that would be part of what they can use.

Chairman Cook - No, that is for an extension.

Senator Dotzenrod - I guess it would be line 18 is the only one then. I don't know how big of a deal I should make out of this.

Chairman Cook - We can set this aside, we have a motion for a Do Pass and a second. You go check with the tax department.

Senator Triplett - I have a note that I suggested a study resolution be added to consider a floating tax rate on penalties.

Senator Dotzenrod - That subject was addressed by Joe Becker and said they had done that. They went to that system for a period of several years and that they ended up having to go back because it created a mess for them.

Chairman Cook closed discussion on SB 2330.

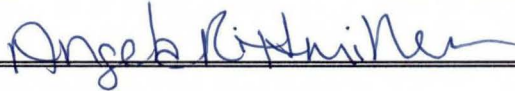
2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2330
2/12/2013
Job Number 18790

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-38-35.2, subsection 1 of section 57-38-45, and section 57-38-62 of the North Dakota Century Code, relating to income tax penalties, interest, and underpayment of estimated taxes; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2330.

Senator Dotzenrod - I considered some amendments on lines 13 and 18. In my discussions with the tax department, the idea that they can use these higher rates as a way to negotiate with difficult taxpayers. Then I talked to the original sponsor of the bill and he told me that the bill essentially does today much more than what he had intended. What he wanted was essentially section 3 of the bill which moves the threshold from \$500 to \$1,000 on whether or not you are filing estimated taxes. He started out with a bill that he thought was going to be pretty simple. I think the fiscal impact was estimated around \$30,000 and then in the process of drafting these other section got in there and it wasn't his intention. When I visited with him yesterday he was suggesting that he would like to see the bill be just section 3, so I had some amendments drawn up to do that. (2:07)

Chairman Cook - If this is what he wants then I would suggest we clear this bill off the calendar, kill it, and something as simple as what's left in the bill can be amended very easily on the income tax bill.

Chairman Cook - We have a motion for a Do Pass and re-refer to Appropriations.

Roll Call Vote 6-1-0

Carried by **Senator Miller**.

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2330

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,380,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

SB 2330 reduces the interest rate charged on unpaid income tax and the interest rate paid on refunds of income tax by 50%. The bill also increases the minimum threshold at which individuals are required to pay estimated income tax.

- 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 1 of the bill reduces the interest rate paid by the state on income tax refunds from 12% to 6% per year. Section 2 of the bill reduces the interest rate charged by the state on unpaid income tax from 12% to 6% per year. The amount of interest charged on unpaid income tax and the amount of interest paid on income tax refunds will vary from year to year based on a number of variables, including amended returns, audit activity, and effective tax rates. Based on a five-year average for tax years 2007 through 2011, Sections 1 and 2 of SB 2330 are expected to result in an estimated net decrease in state general fund revenues of \$3.35 million for the 2013-15 biennium. Section 3 of SB 2330 increases the minimum threshold at which an individual is required to pay estimated income tax from \$500 to \$1,000. This change will affect approximately 2,800 individuals, relieving them of the requirement to pay estimated income tax. This change in the threshold will result in a timing difference in the receipt of income tax revenue that will have no effect on state general fund revenues for the 2013-15 biennium. This change may also reduce the amount of interest charged for underpayment of estimated income tax with respect to the affected individuals, which is expected to result in an estimated decrease in state general fund revenues of \$30,000 for the 2013-15 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, 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

Telephone: 328-3402

Date Prepared: 02/05/2013

Date: 2-12-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2330

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Campbell

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Miller

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

REPORT OF STANDING COMMITTEE

SB 2330: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2330 was rereferred to the Appropriations Committee.

2013 SENATE APPROPRIATIONS

SB 2330

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2330
02-20-2013
Job # 19272

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Regarding income tax penalties, interest and underpayment of taxes

Minutes:

See attached testimony

Chairman Holmberg called the committee to order on Wednesday, February 20, 2013 at 3:00 pm. All committee members were present except Senator Mathern. Becky J. Keller from Legislative Council and Joe Morissette from OMB were present.

