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ROLL NUMBER

DESCRIPTION

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Operator's Signature

Date

2003 SENATE FINANCE AND TAXATION

SB 2315

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Deanna Hallen
Operator's Signature

10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2315

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
1	X		3,079-5254
Committee Clerk Signature <i>Mary Kay Linder</i>			

Minutes:

Senator Urlacher opened the hearing on SB2315. All committee members are present. This bill relates to the rate on interest to underpayments of taxes on many different taxes.

Rick Clayburgh, State Tax Commissioner (mtr #3153) - Provided background on why this bill was brought forth. Testified in support of SB2315.

Senator Tolleson (mtr #3470) - Comment on the equality of rates on overpayment.

Mr. Clayburgh (mtr #3494) - Responded to the reason for the rates as they are and as proposed.

Senator Nichols (mtr #3628) - Question on the amount and effect of the fiscal note.

Mr. Clayburgh (mtr #3659) - Affirmation reply to question.

Senator Seymour (mtr #3672) - Asked for the Tax Commissioners stand on the bill.

Mr. Clayburg (mtr #3685) - Supports the concept. Committee has the ability to make changes.

Donnita Wald, State Tax Department (mtr #3740) - Presented details of the bill and clarified the amendment.

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Donnita Wald
Operator's Signature

10/22/03
Date

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number SB2315

Hearing Date February 4, 2003

Senator Nichols (mtr #4012) - Does the amendment change the penalty area?

Ms. Wald (mtr #4043) - Responded to rate of interest and proposed decrease.

Senator Wardner (mtr #4122) - Other than the change in rate, seems like a housekeeping bill.

Mr. Clayburgh (mtr #4149) - The Tax Department supports this bill. If amended, we would like to be a part the discussions.

Senator Urlacher (mtr #4297) - Question if feasible to link to floating rate.

Mr. Clayburgh (mtr #4309) - Very difficult for the Tax Department to enforce.

Ms. Wald (mtr #4356) - In 1987 rate was tied to bond rate and varied quarterly. In 1989 changed to a fixed rate. Have experience with floating rate.

Mr. Clayburgh (mtr #4425) - Continued with explanation of past rates on penalties.

Senator Nichols (mtr #4517) - If looking at a variable rate, what date would work to adjust.

Mr. Clayburgh (mtr #4541) - Gave an answer on how that may work.

Senator Urlacher (mtr #4656) - Closed the hearing on SB2315.

General discussion followed.

Senator Tollefson (mtr #4598) - Understands the complexity of floating rate and believe the reduction is appropriate. Moves to amend as proposed. 2nd by Senator Wardner.

Roll call vote on amendment. 6 yea, 0 nay, 0 absent.

Senator Nichols (mtr #5150) - Moves a Do Pass as Amended and Rerefer to Appropriations.

2nd by Senator Wardner. Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Nichols.

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Deanna Waller
Operator's Signature

10/22/03
Date

FISCAL NOTE
Requested by Legislative Council
02/18/2003

Amendment to: SB 2315

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$750,000			
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Re-engrossed SB 2315 reduces the rate of interest paid by the state on tax refunds from 12% to 6% per annum. This will result in expected State General Fund savings of \$750,000 for the 2003-2005 biennium.

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

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

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

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	02/19/2003

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Dianne Hall
Operator's Signature

10/22/03
Date

FISCAL NOTE
Requested by Legislative Council
02/07/2003

Amendment to: SB 2315

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$450,000)			
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Engrossed SB 2315 reduces the rate of interest charged by the state on unpaid taxes from 12% to 8% per annum. It also reduces the rate of interest paid by the state on tax refunds from 12% to 6% per annum. The net effect is an expected revenue loss of \$450,000 for the 2003-2005 biennium. (This fiscal note considered the sections of code that were included in the amendment.)

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

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

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

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	02/10/2003

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Operator's Signature

Date

FISCAL NOTE

Requested by Legislative Council
02/03/2003

REVISION

Bill/Resolution No.: SB 2315

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$450,000)			
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

SB 2315 reduces the rate of interest charged by the state on unpaid taxes from 12% to 8% per annum. It also reduces the rate of interest paid by the state on tax refunds from 12% to 6% per annum. The net effect is an expected revenue loss of \$450,000 for the 2003-2005 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.

