

**2013 SENATE FINANCE AND TAXATION**

**SB 2362**

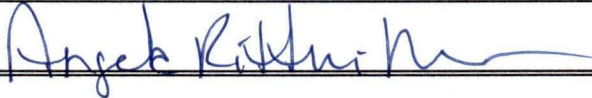
# 2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2362  
2/11/2013  
Job Number 18649

☐ Conference Committee

Committee Clerk Signature



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

A BILL for an Act to create and enact sections 57-15-01.2 and 57-20-07.2 of the North Dakota Century Code, relating to a legislative property tax relief credit; to amend and reenact subsection 35 of section 57-02-08, and sections 57-20-07.1, 57-20-09, 57-20-21.1, and 57-32-03 of the North Dakota Century Code, relating to contents of property tax statements, priority for delinquent taxes, and the discount for early payment of property taxes; to repeal chapter 57-64 of the North Dakota Century Code, relating to elimination of the school district mill levy reduction grant program; to provide an appropriation; and to provide an effective date.

### Minutes:

Testimony Attached

**Chairman Cook** opened the hearing on SB 2362.

**Senator Sinner** introduced SB 2362, attachment 1.

**Senator Burckhard** - I need you to simplify item 2b.

**Senator Sinner** - That means property taxes cannot increase more than 10% a year on any property. I'm not married to the 10% either. If you want to change it you do so as you desire.

**Chairman Cook** - At 10% increase in property tax levy, you talking in mills?

**Senator Sinner** - That's correct, or valuation, or based on valuation. The mills can stay the same in they increase the valuation by 10% then you can't increase the property taxes in dollars, either mills or valuation.

**Chairman Cook** - The cap is on the actual dollar amount.

**Senator Sinner** - The cap is on the dollar amount.

**Senator Burckhard** - So that would nix the concept that the appraisal has to be within 95% of the market value?

**Senator Sinner** - It can't change the taxable amount, the appraisal can be what it is, but it cannot change the taxable amount in any given year.

**Chairman Cook** - I think we have a constitutional requirement that within classifications of property it has to be equalized. If you cap the taxes in dollars at 10% and the value of the home or business or the production formula that drives the full and true value of the Ag land goes up by 15%, you're going to lose equalization.

**Senator Sinner** - I went to John Walstad with the concept and told him what I wanted to do so I'd have to defer to Legislative Council.

**Chairman Cook** - Any idea what the fiscal note of the amendment you would like to offer, would be?

**Senator Sinner** - I don't.

**Sandy Clark, North Dakota Taxpayers Association** - We are going to support the concept of some of these provisions in the bill. I'm going to limit my comments to section 2 and 4. Under section 2 which is the tax levy limitation section, we do support the concept. We think this is a cornerstone of property tax reform. With increasing valuations we have seen increases in our property taxes. We believe that the system is designed so that when valuations go up, local political subdivisions simply need to reduce their mill levies and that is the way it should work and unfortunately many of them have repeatedly refused to do so. On page 2 line 13 where it says the 10% we think that is too high. There are political subdivisions out there that really can get by with 0 just because the valuations have gone up. There are others that need 3%, and we can live with that we understand why that needs to be in there. Then go down to line 20 on the 60% you talked about that a little earlier, we also would question whether there needs to be 60% that maybe it should just come in at 100% otherwise after a while you're going to start to have some problems with equity. Then section 4 which is the tax credit section. Again we believe in this concept, we believe this is the easiest way to deliver property tax relief. We believe it's easiest for taxpayers to understand, it's the easiest to implement, and so we like this, figuring out what the property tax would be under the normal formula and then have the reduction on the property taxes levied. We will go to the provision of 40% and we think that's a little high as well.

**Chairman Cook** - I think the 60% cap applies to the political subdivision as they build their budget. It doesn't apply to the residential. The bill repeals the current mill levy buy down where the state buys down 75 mills of educational funding. When we put that in place I guess there was some understanding that it was property tax for schools that was causing the biggest burden on the taxpayers and the state could justify paying down some school property tax. Of course there are some school districts that don't get any of this mill levy buy down because they have so much money in their ending fund balance, they don't even levy any property taxes. This bill would repeal that and replace it with a percentage across the board for counties and townships. Do you think this is a wiser approach than the mill levy buy down?

**Sandy Clark** - That is one of the reasons we did not chose to address the bill in its entirety. We have been on record opposing the mill levy buy down thinking it's not sustainable over the long term. We did not testify on HB 1319.