Senator Joe Miller, District 10: Finance and tax passed this bill over to you. This bill as we looked at it is good government. We have fairly high interest rates set in code, and feel this is the right step we should take considering the fiscal outlook of our state. (1:30-2:53)

Chairman Holmberg: I do know that Senator Mathern had an amendment that we wanted to put on the bill.

Senator Miller: The bill itself, if you adopted the amendment is worth passing.

Senator Dotzenrod, District 26: Presented Testimony attached # 1, Amendment # 13.8259.01002. He shared what the amendment does. In the process if we adopt Senator Mathern amendments to strike 1 and 2 sections, the fiscal effect on the bill changes, it becomes a \$70,000 cost to adopt section 3. One of the concerns I have if we pass this bill as it is in front of you now, without any amendments, it's a bill that demonstrates the rule of unattended consequences. (4:00-9:46)

Chairman Holmberg: In respect of Senator Mathern work we would wait for him before we take action on this bill. We will close the hearing on 2330.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee

Harvest Room, State Capitol

SB 2330
Job # 19389
02-22-2013

☐ Conference Committee

Committee Clerk Signature

Alice DeJager

Explanation or reason for introduction of bill/resolution:

A BILL regarding income tax penalties (DO PASS AS AMENDED)

Minutes:

Chairman Holmberg called the committee to order. All committee members were present except Senator Wanzek.

Brady Larson from Legislative Council and Tammy R. Dolan OMB were present.

Chairman Holmberg - SB 2330, we held this Senator Mathern because your name was on the bill

Senator Mathern - To begin the discussion on SB 2330 I would move the amendments that Senator Dotzenrod brought #13.8259.01002. Seconded by Senator Warner.

Senator Mathern - This bill is from an accountant who said there are so many people who get kicked into a system of prepayment of their income taxes and corporations because there is a threshold. If you have a need to pay more than \$500 per year, you have to prepay that quarterly. It's been 20 years or whatever since that's in place; we should change that to \$1,000. In addition, what came in as part of the bill was another factor we discussed and that is the penalty that one pays by not prepaying their taxes is 12% interest and this bill would reduce it to 6%. The tax department clarified they used this concept of this 12% interest as they negotiate with tax obligors to pay their taxes. They, with the bill passage with no amendments would lose that negotiating ability and therefore this fiscal note of \$3.8 million. It made sense to me. I wasn't aware of that consequence. There is a way to get at the concept of moving this threshold up from \$500 to \$1,000 which essentially benefits senior citizens. There are a fair number of senior citizens who have an income threshold of more than \$500 and they get involved in this prepayment thing and that involves a lot of work with their accountants. If this were \$1,000 that work would just be done once a year and they wouldn't be involved with their accountants trying to figure out the pre-interest payment. The amendment that I have is to eliminate the feature of the bill that deals with interest rate and only retain the feature of the bill that changes the threshold when prepayments are required. It changes the threshold from \$500 to \$1,000 of

anticipated obligation, so if you were over \$1000 or more you would still have to make prepayments. I am fine with the bill either way, but if we dealt with the threshold, it would still have a fiscal note of about \$30,000 even if we adopted this amendment.

Senator Carlisle - Did this proposed amendment get floated by the policy committee?

Senator Mathern - Yes I floated it. I did bring this issue up.

Chairman Holmberg - All in favor say aye. Motion carried.

Senator Robinson moved a do pass as amended. Seconded by Senator Mathern.

Vice Chairman Bowman - This almost seems to me you are rewarding the people who don't pay their taxes. From our perspective at the county level it's always the same people. You're going to raise the bar to \$1,000 without charging them anything and one of the incentives to get that money is to hold their feet to the fire and they will come through. There is no incentive to do that if you make it easier for them not to.