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C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	02/03/2003

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Operator's Signature

Date

FISCAL NOTE
Requested by Legislative Council
01/27/2003

Bill/Resolution No.: SB 2315

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$600,000)			
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2315 reduces the rate of interest charged by the state on unpaid taxes from 12% to 8% per annum. It also reduces the rate of interest paid by the state on tax refunds from 12% to 6% per annum. The net effect is an expected revenue loss of \$600,000 for the 2003-2005 biennium.

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

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

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

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	02/03/2003

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Operator's Signature

Date

38352.0100
Title.

Prepared by the Office of State Tax
Commissioner
February 4, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

Page 1, line 6, after the first comma insert "subsection 1 of section 57-43.1-21," and after the second comma insert "subsection 1 of section 57-43.3-23, subsection 1 of section 57-51-05,"

Page 1, line 9, after "excise" insert "and fuel"

Page 6, after line 22, insert:

"SECTION 12. AMENDMENT. Subsection 1 of section 57-43.1-21 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person fails to file the required report or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of sixty-seven hundredths of one percent per month on the tax due, for each calendar month or fraction of a month during which the delinquency continues, excepting the month within which the report was required to be filed or the tax became due. If a person files a false or fraudulent report with intent to evade the tax imposed by this chapter, there is imposed a penalty equal to ten percent of the deficiency, with interest at the rate of two one and six-tenths percent per month on the deficiency, for each calendar month or fraction of a month during which the deficiency continues. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this subsection.

Page 6, line 23, replace "12" with "13"

Page 7, after line 3, insert:

SECTION 14. AMENDMENT. Subsection 1 of section 57-43.3-23 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person fails to file the required report or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollar, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of sixty-seven hundredths of one percent per month on the tax due, for each calendar month or fraction of a month during which the delinquency continues, excepting the month within which the report was required to be filed or the tax became due. If a person files a false or fraudulent report with the intent to evade the tax imposed by this chapter, there is imposed a penalty equal to ten percent of the deficiency, with interest at the rate of two one and six-tenths percent per month on the deficiency, for each calendar month or fraction of a month during which the deficiency continues. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this subsection.

SECTION 15. AMENDMENT. Subsection 1 of section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The gross production tax on oil or gas, as herein provided, must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on

Page No. 1

38352.0100

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Deanna Hallmark
Operator's Signature

10/22/03
Date

the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of ~~twelve~~ eight percent per annum from the date the tax was due to the date the tax is paid."

Page 7, line 4, replace "13" with "16"

Page 7, line 18, replace "14" with "17"

Page 8, line 5, replace "15" with "18"

Renumber accordingly

February 4, 2003

7a3
2-4-3
1042

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

Page 1, line 6, after the first comma insert "subsection 1 of section 57-43.1-21," replace the second "section" with "subsection 1 of section 57-43.3-23, subsection 1 of section 57-51-05, and sections", remove the third comma, and remove the third "section"

Page 1, line 9, after "excise" insert "and fuel"

Page 6, after line 22, insert:

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SECTION 15. AMENDMENT. Subsection 1 of section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

- 2042
1. The gross production tax on oil or gas, as herein provided, must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of ~~twelve~~ eight percent per annum from the date the tax was due to the date the tax is paid."

Page 8, line 5, remove "and" and after "13" insert ", 14, 15, and 16"

Page 8, line 6, replace "Section" with "Sections" and replace "14" with "17"

Renumber accordingly

Page No. 2

38352.0101

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Deanna Ballantyne
Operator's Signature

10/22/03
Date

Date: 2/4/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2315

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment - C1010

Motion Made By Sen. Tollefson Seconded By Sen. Lueders

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	/		Senator Nichols	/	
Senator Wardner - Vice Chairman	/		Senator Seymour	/	
Senator Syverson	/				
Senator Tollefson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

Deanne Hallen
Operator's Signature

10/22/03
Date

Date: 2.9.03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2315

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended Refer to Appropriations

Motion Made By Sen. Nichols Seconded By Sen. Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	/		Senator Nichols	/	
Senator Wardner - Vice Chairman	/		Senator Seymour	/	
Senator Syverson	/				
Senator Tollefson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Nichols

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

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Deanna Hall
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 3:50 p.m.

