

FISCAL NOTE
Requested by Legislative Council
01/18/2017

Amendment to: SB 2283

- 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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 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 2283 requires entities to be current with state and local tax obligations in order to qualify for state tax benefits.

- 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.*

If enacted, SB 2283 may result in fewer tax benefits being granted - including property, income, sales and use tax exemptions and credits. The amount of this potential reduction in tax benefits will be dependent upon outstanding state and local tax obligations on the part of entities seeking new tax benefits. The fiscal impact cannot be determined.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, 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: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/23/2017

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2017 SENATE FINANCE AND TAXATION

SB 2283


2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

Senate Bill 2283
1/24/2017
Job #: 27261

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-02, a new section to chapter 57-38, a new section to chapter 57-39.2, and a new section to chapter 57-40.2 of the North Dakota Century Code, relating to tax obligation clearance requirements for purposes of qualifying for a tax benefit; to amend and reenact section 40-57.1-04.4 and subsection 11 of section 40-58-20 of the North Dakota Century Code, relating to tax obligation clearance requirements for purposes of qualifying for a tax benefit; and to provide an effective date.

Minutes:

Attachment #1

Vice Chairman Bekkedahl: Opened the hearing on SB 2283. All Senators present.

(0:00:40-0:04:00) Senator Cook, District 34: Presented SB 2283. Meet with a constituent who was wondering why some individuals are receiving benefits from renaissance zones and property tax exemptions when they were delinquent in other tax areas. There are several issues that have come up since the inception of this bill and changes will be made by Legislative Council, Finance and Tax Intern, and the Tax Department.

(0:04:10-0:10:35) Donnita Wald, General Counsel, Office of North Dakota Tax Commissioner: Gave a detailed explanation of each section of the bill as introduced and the possible issues that it could have for the gathering of information.

It was asked and answered if an individual or all involved in the project would lose the tax incentives if someone in the project development was delinquent on taxes. The individual who was delinquent would not receive the incentives, but everyone else would.

Another issue is how often to look back at the local income tax exemption. There is an administrative problem as to where does the individual own property, could own all over this state. The definition of tax benefit in the use of renaissance zone, limited in that chapter. We have a lot of benefits. A sales tax benefit could; exemptions for prosthetics or prescription drugs. So really the bill is not clear in defining a tax benefit or tax incentive.

The next issues with the bill, is a partner manager thing. Would it be a one-time look at the tax payer? On January 1st, no delinquency, then later in the year find out property taxes or sales tax are not paid. Should it continue being monitored?

(0:10:36-0:12:10) Chairman Cook: Nobody should receive benefits on tax incentives, when behind with other taxes owed to the state of North Dakota. If a tax payer has access to public records, they should be clean.

(0:12:11-0:15:50) Questions posed by Senator Dotzenrod and answered by Donnita Wald as to different sections of the bill pertaining to existing law, new developments, and local property taxes.

Chairman Cook: I did a terrible job of explaining, to council, a problem I wanted a solution for.

(0:17:20-0:18:50) Bill Wocken, League of Cities: presented testimony #1 in support of Senate Bill No. 2283.

A question concerning status of different development corporations was asked, and unable to be answered.

(0:19:35-0:21:21) Vice Chairman Bekkedahl requested more clarification of which sections are related to which tax chapter.

It's not an issue for the tax department to look at the what is owed to the state for taxes, the issue is getting information on local property taxes.

Chairman Cook: Is this a matter, taxpayer took the time to do the research, take the LLC and connect who is part of what entitles. Mr. Wocken might have a better idea on how to do that.

Senator Dotzenrod: Are we going to create extra paperwork to prove that everything is paid, or asking the person to sign a form stating they have no outstanding obligations. Such as a vehicle registration that says you have liability insurance, never asked to provide verification of insurance

Chairman Cook: I would certainly hope if we find a solution to this, if we find out that's why people are able to get by with this.

Closed hearing on SB 2283.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

Senate Bill 2283
2/1/2017
Job #: 27746

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 57-02, a new section to chapter 57-38, a new section to chapter 57-39.2, and a new section to chapter 57-40.2 of the North Dakota Century Code, relating to tax obligation clearance requirements for purposes of qualifying for a tax benefit; to amend and reenact section 40-57.1-04.4 and subsection 11 of section 40-58-20 of the North Dakota Century Code, relating to tax obligation clearance requirements for purposes of qualifying for a tax benefit; and to provide an effective date.