Senator Mathern - This does not change the requirement to pay the taxes, it just changes the prepayment process so that people under a certain level don't have to make 4 quarterly payments in advance of when their taxes are due. I don't think it would encourage people not to pay their taxes.

Senator Warner - I understood you to be concerned about property taxes. This only deals with income taxes.

Vice Chairman Bowman - It seems we are rewarding them for not doing what their obligations are to begin with.

Chairman Holmberg - We have a motion and second. Call the roll on SB 2330.

Roll Call Vote 7 yes, 5 no, 1 absent

Senator Mathern will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2330

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013

February 15, 2013

2/22/13
TV

PROPOSED AMENDMENTS TO SENATE BILL NO. 2330

Page 1, line 1, remove "section 57-38-35.2, subsection 1 of section 57-38-45,"

Page 1, line 2, remove "and"

Page 1, line 2, remove "income tax penalties,"

Page 1, line 3, remove "interest, and"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 6

Page 5, line 19, remove "Sections 1 and 2 of this Act are effective for interest and"

Page 5, line 20, replace "penalties accruing after July 31, 2013. Section 3 of this" with "This"

Renumber accordingly

Date: 2-22-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2330

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8259.01002

Action Taken _____

Motion Made By Mathern Seconded By Warner

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Carried*

Date: 2-22-13Roll Call Vote # 22013 SENATE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 2330Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DPAMotion Made By Robinson Seconded By Mathern

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓	✓	Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman		✓	Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer		✓	Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek					
Senator Ron Carlisle		✓			
Senator Gary Lee		✓			

Total (Yes) 2 No 5Absent 1Floor Assignment Mathern

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

REPORT OF STANDING COMMITTEE

SB 2330: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). SB 2330 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 57-38-35.2, subsection 1 of section 57-38-45,"

Page 1, line 2, remove "and"

Page 1, line 2, remove "income tax penalties,"

Page 1, line 3, remove "interest, and"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 6

Page 5, line 19, remove "Sections 1 and 2 of this Act are effective for interest and"

Page 5, line 20, replace "penalties accruing after July 31, 2013. Section 3 of this" with "This"

Renumber accordingly

2013 HOUSE FINANCE AND TAXATION

SB 2330

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2330
March 18, 2013
Job #20060

☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to underpayment of estimated taxes.

Minutes:

Chairman Belter: Opened hearing on SB 2330.

Senator Mathern: Introduced bill. Originally SB 2330 was to do two things; one is to change the interest rate that a filer is to pay if they are late in their income tax payment from 12% to 6%. The second thing the bill would do is change the threshold at which an income taxpayer is required to make quarterly prepayments. Right now the law says if you are paying \$500 or more dollars income tax you are required to make payments in advance. The bill as I introduced it would change that \$500 to \$1,000 so your threshold of making an advance payment would be \$1,000. This bill came to me by a tax accountant who said when we created this threshold of \$500 there were very few individual filers and non-corporations that were paying that much income tax but now there is getting more to be paid around that \$500 amount so they get kicked into this system of prepayment. I believe the bill as it came in has a fiscal note of \$3.5 million in terms of the change of interest. The fiscal note of the threshold issue is about \$30,000. In the senate the bill passed as introduced.

Chairman Belter: The senate took out the interest change.

Senator Mathern: Maybe somebody from the tax department could help. We did deal with that but in the end I didn't think it came out. If it did come out then your fiscal note is correct.

Chairman Belter: We can get that clarified.

Vice Chairman Headland: This has nothing to do with the federal tax obligation to file quarterly so I'm wondering if they're going to have to file quarterly there then what's the big deal?

Senator Mathern: I understand that there are a fair number of individuals who are unclear if they pay that North Dakota tax. Even if they are paying the federal tax quarterly it's not

really sure until they file their return that the North Dakota return would require that prepayment. For people who have regular accountants then maybe it wouldn't be a big deal but for a lot of taxpayers who don't when they're really on the threshold they could get caught up in that.

Vice Chairman Headland: Just by raising it we are going to create a different level of people not understanding so they are going to get caught as well, are they not?