**Vice Chairman Campbell** - Currently right now there is a lot of confusion with the traditional mill levy buy down where people have a 5% reduction in mill levy but their taxes went up. A lot of them don't understand that and they are frustrated. Wouldn't this as presented without the amendments, couldn't it actually if anything lead to more, expanding a bad thing more? Worst case scenario where the local subs would have an opportunity to, yeah they got their tax reduction, but yet the locals could offset that and in essence people would pay more taxes like what is currently happening right now.

**Sandy Clark** - Our comment would be those two need to work together. It's hard to adopt one of those concepts without the other. We think its property tax reform; we think it will limit growth.

**Senator Triplett** - You mentioned your group is concerned about the mill levy buy down because you don't think it's sustainable in the long run and you kind of intimated that you think this also would not be sustainable in the long run. Can you just describe for us in more detail why your group believes that the, either the mill levy buy down or this bill is unsustainable?

**Sandy Clark** - I'm not saying that I think this bill is unsustainable, this particular bill you have before you today. I'm saying we think the concept is sustainable; some of the numbers that are in here may be questionable. Only because as I had indicated, we are hoping for an entire package, not just one property tax relief bill.

**Senator Triplett** - Is that the same position you have on the mill levy buy down for education, that it would, that that concept would be sustainable if it were at a lower level?

**Sandy Clark** - On the mill levy buy down program that is currently in place, our question about sustainability is because it is based on property tax relief and every session you have to come back and increase the amount that you have to put into the program to keep it viable and sustainable. That is the part that we question over time.

**Chairman Cook** - Wouldn't you say that as long as our economy runs on all 8 cylinders like it is, we can sustain it, if we don't run on all 8 cylinders we can't sustain it, and I don't know the future any more than you do?

**Sandy Clark** - Absolutely that is the key. I think I maybe implied at a previous hearing here that we need to look to the future.

**Senator Dotzenrod** - You raise the issue about sustainability and I think that is a big component that the legislature is weighing as we go through this because in the interim committee where we talked about the mill levy buy down and we also talked about homestead credit, some of the members of these committees have really expressed concern about the way they are growing, we went from \$342 million on mill levy buy down, now 2 years later \$402 million. There is some concern about what do we do if when our

economy hits a rough spot, how are we going to manage. Looking at this bill, there are some big bills out there on property tax and this is a big bill. In looking at the question of sustainability have you found an approach that sort of solves that problem? Or is it true that we are going to have that problem on every property tax bill that we consider?

**Sandy Clark** - Our position has been to reduce income tax, individual income, and corporate income tax. We wouldn't mind eliminating individual income tax. We have testified in support of lowering the sales tax. We have supported property tax reform and property tax relief. We think all of those things are sustainable at a certain level. I'm not sure right now today because there is so much floating out here what that level is going to be. If you came out of here with a billion dollar package we'd be happy, but nothing is sustainable unless we live within the budget. We believe that is the key to sustainability, it's not just cutting. (23:42)

**Murray G Sagsveen, North Dakota League of Cities** - Handed out testimony 2 on behalf of Brad Bekkedahl.

**Senator Dotzenrod** - On page 2 where you refer to the 10% limit and it's starting on line 12, property tax in dollars levied by taxing districts may not exceed more than 10% against all property in the taxing district in the preceding taxable year, then it has the word except, and then the exceptions are listed below so that you add 60% of any new property that's added to the district, the assumption being that the state will provide the other 40% as a grant to that subdivision so that there is 100% recognition of anything new added to that taxing district. Even though the bill says 10% it also creates an exception to the 10% that allows for the addition of new property. Wouldn't that take care of the objections if you're showing growth and you want that growth to be available and essentially isn't the bill recognizing that?

**Murray G Sagsveen** - I was afraid someone would ask a question like that. I don't know the answer to that but I can get the answer to you.

**Chairman Cook** gave an explanation based on the handout Mr. Sagsveen provided.

**Chairman Cook** - When I looked at this and saw that 10% cap on an individual's taxes in dollars, you heard my question to Senator Sinner, I had concerns we would not be equalizing within a classification of property, is that true?

**Marcy Dickerson, Tax Department** - I agree with that. Whenever you start capping things and fooling around with dollars levied or valuations you are going to create some inequities. The idea of equalization is not only that the values should be equal to the extent that they are fair, but the idea of equalization is that the taxation resulting from the equalization is also fair.