Minutes:

Attachment #1

Committee work on SB 2283. Chairman Cook handed out proposed amendments (Attachment #1) Discussion on if the bill applies to the state level, or if it would also apply to a county or city.

Vice Chairman Bekkedahl moved to adopt amendment #17.0147.01001.

Senator Meyer seconded.

Voice vote to adopt the amendment passed.

Senator Laffen moved a do pass, as amended.

Senator Unruh seconded.

Roll call vote was taken: 6 yeas, 0 nays, 0 absent.

Motion passed.

Senator Laffen will carry the bill.

February 1, 2017

ET
2-1-17
p.1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-01-02 of the North Dakota Century Code is created and enacted as follows:

May require a taxpayer to satisfy all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes owed to the state or a political subdivision before granting the taxpayer a tax incentive.

SECTION 2. EFFECTIVE DATE. This Act is effective for tax incentives granted after July 31, 2017."

Renumber accordingly

Date: 2-1-17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2283

Senate _____ Finance and Taxation _____ Committee

☐ Subcommittee

Amendment LC# or Description: 17.0147.01001

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 Bekkedahl Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chair Brad Bekkedahl					
Senator Lonnie J. Laffen					
Senator Jessica Unruh					
Senator Scott Meyer					

Total (Yes) _____ No _____
Absent _____
Floor Assignment _____

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

Date: 2-1-17
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2283

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 17.0147.01001 Title: 02000

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 Laffen Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chair Brad Bekkedahl	X				
Senator Lonnie J. Laffen	X				
Senator Scott Meyer	X				
Senator Jessica Unruh	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Laffen

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

REPORT OF STANDING COMMITTEE

SB 2283: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2283 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes; and to provide an effective date.

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2017 HOUSE FINANCE AND TAXATION

SB 2283

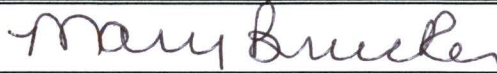
2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2283
3/7/2017
28779

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes.

Minutes:

Attachment #1, 2

Chairman Headland: Opened hearing on SB 2283.

Senator Cook: Introduced bill. I have been informed that there are people who are receiving tax exemptions that are also behind on other taxes. This bill says that if you're behind on tax a then you don't get an exemption on tax b. The Tax Department amended the bill to make it a bit easier for them to work with. Imagine if we were to pass a law that says you could not get a tax exemption if you're delinquent on another tax. It would create bureaucracy I think to make sure that didn't happen. You would need some manpower to investigate. We amended the bill that now says it "may require a taxpayer to satisfy all state or local tax obligations and tax liens...before granting the taxpayer a tax incentive." If you are made aware that a person is receiving a tax incentive but they are delinquent on other taxes, you can report that to the Tax Department and the tax incentive will be denied. I ask for your favorable consideration and pass it on to the governor.

Chairman Headland: Currently that authority is not there. Is it a fairly common occurrence?

Senator Cook: I don't know. There was quite a list.

Representative Ertelt: Even if the taxpayer is delinquent they are still liable for it, correct? The liability doesn't go away unless property is seized for delinquent payment?

Senator Cook: Yes.

Chairman Headland: It seems like a common sense type thing but there are people who take advantage of the fact that you can get by without paying your property taxes for a few years without any real repercussions. Is there further testimony in support?

Blake Crosby, Executive Director of the North Dakota League of Cities: Distributed written testimony in support. See attachment #1. Ended testimony at 7:10.

Chairman Headland: The first word on line 7 says "shall require." It seems that it's a no brainer that if you want a tax incentive you better be up to date on all your taxes.

Blake Crosby: I agree with you but Senator Cook eluded to the fact that it might be complicated and take more bureaucracy to try and track all that down than it might be worth. I think that coming out of private business, business people have a tendency to track what our fellow business people do, especially what our competition does. If I were to find out that my competition was playing loose with the rules and I have an alternative, I am going to make use of that alternative and go to the Tax Department and inform them of this. Nobody wants their competition to have an advantage over them.