Senator Mathern: Yes we do raise that other level. The suggestion of the accountant was if this goes to \$1,000 it will probably eliminate close to 100% of the folks who don't regularly use a tax accountant to do their taxes.

Chairman Belter: Testimony in support of 2330? Any opposition to 2330? Any neutral testimony?

Joe Becker, Tax Department: I don't think there will be a problem with a change in the threshold because it's really going to match up with the federal threshold.

Vice Chairman Headland: What is the bill supposed to be?

Joe Becker: My understanding on the first half of the run the bill as introduced had an interest rate cut included along with the estimated tax special change. In talking with Senator Mathern in the first hearing that isn't what he had intended. In appropriations an amendment was introduced to remove the interest portion of the changes but the committee didn't adopt it so the bill is before you as it was introduced. It has an interest rate cut for income tax purposes which would cut the rates

Chairman Belter: That's not the bill we have here.

Senator Mathern: An amendment was attempted in the senate to eliminate the change of interest penalty payment and I was under the impression that it was defeated but maybe it was passed.

Joe Becker: The bill did get engrossed but my understanding was that amendment did not get adopted. We should be looking at the bill as originally introduced.

Donnita Wald, General Counsel for State Tax Department: The amendment proposed by Senator Mathern with the amendment was not adopted. You should have the bill .0100.

Chairman Belter: The original bill changed the interest rate?

Donnita Wald: You should have four sections in the bill. Section 1 would amend section 57-38-35.2 and section 2 would amend section 57-38-45 and section 3 would amend section 57-38-62. You have the first engrossment without those three sections.

Vice Chairman Headland: The fiscal note would be quite different and quite high?

Joe Becker: If we are working under the assumption that it is the bill as introduced then we're looking at about \$3.38 million. The change in the bill that deals with just the increase in the estimated tax special for individuals is only \$30,000.

Chairman Belter: How do we get this officially clarified?

Donnita Wald: I'm assuming you would just have to talk to counsel.

Vice Chairman Headland: Senator Mathern, did I understand correctly that it was your idea to take the amendment out the interest rate and that amendment failed so would it be your intent that this committee put on the amendment?

Senator Mathern: When I introduced the bill I had no idea of the fiscal impact. The interest that someone needs to be paying relates to the state and if the state took too much the state pays interest to the taxpayer. I learned in the process that the state uses the interest rate as a negotiating tool to get people to pay their taxes and if it no longer has that negotiating tool it may take in fewer taxes. I thought the bill was defeated because of the cost of \$3.5 million so I recognized there were too components; the main component is the threshold to keep middle class out of this prepayment process so I offered the amendment.

Representative Froseth: Mr. Becker, the \$30,000 loss to the general fund on the bill as is would raise the reporting requirement from \$500 to \$1,000 so is that because when the money comes in the state would be able to use that money earlier or why would it be a loss?

Joe Becker: The \$30,000 relates to the amount of interest we've been charging folks who have underpaid their estimated taxes. With the increase of the threshold from \$500 up to \$1,000 it would drop approximately \$3,000 off those estimated tax rolls and on average we feel we're going to lose some of the interest we've been assessing on an annual basis. It's related to the interest that will be forgone because these folks won't have an underpayment problem.

Chairman Belter: Any other testimony on SB 2330? If not, we will close the hearing on SB 2330.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2330
March 18, 2013
Job #20077

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Minutes:

Chairman Belter: This is Senator Mathern's bill. You have the correct version of the bill now which is .01000.

Vice Chairman Headland: Will you accept an amendment?

Chairman Belter: I will entertain an amendment.

Vice Chairman Headland: I think we should amend it as to the first engrossment of the bill that we actually heard and take out the percent reduction.

Representative Kelsh: Seconded.

Chairman Belter: We have a motion for an amendment to remove on line 8 page 1 the "one half of."

Vice Chairman Headland: I think it would remove that whole section but I'm wondering if we could just amend it to the 02000 version.