**Chairman Cook** - That is a constitutional requirement is it not?

**Marcy Dickerson** - Yes, taxes should be similar within the same class of property.



**Chairman Cook** - So chances are someone could challenge the constitutionality of that particular clause at some point down the road.

**Marcy Dickerson** - That might be possible.

**Senator Dotzenrod** - Along that same line of thinking, this bill still allows the current process of valuing property to continue to go forward as we use it now which would allow for adjustments up or down depending on adjustments within classes which we are constitutionally and morally bound to do that. This does, it appears to me, is give some discount off of those numbers which is uniform across every class of property. Maybe I'm missing something; I'm having trouble finding how we distort numbers within a class.

**Marcy Dickerson** - One thing that I see as a distortion is on page 2 where property exemption has been reduced and no longer exists you only put 60% of the portion of the taxable valuation on the tax roll, well your actually extending an exemption if someone had a 5 year exemption which is supposed to be no more than 5 years, well they are going to have the 6 or 7 year or however long this is supposed to go on I don't know, but they will have an exemption greater than what was granted to them when they got their exemption. That is another question I have with this. I see this is effective for taxable years beginning after December 31, 2012 but is this intended to go on, the appropriation I understand is only for the biennium. This could go on and compound forever.

**Chairman Cook** - There is no ending date on this thing. If this passed, I assume that the next budget the governor would put forth would have to have the funding for this.

**Marcy Dickerson** - I have noticed in recent years that all these programs that were intended to go on for infinity wind up dying in four years anyway.

**Senator Burckhard** - A number of years ago proposition 13 in California, can you comment of that?

**Marcy Dickerson** - It's pretty much agreed upon today that proposition 13 and some similar legislation in other states have been disasters. They have created inequity they have messed up the budget they have just caused a lot of difficulty and the more you monkey with this stuff, in my opinion, the more inequity you are create and the bigger mess you get.

**Chairman Cook** closed the hearing on SB 2362.

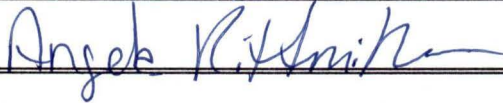
# 2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2362  
2/11/2013  
Job Number 18670

☐ Conference Committee

Committee Clerk Signature



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

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### Minutes:

Committee Work

**Chairman Cook** opened discussion on SB 2362.

**Chairman Cook** - We are going to end up with properties that are not going to be equalized.

**Senator Dotzenrod** - I do have from Senator Sinner the amendments that he had proposed in his testimony for the renter's credit. **I will move that we amend the SB 2362 with the amendment numbered 13.0834.01001** (attachment 3).

Seconded by **Senator Triplett**.

### Roll Call Vote on Amendment 2-4-1

**Vice Chairman Campbell** - I'll move a **Do Not Pass**.

Seconded by **Senator Burckhard**.

**Senator Dotzenrod** - Is the problem with the bill the price tag, is the problem the ability to make it work that is the structural problems in the 10%? I want to make sure I'm clear if we are going to the floor with a motion I'd like to make sure I understand.

**Chairman Cook** - We are going to pass some sort of property tax relief over to the House and to me what he's doing here is saying go down this road rather than the mill levy buy

down. At this stage of the game this is some major changes in how we deliver property tax relief to the people. We have another bill in the House that could eliminate the mill levy buy down. To me it's going to be one of those two. I'm not comfortable; this is not an improvement to what we are doing. I like the idea of trying to find some sort of limitation on local governments but I haven't seen one that I believe will work and I don't think this one will work. I'm glad we are all getting on board though and figuring that we've got to get a whole lot of relief and money back in the taxpayers' pockets.

**Senator Dotzenrod** - I understand the argument that you are making and I think that we have, the mill levy buy down we have been doing for 4 years now and generally from what I find is the perception, if we could better inform the taxpayers I think there would be, when I do meet with groups of people, whether they are farm people, township officers etc. when we go through the process and kind of lay out how this works, I find very few people that object to what we've been doing.

**Chairman Cook** - He does have some things in here, he's got a requirement that the tax statement must include a line item with legislative property tax relief. That is something I would encourage somebody to consider putting on whatever property tax bill we do pass. I also know there is legislation over in the House that is trying to deal with informing the people.

#### **Roll Call Vote on a Do Not Pass 4-2-1**

Carried by **Senator Oehlke**.