Representative B. Koppelman: My concern with this bill is if the "may" would create not an automated check of taxes due because I think that's what a "shall" would have done. We're going to be relying on the self-regulation. This could turn out to be a tool amongst competitors. If property taxes are owed on another parcel by a taxpayer and they haven't paid their property taxes in a few years and now they're applying for a renaissance zone tax credit, I think the political subdivision could already grant that based on that taxpayer's performance within that political subdivision. Would you agree?

Blake Crosby: Given the purview of the bill I might agree with that. Generally speaking, I would agree with that. You're in business. What's one of the basic axioms of business; business is war. That's the way I dealt with business and I'm sure that's the way you deal with it too. You're not going to let your competition get a leg up on you if you can possibly avoid it.

Representative B. Koppelman: The one piece is the political subdivision piece and they already have the ability to do that amongst their property tax from one parcel to another. All of our renaissance zone incentives are based on the approval of the local political subdivision. In the case of a state tax I'm trying to figure out what we think a tax incentive really is. I could think of some people calling any tax credit a tax incentive. What is your opinion on what the definition of a tax incentive is?

Blake Crosby: I believe you're trying to expand this to a territory where the bill is not intended to go. This bill says state or local tax obligations and tax liens before the taxpayer gets the tax incentive. You're not playing one incentive for another. You're playing their obligations to be up to date on any liens and their tax obligations prior to getting an incentive. The process question becomes having access to the information might be difficult to put it all in one place so you're able to make that decision that this individual's business has a tax liability, not an incentive liability. You need to separate out the tax liabilities from incentives. You can't put the cart before the horse. I wouldn't overthink this.

Representative Ertelt: Do you know what the time limitation is before a taxing authority can go after delinquent taxes?

Blake Crosby: No, I do not know that. The Tax Commissioner's office may have information on that. I would caution everybody that the objective of this bill is to try and encourage people to be honest citizens. To try and read anything more into that is probably expanding the legislation or the intent of the bill beyond the ability of its scope.

Chairman Headland: Is there further testimony in support? Is there any opposition? Dee, would you answer a few questions?

Dee Wald, General Counsel for the Tax Commissioner's Office: We are neutral on the bill but we are proposing some amendments for the same reasons you identified. Distributed proposed amendments 17.0147.0200. See attachment #2. We gave these amendments to the Senate Finance and Taxation Committee but they were not put on and it was amended into what you see before you today. Our problems with what we have currently is number one, that it is discretionary. We would like that to be mandatory. We don't necessarily know if the next Tax Commissioner would require the tax payments so we want some certainty in the law. Our second problem is the fact that the state does not have access to local property tax information. We don't know where every taxpayer may own a parcel of property. The third problem is that the tax incentive is not defined. I think the scope of it could be long term care credit or one of the exemptions for fertilizer under the sales tax law. Our amendments try to clarify this and puts the burden on the person who is claiming the incentive. Dee then reviewed the attached amendments.

Chairman Headland: You said you offered this amendment in the senate and they rejected it?

Dee Wald: I didn't offer it I just gave it to Senator Cook.

Vice Chairman Dockter: Do you anticipate that if we pass this there would be a fiscal note?

Dee Wald: There wouldn't be a fiscal note because they are not claiming the credit that they could have so there wouldn't be a positive fiscal. The negative would only be on what the law already has. We already have the staff to audit and assess so it wouldn't take any additional staff. I'd also like to answer Representative Ertelt's question. For state taxes, we go after them right away. They get a bill, a second bill, and then the collectors work on that account. If after so much time, usually two years they can work with a collector, then they file a lien, we sue them, and we have six years to sue and get a judgement in district court for that debt.

Representative Hogan: Do we have any sense of how big this problem might be? Are you aware of situations where you would have liked to have had this law?

Chairman Headland: Senator Cook mentioned a list.

Dee Wald: I'm not aware of a list but I'm aware of many businesses who have sales tax, withholding tax, liabilities, and non-filers. There is no list.

Representative Hatlestad: How hard is it to get a state tax clearance record to be filed?

Dee Wald: There is a form. Every year you get a state contractor's license you have to get a state tax clearance before the Secretary of State will issue you your contractor's license. It would be that same sort of form. It's not difficult.

Chairman Headland: It's not difficult but who is going to know they are responsible to do it?

Dee Wald: Make that part of the filing requirement. They would have to attach supporting documentation to their income tax returns. It would be an instructional thing for us.