Chairman Belter: Did the 02000 officially done that way?

Vice Chairman Headland: I would like the amendment to be that.

VOICE VOTE: MOTION CARRIES.

Chairman Belter: What are your wishes?

Vice Chairman Headland: Made a motion for a Do Pass as Amended.

Representative Klein: Seconded.

ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT
Representative Froseth will carry this bill.

FISCAL NOTE
Requested by Legislative Council
02/22/2013

Amendment to: SB 2330

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(30,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

Engrossed SB 2330 changes the income tax law governing the payment of estimated income tax to increase the minimum threshold at which individuals are required to pay estimated income tax.

- 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.*

Engrossed SB 2330 increases the minimum threshold at which an individual is required to pay estimated income tax from \$500 to \$1,000. This change will affect approximately 2,800 individuals, relieving them of the requirement to pay estimated income tax. This change in the threshold will result in a timing difference in the receipt of income tax revenue that will have no effect on state general fund revenues for the 2013-15 biennium. This change will reduce the amount of interest charged for underpayment of estimated income tax with respect to the affected individuals.

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, engrossed SB 2330 is expected to reduce state general fund revenues by an estimated \$30,000 for the 2013-15 biennium.

- 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

Telephone: 328-3402

Date Prepared: 02/25/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2330

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,380,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 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).*

SB 2330 reduces the interest rate charged on unpaid income tax and the interest rate paid on refunds of income tax by 50%. The bill also increases the minimum threshold at which individuals are required to pay estimated income tax.

- 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 1 of the bill reduces the interest rate paid by the state on income tax refunds from 12% to 6% per year. Section 2 of the bill reduces the interest rate charged by the state on unpaid income tax from 12% to 6% per year. The amount of interest charged on unpaid income tax and the amount of interest paid on income tax refunds will vary from year to year based on a number of variables, including amended returns, audit activity, and effective tax rates. Based on a five-year average for tax years 2007 through 2011, Sections 1 and 2 of SB 2330 are expected to result in an estimated net decrease in state general fund revenues of \$3.35 million for the 2013-15 biennium. Section 3 of SB 2330 increases the minimum threshold at which an individual is required to pay estimated income tax from \$500 to \$1,000. This change will affect approximately 2,800 individuals, relieving them of the requirement to pay estimated income tax. This change in the threshold will result in a timing difference in the receipt of income tax revenue that will have no effect on state general fund revenues for the 2013-15 biennium. This change may also reduce the amount of interest charged for underpayment of estimated income tax with respect to the affected individuals, which is expected to result in an estimated decrease in state general fund revenues of \$30,000 for the 2013-15 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.*
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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013

March 18, 2013

VL
3/18/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2330

Page 1, line 1, remove "section 57-38-35.2, subsection 1 of section 57-38-45,"

Page 1, line 2, remove "and"

Page 1, line 2, remove "income tax penalties,"

Page 1, line 3, remove "interest, and"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 6

Page 5, line 19, remove "Sections 1 and 2 of this Act are effective for interest and"

Page 5, line 20, replace "penalties accruing after July 31, 2013. Section 3 of this" with "This"

Renumber accordingly

Date: 3-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2150 2330

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
1st engrossment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Headland Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

1st engrossment
take out percent reduction
500-1,000
02000 version

Date: 3-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2330

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Headland Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

SB 2330: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2330 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 57-38-35.2, subsection 1 of section 57-38-45,"

Page 1, line 2, remove "and"

Page 1, line 2, remove "income tax penalties,"

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Renumber accordingly

2013 CONFERENCE COMMITTEE

SB 2330

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee

Lewis and Clark Room, State Capitol

SB 2330

4/12/2013

Job Number 21141

☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-38-35.2, subsection 1 of section 57-38-45, and section 57-38-62 of the North Dakota Century Code, relating to income tax penalties, interest, and underpayment of estimated taxes; and to provide an effective date.