Module No: SR-22-1771
Carrier: Nichols
Insert LC: 38352.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2315: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 6, after the first comma insert "subsection 1 of section 57-43.1-21," replace the second "section" with "subsection 1 of section 57-43.3-23, subsection 1 of section 57-51-05, and sections", remove the third comma, and remove the third "section"

Page 1, line 9, after "excise" insert "and fuel"

Page 6, after line 22, insert:

"SECTION 12. AMENDMENT. Subsection 1 of section 57-43.1-21 of the North Dakota Century Code is amended and reenacted as follows:

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Page 7, after line 3, insert:

"SECTION 14. AMENDMENT. Subsection 1 of section 57-43.3-23 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person fails to file the required report or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of sixty-seven hundredths of one percent per month on the tax due, for each calendar month or fraction of a month during which the delinquency continues, excepting the month within which the report was required to be filed or the tax became due. If a person files a false or fraudulent report with the intent to evade the tax imposed by this chapter, there is imposed a penalty equal to ten percent of the deficiency, with interest at the rate of two one and six-tenths percent per month on the deficiency, for each calendar month or fraction of a month during which the deficiency continues. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this subsection.

SECTION 15. AMENDMENT. Subsection 1 of section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The gross production tax on oil or gas, as herein provided, must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the

(2) DESK, (3) COMM

Page No. 1

SR-22-1771

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Operator's Signature

Date

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 3:50 p.m.

Module No: SR-22-1771
Carrier: Nichols
Insert LC: 38352.0101 Title: .0200

month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of ~~twelve~~ eight percent per annum from the date the tax was due to the date the tax is paid."

Page 8, line 5, remove "and" and after "13" insert ", 14, 15, and 16"

Page 8, line 6, replace "Section" with "Sections" and replace "14" with "17"

Renumber accordingly

Deanna Wallis
Operator's Signature

10/22/03

Date

2003 SENATE APPROPRIATIONS

SB 2315

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Deanna Hall
Operator's Signature

10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
#1		x	3,572-end
#2	x		0-1497
Committee Clerk Signature <i>Jan Hendricks</i>			

Minutes:

Senator Holmberg, chair opened the hearing on SB 2315. (#3572)

Rich Clayburgh, ND Tax commissioner, stated that he would not go through the whole testimony that he did for the Finance and tax committee. This concept and idea came to them through House leadership, looking at the issue of interest rates that we pay and also assess tax payers. 4 years ago we equalized the interest rates at 12% on both on what we pay and we charge. Right now we pay 12% interest on refunds, which doesn't make sense. Some discussion on should this be a trigger bill, where you set a date and then the bill will trigger, you trigger on some fluctuating rates. We just put the bill together and lowered the rates to 6% and 8% , 6% on refunds and 8% on assessments and then 2 years the legislature can readjust it, instead of floating it, which causes administrative problems and the taxpayers.

Questions: (#3941)

Senator Mathern: Is there a period of time when there is loss income because of this reduction?

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Deanna Walcott
Operator's Signature

10/22/03

Date

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Senate Appropriations Committee
Bill/Resolution Number SB 2315
Hearing Date February 11, 2003

Commissioner Clayburgh responded: This tax is not retroactive, it would be active from this tax year forward. He would like to make an amendment to the bill, he would like to add the emergency clause to it. Senator Holmberg asked what impact it would have on this budget?