Representative Mitskog: In Wahpeton, we have a policy that for any local incentives they have to be a taxpayer in good standing. For a renaissance zone, it is a requirement that the taxpayer has to be in good standing and get certification from your department in order to proceed and have the application approved?

Dee Wald: That was the one other program I was thinking about other than the new and expanding business exemption. Representative B. Koppelman, regarding the pass-through entities, you're right and this amendment is kind of ambiguous to that. I would like to propose some additional language that says, "for the purposes of this section a taxpayer includes its managers, members, or partners."

Chairman Headland: Would you like to clean that up for us in a redraft?

Dee Wald: I can do that.

Chairman Headland: Is there anything else? We will close the hearing.


2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2283
3/7/2017
28824

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes.

Minutes:

Attachment #1

Chairman Headland: We have an amendment.

Dee Wald, General Counsel, Office of Tax Commissioner: Distributed proposed amendment 17.0147.0200.002. See attachment #1. Explained the amendments. The change is in section 4, "for sales and income withholding taxes" we have corporate officer, member, manager, liability statutes so that if the entity defaults and the owner, manager, partner are responsible for the filing and the payment of the tax then we hold them personally responsible. This is how they deal with it in the new and expanding business tax exemption so that's what I did here. We've had instances with a LLC when a person has a 2% interest and the entity owes taxes so even though they have no control over the LLC we've held back the exemption.

Chairman Headland: If I claim some kind of a credit for my nursing home coverage I just purchased but my partner forgot to submit the sales tax then my credit will be in jeopardy?

Dee Wald: No, for two reasons; long term care is not on the list and second, you are not responsible for filing or paying.

Chairman Headland: Will this generate a fiscal note?

Dee Wald: I don't anticipate it. We might get some dollars in but I don't anticipate a lot.

Chairman Headland: Are you going to come next session and ask for FTEs?

Dee Wald: No.

Chairman Headland: Discussion on the proposed amendment?

Representative Mitskog: A certificate would be issued when the taxpayer is in good standing? A local entity or an applicant would go to your department to collect?

Dee Wald: That's correct. We would give them a tax clearance or not a tax clearance.

Representative Mitskog: At any point during the incentive, is that just at the time of the application the taxpayer has to be in good standing or is it anytime during which that property tax exemption?

Dee Wald: No under this; that would be a claw back. We don't have claw backs right now. It's only at the beginning. In subsection 5, if in the first year you claim it you don't give us the clearance from either the locals or get one from us and you claim it on your return, we'll disallow that credit and bill you for the difference. If we had to go in and look year after year that would almost be impossible.

Vice Chairman Dockter: When you say there is not a claw back, if the law goes into effect then two months later they go for a new incentive but they have been delinquent for two years, we can't recover anything prior to because there was no law for it?

Dee Wald: No, we'll look back. They got the tax clearance but now they owe some taxes three years from now.

Chairman Headland: People use the allowable period we allowed before, there's a tax lien, we allow them three years before we take action, in someone seeking the incentive this will take that away from them?

Dee Wald: That is correct.

Representative Ertelt: In subsection 3, is the statement about any not delinquent on any property taxes specific enough to mean within the city or county where the tax incentive is requested or if that would mean any city or county within the state?

Dee Wald: It means any county in the state.

Representative Ertelt: The city or county that is making that determination, how do they go about getting that information that they aren't delinquent in any taxes within the state?

Dee Wald: I don't know how the counties would do it but we would do a tax clearance record and have the taxpayer provide that or the person asking for the incentive do it. The counties aren't going to know that. That's why you have to have 50% interest in the property.

Representative B. Koppelman: If an individual only provided the state clearance record from the Tax Department and one from the local county they are doing the renaissance zone in, then it was later found out that they had taxes due in another county, I think you could go after them as a fraudulent or for forging a tax document because they are seeking a tax incentive. If you file a false return with the state tax department I think all those rules could potentially apply, is that correct?

Dee Wald: That's correct. Subsection 5 allows us to go back in and do that.

Representative Grueneich: Let's say there's a business in Jamestown that built a new building and received a tax incentive. He's also a property owner in Minot and in Carrington and is in lieu on his individual lots in both cities for back taxes. Would he be eligible or disqualified or would there be recourse for the current tax break he received on the building he just purchased?