Date: 2-11-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2362

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0834.01001

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

Motion Made By Senator Dotzenrod Seconded By Senator Triplett

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					
Senator Dave Oehlke		X			
Senator Randy Burckhard		X			

Total (Yes) 2 No 4

Absent 1

Floor Assignment \_\_\_\_\_

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

Date: 2-11-13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2362

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 \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	<input checked="" type="checkbox"/>		Senator Jim Dotzenrod		<input checked="" type="checkbox"/>
Vice Chairman Tom Campbell	<input checked="" type="checkbox"/>		Senator Connie Triplett		<input checked="" type="checkbox"/>
Senator Joe Miller					
Senator Dave Oehlke	<input checked="" type="checkbox"/>				
Senator Randy Burckhard	<input checked="" type="checkbox"/>				

Total (Yes) 4 No 2

Absent 1

Floor Assignment Senator Oehlke

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

**REPORT OF STANDING COMMITTEE**

**SB 2362: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2362 was placed on the Eleventh order on the calendar.

**2013 TESTIMONY**

**SB 2362**



## Testimony on Senate Bill 2362


George Sinner

State Senator

District 46 - Fargo


Mr. Chairman and members of the committee: I am George Sinner, State Senator from District 46 in Fargo.

Over the past several years there has been one particular tax that has dominated the discussions around coffee tables, town meetings, and the legislature....property tax. And as we have heard time and again, our property taxes are too high. There are many proposals coming before this committee to reduce the amount that our taxpayers pay. I will explain why I think Senate Bill 2362 provides the fairest tax relief across the board to all payers of property tax in North Dakota.



Senate Bill 2362 proposes to buy down the mill rate of every political subdivision in the state of North Dakota by 40%. The purpose is to provide fair and even tax relief to every property taxpayer in North Dakota. However, I will say that there is nothing magical about the 40% amount except that I felt it provided the right amount of tax relief to the citizens of North Dakota with a fiscal note of \$800 million. My intention with this bill is to leave in place the Senior Citizens credit and the credit for Disabled Veterans.

Here are the highlights of the proposed bill:

1. Suspends the property tax exemption cities or counties may grant for new residential property completed in 2013 or 2014.
  2. Imposes a 'cap' of 10% on increases in each political subdivision's property tax levy over the previous year.
    - a. New property is added to the tax base at only 60% of its value per year. It will be taxable at 100% but the taxing district can only use
- 



60% to increase its tax base. This means existing property will receive some relief from new property coming into the tax base.

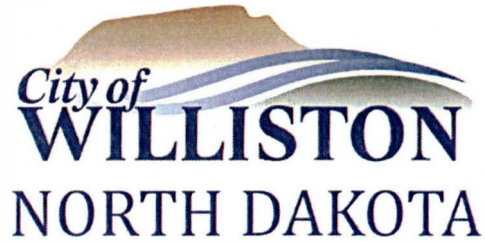
- b. Assessment increases do not increase the amount the political subdivision may increase its levy, only new property allows for an increase and that is restricted to the 60% per year increase. This cap will tend to become more restrictive as time passes and assessments rise.
  - c. The limitation may not be superseded by home rule authority but may be exceeded with approval of a majority of voters of the taxing district.
  - d. For a school district, the dollar amount of the limit is adjusted each year to reflect an increase or decrease from the previous year in state property tax relief. In other words, this bill is intended to be revenue neutral to the property tax payer.
- 3. Requires property tax statements to include a line item to identify the amount of legislative property tax relief credit applied to the tax against the property. Because the amount is based on 2012 taxes, the amount will be the same each year...but this allows the taxpayer to see who is increasing his taxes.
  - 4. Provides funding and administrative provisions for a state-paid credit against all property taxes of 40% of the 2012 tax bill. The amount of the credit will be set for two years so it will not change because of new construction or assessment increases.
  - 5. Sections 6 and 7 provide that the 5% discount for early payment of property taxes is calculated after the credit is deducted and that any credit for a property is applied to the current year's taxes and not to any delinquent taxes.
  - 6. Repeals the Mill Levy Reduction Grant Program.

- 1
7. Provides \$800 million of funding for the biennium for distribution to political subdivisions to reduce property taxes.

And finally, I am requesting an amendment that will provide tax relief to the countless renters in our state. This amendment is to state that each renter of a person's primary residence may receive up to \$600 of credit against their income tax.

Lastly, while I understand that the committee may find fault with certain numbers, percentages, or valuations in this bill, I believe that the concept should be the standard by which the State of North Dakota provides its real property owners.

I thank you all for your time today and the consideration you will give this bill. I respectfully request that you give this bill a do-pass and I will remain to answer your questions.