Commissioner Clayburgh responded that it would allow them to do the program immediately with the emergency clause, the fiscal impact would be there would be some programming costs involved, if we did it now, there would be no fiscal impact on the budget. Senator Tallackson:

How much money would we save on the next biennium? Commissioner Clayburgh responded that Denise would reply: Senator Holmberg stated that the fiscal note the committee should be using is dated 2-07-03. Commissioner Clayburgh stated that the fiscal note should be dated 2-10-03. Denise stated that from what she understood the fiscal note hasn't changed since the original even with the amendments. She stated that on the refund side we anticipate savings about \$315,000 a year or \$730,000 for the biennium. The fiscal note takes into account the saving on the refund and the reduced interest paid out. Senator Holmberg stated that was a net loss of \$450,000. This is not in the Governor's budget. Commissioner Senator Christmann: Is there a minimum amount charged for late returns? Commissioner Clayburgh stated that is charged monthly, he can waive interest and penalty but we can not waive the tax. There are several different ways we try to get people to pay their tax before the interest goes into effect.

Senator Tallackson: Isn't 12% what is charged if you don't pay your real estate tax?

Commissioner Clayburgh stated that he thought that was correct. Senator Tallackson wondered if the 12% shouldn't be kept in for penalty. The Commissioner responded that was up to the committee. The county is responsible for the real estate tax, not the state. Senator Holmberg wondered what would happen if it was left at 12% for penalty to the general fund, rather than

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Denise Tallackson
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Senate Appropriations Committee
Bill/Resolution Number SB 2315
Hearing Date February 11, 2003

8%, It was responded that the general fund would be to the positive of \$752,000. Senator Tallackson wondered if this could be down in 2 stages? Commissioner responded that the legislature could do what ever they wanted, the bill was just written to show that there was some interest in changing. Senator Mathern: He wondered if there were citizen that had wanted this bill drafted? Or just legislators? Commissioner responded that no one had complained from the public. He did get a few remarks over the year about the high interest that is paid on refunds. Senator Mathern wanted to know about how high the interest rate is. The Commissioner responded that no he had not had any complaints from the public. Senator Kilzer wanted to know when the clock started running on the tax departments obligation to start paying a refund. Commissioner responded that if someone overpays a tax and files a return then the obligation is there to refund the money, the interest starts 45 days after the due date of the return.

Tape #1 Side B ends. Tape #2 meter #0 starts.

Senator Christmann He felt that we should lower what we pay and leave the rest alone.

A wide variety of different ideas were expressed. Commissioner Clayburgh stated that there would be no impact on the budget for 2005-07 because it was not in the Governor's budget.

This bill was in Finance and Tax. The tax department is not looking for direction, as this bill does not cause the department any problems (if it should be defeated). This bill was put together for house leadership.

With no other testimony the hearing was closed. (#626).

Discussion was held on what way to go on this bill. Senator Tallackson would like to see 12% & 6% or 12% & 8%. Senator Robinson wondered how much latitude we have since Finance & Tax already worked on this. Senator Holmberg stated it was within the job of this committee since

Deanna Tallackson
Operator's Signature

10/22/03

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this committee has to balance the checkbook at the end. Senator Thane: He didn't feel that any hit on the general fund should be taken at this time. Senator Christmann stated that farm loans are 8%. Senator Mathern stated that it should be revenue neutral. Senator Kilzer stated that we should get a little revenue out of this. Senator Kringstad wanted to know if this is retroactive? Answer is no. Senator Mathern was concerned about the emergency clause also. Senator Holmberg stated that the emergency clause would allow them to change the program now but the changes in the tax would not go into effect until later. Senator Tallackson felt that the 12% on overdue tax was okay, but the 12% on refunds was out of line. Senator Holmberg would like to have Alan draft an amendment for consideration later today, to leave the 12% as current law and go to 6% on the refund and then in 2005 the rate of interest on the unpaid taxes drops to 8% and the fiscal impact of that would be \$752,000. We can discuss more this afternoon. Senator Robinson wanted to know what the rationale was for the drop in 2005. Senator Holmberg followed that the concept of getting them a little closer, but doesn't have an impact on this budget. This is just a starting point. Commissioner Clayburgh stated that in the original concept of the bill it was thought that the interest rates would be adjusted every 2 years depending on the economy. Senator Holmberg stated that Alan should leave out the 2005 date. Senator Tallackson stated that it is a fact of life that everything is reviewed every two years.