Minutes:

Conference Committee

Present: Senator Miller, Senator Campbell
Representative Owens, Representative Klein

Senator Miller opened the conference committee on SB 2330.

Senator Miller - The only thing I would like to know is about sales tax penalties.

Joe Becker, Tax Department - For sales tax it's the same as for income tax. There is a 5% penalty and then the interest rate is 1% per month.

Senator Miller - We are mirroring each other in that aspect and since I think the feeling is not to change that I think...

Representative Owens - We certainly agree with the \$500 to \$1,000 change in the back and we discussed the front half, but we really felt that if you don't pay it, it should be punitive at the 1\$ per month.

Senator Campbell - 1% a month, I don't have any heartburn about that.

Representative Owens - We also discussed the difference between our current interest rates and what the market is doing, but if we really wanted to do that we would have to make it fluctuate. The 1% and that is more about being competitive than being punitive. Punitive leaves it at a fixed rate and keep in mind if everything changed all of the sudden; its 2 years before we can flip it back.

Senator Miller - I will move that the Senate accede to the House amendments.

Seconded by **Representative Kelsh**.

Roll Call Vote 4-0-2

Committee adjourned.

FISCAL NOTE
Requested by Legislative Council
03/20/2013

Amendment to: SB 2330

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

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- 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).*

SB 2330 with House Amendments changes the income tax law governing the payment of estimated income tax to increase the minimum threshold at which individuals are required to pay estimated income tax.

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SB 2330 with House Amendments increases the minimum threshold at which an individual is required to pay estimated income tax from \$500 to \$1,000. This change will affect approximately 2,800 individuals, relieving them of the requirement to pay estimated income tax. This change in the threshold will result in a timing difference in the receipt of income tax revenue that will have no effect on state general fund revenues for the 2013-15 biennium. This change will reduce the amount of interest charged for underpayment of estimated income tax with respect to the affected individuals.

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 03/20/2013

FISCAL NOTE
Requested by Legislative Council
02/22/2013

Amendment to: SB 2330

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/25/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2330

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013

Date 4-12-13Roll Call Vote # 1

2013 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. _____ SB 2330 _____ as (re) engrossed

Senate _____ Finance & Taxation _____ Committee

- Action Taken**
- ☒ SENATE accede to House Amendments
- ☐ SENATE accede to House Amendments and further amend
- ☐ HOUSE recede from House amendments
- ☐ HOUSE recede from House amendments and amend as follows
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Miller Seconded by: Klein

Senators	<u>4/12</u>			Yes	No	Representatives	<u>4/12</u>			Yes	No
Senator Miller	x			x		Representative Owens	x			x	
Senator Campbell	x			x		Representative Klein	x			x	
Senator Dotzenrod	x					Representative Kelsh	x				
Total Senate Vote						Total Rep. Vote					

Vote Count Yes: 4 No: 0 Absent: 2

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

2013 TESTIMONY

SB 2330

Mathern, Tim

From: John F. Ermer <jfecpa@702com.net>
Sent: Tuesday, February 05, 2013 5:34 PM
To: Mathern, Tim; Carlson, Al H.
Subject: bill #2330

Tim and Al,

Thank you for sponsoring bill #2330.

I recommended that you sponsor this bill because the 12% interest rate that is currently in effect for tax underpayments is excessive and usurious in relation to the market interest rate environment. The Internal Revenue Service changes the interest rate they charge quarterly based on the current interest rates, and is currently at 3% (and has been at that rate for quite some time).

The second facet of this bill changes the threshold of underpayment at which penalty starts accruing from \$500 to \$1,000. A lot of retired people are forced to pay quarterly estimated income tax payments because of this low threshold, and by raising the threshold it would save quite a few of them the bother of estimated payments.

I hope you have success in getting this bill pushed along, and would be happy to answer any questions that arise in the process.

John F. Ermer, CPA
500 Main Ave., #103
PO Box 2371
Fargo, ND 58108-2371
Phone: 701-280-2766
Email: jfecpa@702com.net