Dee Wald: You have a tax incentive in Jamestown and at the same time that's being granted or they owe for prior taxes in Minot and Carrington, he shouldn't have received the Jamestown incentive if those taxes were due and owing at the time the tax incentive was granted.

Representative Grueneich: If this is passed but under current law they are fine. Is there a claw back to go back and have sins of the past or is it just sins moving forward?

Dee Wald: Only on sins moving forward but we will measure it by how you sinned in the past. You have to repent before you get a tax incentive.

Chairman Headland: Is there further discussion?

Representative Ertelt: MADE A MOTION TO ADOPT THE AMENDMENT .0200.002.

Representative Howe: SECONDED

Chairman Headland: Is there any discussion?

ROLL CALL VOTE: 12 YES 0 NO 2 ABSENT
MOTION CARRIED

Chairman Headland: We have the amended bill before us.

Representative Mitskog: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Hogan: SECONDED

Chairman Headland: Is there any discussion?

ROLL CALL VOTE: 12 YES 0 NO 2 ABSENT
MOTION CARRIED

Representative Ertelt will carry this bill.

March 8, 2017

3/8/17 DA

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 1, line 1, remove "subsection to"

Page 1, line 1, replace "57-01-02" with "to chapter 57-01"

Page 1, replace lines 5 through 9 with:

"**SECTION 1.** A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

Tax incentives - State and local tax clearance.

1. A person may not claim a state or local tax incentive identified in section 54-35-26, unless the person has satisfied all state and local tax obligations and tax liens of record for taxes owed to the state or a political subdivision.
2. A person claiming a state tax incentive shall attach to the return or other filing schedule on which the tax incentive is claimed, a property tax clearance record from each county in which the person has a fifty percent or more ownership interest in the property.
3. A city or county may not grant a local tax incentive unless the person requesting the tax incentive is not delinquent on any property taxes and the person provides a state tax clearance record. A property tax clearance is required for property in which the person has a fifty percent or more ownership interest.
4. If a tax incentive applicant or claimant is a corporation or passthrough entity, any of the corporation's or passthrough entity's officers, governors, managing members, or partners charged with the responsibility for filing and paying property, income, income withholding, sales, or use tax are subject to the provisions of subsections 2 and 3.
5. If a person fails to comply with this section, the tax commissioner shall disallow that person's state tax exemption or credit claimed under any law authorizing the tax commissioner to audit and assess the additional tax due."

Page 1, line 10, after "incentives" insert "claimed or"

Renumber accordingly

Date: 3-7-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2283

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 17.0147.0200.002

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. Ertelt Seconded By Rep. Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog	✓	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	AB				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	AB				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment _____

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

Motion carried.

Date: 3-7-17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2283

House Finance and Taxation 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. Mitskog Seconded By Rep. Hogan

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog	✓	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	A✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	A✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Ertelt

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

REPORT OF STANDING COMMITTEE

SB 2283, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2283 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection to"

Page 1, line 1, replace "57-01-02" with "to chapter 57-01"

Page 1, replace lines 5 through 9 with:

"SECTION 1. A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

Tax incentives - State and local tax clearance.

1. A person may not claim a state or local tax incentive identified in section 54-35-26, unless the person has satisfied all state and local tax obligations and tax liens of record for taxes owed to the state or a political subdivision.
2. A person claiming a state tax incentive shall attach to the return or other filing schedule on which the tax incentive is claimed, a property tax clearance record from each county in which the person has a fifty percent or more ownership interest in the property.
3. A city or county may not grant a local tax incentive unless the person requesting the tax incentive is not delinquent on any property taxes and the person provides a state tax clearance record. A property tax clearance is required for property in which the person has a fifty percent or more ownership interest.
4. If a tax incentive applicant or claimant is a corporation or passthrough entity, any of the corporation's or passthrough entity's officers, governors, managing members, or partners charged with the responsibility for filing and paying property, income, income withholding, sales, or use tax are subject to the provisions of subsections 2 and 3.
5. If a person fails to comply with this section, the tax commissioner shall disallow that person's state tax exemption or credit claimed under any law authorizing the tax commissioner to audit and assess the additional tax due."