The next bill was then called, by Senator Holmberg, chair

Deanna Tallackson
Operator's Signature

10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315 vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-12-03

Tape Number	Side A	Side B	Meter #
3	X		3038-3551
Committee Clerk Signature <i>Banda Dawson</i>			

Minutes: Chairman Holmberg opened the hearing to vote on SB 2315. (Meter 3050)

Amendments (38352.0201) were proposed by Senator Kilzer. Chairman Holmberg explained the impact of the amendment for the fiscal note. He asked if there needed to be an emergency clause? Roxanne needed to update the amendment and Senator Kilzer to have refunds at 6% and keep the assessment at 12%. (Meter 3330) Amendments passed with a voice vote. (Meter 3344) Senator Kilzer moved a motion to pass the amendment and Senator Lindaas seconded. (Meter 3378) Senator Krauter wanted clarification of why they decided to go with the numbers? (Meter 3391) Chairman Holmberg spoke for one of the sponsors, when they put in the bill, they did not know what the fiscal impact would be, when the fiscal note came out and it was four hundred and fifty thousand dollars lose to the state, they needed the resuscitation and then he talked to the prime sponsor and he was comfortable with the 12 and the 6. Discussion about each district from individual senators continued. (Meter 3494) Senator Grindberg made a motion of DO PASS AS

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Dennis Wallin
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10/22/03

Date

Page 2

Senate Appropriations Committee
Bill/Resolution Number SB 2315 vote
Hearing Date 2-12-03

AMENDED with Senator Kringstad seconded. The vote was 11 yeas, 0 nays, 3 absent. Floor assignment to Senator Kilzer. (Meter 3551) Hearing closed.

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10/22/03
Date

38352.0201
Title.0300

Prepared by the Legislative Council staff for
Senator Holmberg
February 11, 2003

Je3
2-14-03
1042

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

Page 1, line 1, remove "subsection 3 of section 57-36-09, subsection 4 of"

Page 1, line 2, remove "section 57-36-25, subsection 3 of section 57-36-26,"

Page 1, remove line 3

Page 1, line 4, remove "subsection 1 of section 57-39.2-18," and remove "subdivision a of"

Page 1, remove lines 5 through 7

Page 1, line 8, after "and" insert "section"

Page 1, remove lines 9 through 11

Page 1, remove lines 15 through 24

Page 2, remove lines 1 through 20

Page 3, remove lines 10 through 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 11

Page 5, remove lines 22 through 30

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 3

Page 9, line 22, remove "Sections 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15,"

Page No. 1

38352.0201

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Operator's Signature

10/22/03

Date

2.12
Page 9, remove line 23

Page 9, line 24, replace "and 17 of this Act are" with "This Act is"

Renumber accordingly

Page No. 2

38352.0201

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10/22/03
Date

Amendments
proposed by Kilzer
and by Lindaas
voice votes

2315

Date: 2-12-02
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS AS AMENDED

Motion Made By Grindberg Seconded By Kringstad

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair					
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann					
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern					
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Kilzer

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

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Operator's signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
February 17, 2003 9:15 a.m.

Module No: SR-17-2870
Carrier: Kilzer
Insert LC: 38352.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2315, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection 3 of section 57-36-09, subsection 4 of"

Page 1, line 2, remove "section 57-36-25, subsection 3 of section 57-36-26,"

Page 1, remove line 3

Page 1, line 4, remove "subsection 1 of section 57-39.2-18," and remove "subdivision a of"

Page 1, remove lines 5 through 7

Page 1, line 8, after "and" insert "section"

Page 1, remove lines 9 through 11

Page 1, remove lines 15 through 24

Page 2, remove lines 1 through 20

Page 3, remove lines 10 through 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 11

Page 5, remove lines 22 through 30

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 3

Page 9, line 22, remove "Sections 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15,"

Page 9, remove line 23

Page 9, line 24, replace "and 17 of this Act are" with "This Act is"

Renumber accordingly

2003 HOUSE FINANCE AND TAXATION

SB 2315

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Operator's Signature

10/22/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 4, 2003

Tape Number	Side A	Side B	Meter #
2	X		7.9

Committee Clerk Signature

Janice Stein

Minutes:

REP. WES BELTER, CHAIRMAN Called the hearing to order.