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February 11, 2013

Chairman Dwight Cook

Senate Finance and Taxation Committee

SB 2362

Chairman Dwight Cook and Committee Members,

While I sincerely regret not being able to speak today in opposition to SB2362 in person, I appreciate the opportunity to submit this written testimony, relating specifically to Section 2 of the bill that limits expenditure growth of taxing entities to no more than 10 percent than the previous year.

Let me first present information relative to "rapid growth" areas in Western North Dakota, using statistics from Williston as the example, which is currently the fastest growing micropolitan area in the Country as determined by the United States Census Bureau.

- NDSU Population Study for the Williston Service Area: (City of Williston and 5 surrounding twps)

2010 population	2012 population	2017 population (estimated)
18,024	39,649	54,230

- City of Williston Construction Permit Valuations:

2010	2011	2012	3 Year Total
\$106 Million	\$359 Million	\$470 Million	\$934 Million

- City of Williston Housing Units Built:

2010	2011	2012	3 Year Total
688	1373	1816	3877

- City of Williston Airport Enplanements:

2010	2011	2012	2013 (projected)
15,897	27,774	37,508	80,000

- City of Williston Area (reflecting growth by annexations tripling City size in 3 years)

2010	2011	2012
4,600 acres	8,960 acres	12,930 acres

- City of Williston Construction Improvements Plan Expenditures:

2013-2015	2015-2019	2013-2019 Total
\$220 Million	\$405 Million	\$625 Million

As presented, the growth rates in these categories exceed 10% per year. As a result I will now show that these expansions have also resulted in City budget expenditures that have exceeded the 10% limit placed by SB 2362.

- City of Williston Budget Expenditure details:

2008	2009	2010	2011	2012	2013
\$25.1 Million	\$27.9 Million	\$30.3 Million	\$40.8 Million	\$53.6 Million	\$82.6 Million

The data provided here details very explicitly that for growth such as that being experienced by the City of Williston, SB 2362's section limiting expenditure growth to 10% would be catastrophic and leave us unable to adequately respond to the needs. Our challenges are immense and will not be resolved in the near term, so we respectfully request that this Committee and the Legislative Assembly not compound them with passage of SB 2362. I hope that with this testimony you can better understand our situation, and appreciate your attention and consideration of this submitted testimony. In recognition of the difficulties presented to rapid growth areas by Section 2 of this bill, I urge a "Do Not Pass" vote by this Committee to SB 2362 as presented.

Respectfully submitted,

Brad Bekkedahl

Williston City Finance Commissioner

701-570-1879 (cell) [drbekk@wil.midco.net](mailto:drbekk@wil.midco.net)

February 9, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2362

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "57-20-07.2" insert ", 57-38-01.34, and a new subdivision to subsection 7 of section 57-38-30.3"

Page 1, line 2, after "credit" insert "and a renters income tax credit"

Page 7, after line 31, insert:

"**SECTION 8.** Section 57-38-01.34 of the North Dakota Century Code is created and enacted as follows:

**57-38-01.34. Renter's income tax credit - Property tax relief.**

1. An individual who rents living quarters in this state which are that individual's primary residence is eligible for a refundable credit against state income tax liability under section 57-38-30.3 for a portion of the individual's annual rent for that residence deemed by this section to constitute the payment of property taxes.
2. For purposes of this section, fifteen percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, is deemed to be payment made for property taxes and the applicant is entitled to a credit for that amount, but not in excess of six hundred dollars.
3. Individuals who reside together in a rental unit, as spouses or when one or more is a dependent of another, are entitled to only one credit between or among them under this section. Individuals who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a portion of a full credit based on the portion of the rent paid by the applicant.
4. This section does not apply to rents or fees paid by, or on behalf of, an individual for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.
5. An individual may not receive a credit under this section for a taxable year for which that individual received a residential property tax credit under section 57-02-08.9.
6. If any applicant is found to have fraudulently claimed and received a credit under this section, in addition to any other penalty provided by law, any credit to which that applicant would be entitled for that taxable year and the ensuing two taxable years under this section must be canceled. The tax



commissioner shall seek return of any credit allowed under this section to which an applicant is not entitled.

7. For purposes of a renter's credit under this section, "primary residence" means a dwelling in this state rented and occupied by the applicant as that applicant's primary residence. For purposes of a renter's credit, an individual may have more than one primary residence during a taxable year but not more than one at a time.

**SECTION 9.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Renter's income tax credit under section 57-38-01.34."

Renumber accordingly