Page 1, line 10, after "incentives" insert "claimed or"

Renumber accordingly

2017 TESTIMONY

SB 2283

1/24/2017

SB 2283

#1

pg1

Testimony in Support of Senate Bill 2283
January 24, 2017
Senate Finance and Taxation Committee
Bill Wocken on behalf of North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Finance and Taxation Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in support of Senate Bill 2283.

Senate Bill 2283 seeks to require that not only project operators but also project developers and local development corporations have no unpaid state or local tax obligations before they are allowed to participate in the benefits of income tax or property tax exemptions under the New and Expanding Business section of the North Dakota Century Code.

Since development incentives are given to persons and organizations to encourage a desired development objective, it seems only right that those in whom the public's trust and resources are invested should demonstrate their good standing and good intentions by being current on all their state and local tax liabilities. How could anyone remain confident in the promises of someone to provide an enhanced business experience when they are delinquent on promises made in connection with a present enterprise?

4/24/2017

SB 2283

#1

pg 2

Senate Bill 2283 appears to foster a good intention requirement in those who are providing jobs and business investment in our state and the North Dakota League of Cities believes this bill is a reasonable requirement for the New and Expanding Business program. We ask for a DO PASS recommendation on this bill.

2-1-17

SB 2283

Attachment #1

pg 1

17.0147.01001
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 1, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-01-02 of the North Dakota Century Code is created and enacted as follows:

May require a taxpayer to satisfy all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes owed to the state or a political subdivision before granting the taxpayer a tax incentive.

SECTION 2. EFFECTIVE DATE. This Act is effective for tax incentives granted after July 31, 2017."

Renumber accordingly

#1
SB 2283
3-7-17

March 7, 2017
House Finance and Taxation Committee
SB 2283
Rep. Headland, Chair

Good Morning Chairman Headland and members of the Committee. For the record, I am Blake Crosby, Executive Director of the North Dakota League of Cities, representing the 357 incorporated cities across the state. Approximately 77% of the population of North Dakota lives in those cities.

I am testifying in support of Senate Bill 2283. This bill would require that not only project operators but also project developers and local development corporations have no unpaid state or local tax obligations before they are allowed to participate in the benefits of income tax or property tax exemptions under the New and Expanding Business section of the North Dakota Century Code.

Since development incentives are given to persons and organizations to encourage a desired development objective, it seems only right that those in whom the public's trust and resources are invested should demonstrate their good standing and good intentions by being current on all their state and local tax liabilities. How could anyone remain confident in the promises of someone to provide an enhanced business experience when they are delinquent on promises made in connection with a present enterprise?

Senate Bill 2283 fosters a good intention requirement in those who are providing jobs and business investment in our state and the North Dakota League of Cities believes this bill is a reasonable requirement for the New and Expanding Business program. We ask for a DO PASS recommendation on this bill.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

Prepared by the Office of
State Tax Commissioner
March 7, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 1, line 1, remove "subsection to"

Page 1, line 1, replace "57-01-02" with "to chapter 57-01"

Page 1, line 5, remove "subsection to"

Page 1, line 5, replace "57-01-02" with "to chapter 57-01"

Page 1, replace lines 7 through 9 with:

"Tax Incentives – State and Local Tax Clearance. A person may not claim a state or local tax incentive identified in section 54-35-26 unless the person has satisfied all state or local tax obligations and tax liens of record for taxes owed to the state or a political subdivision. A taxpayer claiming a state tax incentive shall attach to the return or other filing schedule on which the tax incentive is claimed, a property tax clearance record from each county in which the taxpayer has a fifty percent or more ownership interest in property. A city or county may grant a local tax incentive only if the applicant is not delinquent on any property taxes and the applicant provides a state tax clearance record. If a taxpayer fails to comply with this section, the tax commissioner shall disallow the exemption or credit claimed under any law authorizing the tax commissioner to audit and assess the additional tax due."

Page 1, line 10 after "incentives" insert "claimed or"

Renumber accordingly

Prepared by the Office of
State Tax Commissioner
March 7, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

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"Tax Incentives – State and Local Tax Clearance."

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5. If any person fails to comply with this section, the tax commissioner shall disallow the state tax exemption or credit claimed under any law authorizing the tax commissioner to audit and assess the additional tax due."

Page 1, line 10 after "incentives" insert "claimed or"

Renumber accordingly