RICK CLAYBURGH, STATE TAX COMMISSIONER Testified in support of the bill.

This bill was drafted with the assistance of the tax department at the request of leadership's interest with the potential problem we have in the amount we pay out in refunds. At the current time, the percentage rate is 12% on refunds, we also pay 12% on assessments. The bill is drafted by the tax department as a vehicle, at the outset, I would ask that probably the best thing that could occur at this committee today, is a sub committee appointed to study and look at this issue, to come up with, what is the proper way to address the interest rate at a time when we have a cyclical downturn currently, in interest rates. Right now in the state of North Dakota, this would be one of the best investments that a person could get if you utilized the long term for individual purposes, over pay, or withhold, file a refund down the road, and receive a 12% interest on your money. That was the reason Rep. Berg asked us to look at this issue, based on the rates.

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10/22/03

Date

Page 2

House Finance and Taxation Committee

Bill/Resolution Number SB 2315

Hearing Date March 4, 2003

The bill we drafted for the Senate, was a bill that all we did was lower the rate of interest on a two year period for refunds to 6%, and we lowered the rate on assessments to 8%. It was attempted to be a vehicle which you could look at this issue during the legislative session. We wanted to get away from putting some type of revolving or cyclical mechanism into place to address interest rates, because they can become very cumbersome and burdensome, not only to the tax department, but also the taxpayer. The way the bill is now in front of you, although it addresses the refund issue, the Senate amended the bill and put the assessment rate back up to 12%. Four years ago, the legislature with the assistance of the tax department and interested taxpayers, looked at the issue of bringing our rates of interest together, and standardizing that interest at 12%. There is a certain amount of fairness, that if the state is going to pay 8% that would be the same amount they would assess as well. When we drafted the bill and put the 8% and 6% rates, we still believed, as a policy, that there needs to be a little incentive to insure that a person files. We do have the penalty provisions in law, but we still need an incentive. I don't believe what the Senate did is a good policy, of having a six percent spread between those numbers.

REP. BELTER You suggested you don't like some type of floating rate that could be tied to the prime rate?

RICK CLAYBURGH A floating rate may not be bad, but doing a monthly or quarterly float can start creating a situation where we will have to post those rates over a period of time, then it does create programming issues for us within our software systems, especially when you have audit periods and tax years that overlap.

REP. BELTER The only change the Senate made was the interest rate change?

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House Finance and Taxation Committee

Bill/Resolution Number SB 2315

Hearing Date March 4, 2003

RICK CLAYBURGH That was the only change the Senate made. The purpose of the change was the fact that it brought in \$750,000.

DENNIS BOYD REPRESENTING MDU RESOURCES GROUP Testified in opposition of the bill in its present form. See attached written testimony.

REP. BELTER Did the Senate change this or was it done in Appropriations?

RICK CLAYBURGH Answered stating it was done in Appropriations.

RON NESS REPRESENTING THE ND PETROLEUM COUNCIL Testified in opposition of the bill in its present form. Agreed with what Dennis Boyd said. In addition, if you don't pay your taxes up front, you will also get hit with a five percent penalty. So, on top of that ten percent interest rate, you will have a five percent penalty. When we are talking about oil & gas tax collections, there are many different rates and incentives that apply, some companies don't always have them figured out in advance of sending in their tax forms, of course, if you underpay, you will get hit with that five percent penalty. I think the changes made in 1999 were made in fairness, and this bill has been changed to a revenue producing bill at the expense of tax paying companies.

REP. WEILER TO DENNIS BOYD Regarding the scenerio, the five years and the seven years, does that actually happen that it takes seven years before it can get figured out?

DENNIS BOYD It is my understanding, that audits can go back ten to twelve years.

RICK CLAYBURGH Again commented, gave the rationale discussed by Rep. Berg and part of the reason for the bill, was the potential of overpayment in the refund. That does not occur in the corporate realm. In the case, if they misstate numbers, that is fraudulent, that is a different scenerio. This primairily occurs in individual income tax when a person files a long form, then a

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Dennis Boyd
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House Finance and Taxation Committee
Bill/Resolution Number SB 2315
Hearing Date March 4, 2003

few years down the road, file a an amended return, and file a short form, then have the lower rate and receive your refund back with interest.

REP. BELTER For people who intentially withhold more then is necessary, are they collecting interest on that money then?

RICK CLAYBURGH If you have over withholding in a tax year and you file your return, you do not receive interest on your refund. If you go back in past years, then claim overwithholding in the tax years prior, then there is the potential that the refund would have interest.

REP. BELTER In the case of an amended return, can a person receive interest on that?

JOE BECKER, STATE TAX DEPARTMENT Answered the question, stating, the minute a return is filed, in general, the interest will accrue starting with the original due date, or the date the return has been filed.

With no further testimony, the hearing was closed.

COMMITTEE ACTION

Committee members discussed possible amendments to the bill regarding the interest rates, and some type of formula to come up with rates.

REP. BELTER Stated he would visit with the State Tax Commissioner to come up with amendments which would be acceptable.

The bill will be acted on at a later date.

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
3	X		9.4
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

COMMITTEE ACTION

REP. BELTER Presented amendments to the committee, which would change the interest rate to eight percent instead of twelve, whether you underpay or overpay. The amendments should cover all aspects of tax, whether it is corporate, personal, whatever.

REP. DROYDAL Made a motion to adopt the amendments as presented.

REP. KLEIN Second the motion. Motion carried by voice vote.

REP. DROYDAL Made a motion for a DO PASS AS AMENDED.

REP. HEADLAND Second the motion.

RICK CLAYBURGH, STATE TAX COMMISSIONER Appeared before the committee to offer some comments. He gave figures relating to the fiscal note, as the bill was before the Senate. During discussion Mr. Clayburgh called the analysts to make sure the figures he quoted were right.

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10/22/03
Date

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House Finance and Taxation Committee

Bill/Resolution Number SB 2315

Hearing Date March 11, 2003

REP. BELTER Decided to wait with action on the bill until the State Tax Commissioner could get back to them with the current fiscal note.

The motion for a do pass as amended was withdrawn.

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2315

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 17, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.7
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the meeting to order.

COMMITTEE ACTION

REP. GROSZ Made a motion for a DO NOT PASS

REP. HEADLAND Second the motion.

RICK CLAYBURGH, STATE TAX COMMISSIONER Appeared before the committee to comment on the bill. He stated if you are talking financially, you are moving a bill with a positive fiscal effect of \$800,000.

REP. NICHOLAS Asked, if we kill the bill, what is the revenue effect?

RICK CLAYBURGH The way the Senate amended the bill, they used it has a revenue enhancement, of \$750,000. By killing the bill, you will affect the ending fund balance. From our

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10/22/03
Date

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House Finance and Taxation Committee

Bill/Resolution Number SB 2315

Hearing Date March 17, 2003

standpoint, we have no objection to killing the bill, it is probably the best thing to do. Just note that you are not doing this because it costs money, it is unworkable to lower the rate without having significant revenue impact. It will have an effect on the ending fund balance.

REP. BELTER But it will be positive?

RICK CLAYBURGH The bill currently, is revenue positive, by eliminating this, you will reduce the ending fund balance by \$750,000.

REP. BELTER But it will not be negative.

RICK CLAYBURGH I may be confusing this. In the long run, if you don't do anything, it will have zero fiscal impact, but legislative council has already added additional revenue.

REP. WEILER Under current law, what is the projected revenue of the interest rates the way they are?

RICK CLAYBURGH I can get that information. We take in more money on assessments than we pay out in refund interest.

REP. WEILER Right now, under current law, the state is not losing money?

RICK CLAYBURGH No, even if you reduce this, you are not technically losing money, you are still bringing in more money on the assessment interest. It is just that you are lowering it from current rate. The way it is right now, there is a big disparity.

The DO NOT PASS MOTION CARRIED 11 YES 1 NO 2 ABSENT

REP. GROSZ Was given the floor assignment.

Date: 3-11-03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2315

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Not Pass

Motion Made By

Rep. Grosz

Seconded By

Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes)

11

No

1

Absent

2

Floor Assignment

Rep. Grosz

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

Deanna Wallin
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
March 17, 2003 10:42 a.m.

Module No: HR-47-4885
Carrier: Groez
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2315, as reengrossed: Finance and Taxation Committee (Rep. Better, Chairman)
recommends **DO NOT PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING).
Reengrossed SB 2315 was placed on the Fourteenth order on the calendar.

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10/22/03

Date

2003 TESTIMONY

SB 2315

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10/22/03

Date

Testimony of Dennis Boyd

SB 2315

March 4, 2003

Good morning, Mr. Chairman and members of the committee. My name is Dennis Boyd, appearing this morning on behalf of MDU Resources Group. We are opposed to SB 2315 in its present form.

SB2315, as it was originally introduced, simply sought to lower the interest rates currently charged by the Tax Department on BOTH underpayments of taxes and the interest rates currently paid by the state on refunds (overpayments). Currently those rates for corporate income tax purposes are 12% on BOTH underpayments and overpayments. Other interest rates are charged and assessed for sales and use taxes, oil and gas gross production tax, and the oil extraction tax, and those interest rates are not equal on overpayments (~~12%~~^{18%}) and underpayments (~~12%~~^{18%}). With record low interest rates common today, all of those interest rates are higher than necessary, and as I said a few minutes ago, SB2315 was originally introduced to simply reduce those rates to levels more in line with current interest rates. As the bill was working its way through the Senate, it got sidetracked. SB2315 as it currently stands before you leaves the current interest rate assessed for underpayment of corporate income tax at 12%, but lowers the interest rate on corporate income taxes paid by the state on refunds to 6%. On the other

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taxes I mentioned, the interest rate charged on underpayments remains at ~~12%~~^{12%}, but the interest rate paid on refunds is also reduced to 6%.

It is our belief, Mr. Chairman and members of the committee, that interest rates should be the same for both overpayments and underpayments. That was also the opinion of this legislative body in 1999, when at the request of the Tax Commissioner; the existing rates were not only equalized but set at the current 12% rate for the corporate income tax.

For companies like MDU Resources Group, this interest rate disparity is more than a hassle factor, particularly with corporate income taxes. As you might suspect, a company the size of MDU Resources Group is a very large federal and state income tax payer. At times it seems as if we have perpetual federal audits underway, and sometimes we have concurrent audits covering more than one year. Sometimes those federal audits result in refunds and sometimes they result in additional tax assessments. Always, any change in federal filing results in the filing of an amended ND corporate income tax return, which may result in a refund or an additional tax assessment.

Sometimes those audits take a long time to resolve or go back for several years. Let me offer a hypothetical example. Let's say a company such as MDU Resources Group is undergoing a federal audit of corporate income tax returns for tax years 1995 and 1996. It is

possible one year's audit may result in an assessment, while the other year's audit may result in an equal, offsetting refund. Under this scenario, amended returns would be filed in North Dakota which would be offsetting - no additional taxes due. However, with disparate interest rates of 12% on assessments and 6% on refunds, that company could end up paying interest with no additional taxes due! For example, let's say the audit and subsequent amended return for 1996 indicates an additional tax assessment of \$250,000. At 12% that would result in a \$30,000 interest payment X six years, or \$180,000 in interest payments. Let's further assume the tax audit and subsequent amended return for 1995 results in a refund of \$250,000. At 6% interest for seven years, that company would receive interest of \$105,000 (6% X \$250,000 X 7 years). Even though the additional assessment of \$250,000 and the refund of \$250,000 are equal and there is no additional tax payments required, that company would be required to pay \$75,000 in interest!

The purpose of charging or paying interest is to recover the time value cost of money, and when rates get out of sync with that cost, abuses, intended or unintended, can occur. I urge this committee to amend SB2315 in such a way as to equalize the interest rates for both underpayments and overpayments. I don't have a specific interest rate in mind, but perhaps the easiest rate which would not require additional legislation in future years if interest rates climb, would be to tie the interest rate to the prime rate.

In conclusion, Mr. Chairman and members of the committee, we would be happy to work with the Tax Department and/ or this committee on whatever amendments might be necessary to achieve equal interest rates. That concludes my testimony. I would be happy to try to answer any questions.

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