

2013 HOUSE FINANCE AND TAXATION

HB 1464

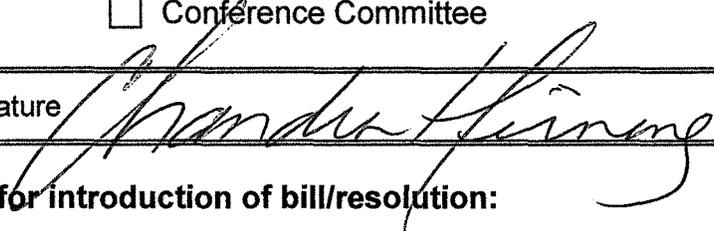
2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1464
February 6, 2013
Job 18386

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes.

Minutes:

Attached testimony #1

Chairman Belter: Opened hearing on HB 1464.

Representative Dosch, District 32: Introduced bill. See attached testimony #1. Elaborated on written testimony to explain graph and diagram, pages 3 and 4.

Representative Marie Strinden: Do you know how we place according to other states in regard to this?

Representative Dosch: I really don't. All I know is that amount we've set has been there for longer than twenty years. We've received \$8.75 increase in twenty-plus years.

Representative Kelsh: Do you have any data as to how many retailers were collecting sales tax from the last biennium versus this biennium? Is there a growth in the number of retailers?

Representative Dosch: Perhaps the tax department knows that.

Chairman Belter: I thought at one time we had different levels of compensation, based on the amount of dollar business done?

Representative Dosch: Last session, there was a bill to increase the compensation allowance. There was some concern about how it would affect the streamline sales tax thing that was occurring at the time. From what I understand, the streamline sales tax had three tiers of reimbursement levels. Toward the end of the session, in the final negotiations it was determined that it really did not affect things. But they kept the lowest level of compensation allowance, which is where this dollar amount of \$93.75 comes in.

Chairman Belter: Further testimony in support of 1464? Any opposition to 1464? Any neutral testimony?

Representative Drovdal: How many retailers is this going to affect going from \$93.75 to \$200? There are a number of retailers not collecting enough sales tax to get to the \$93. In the last session, I believe the compensation bill opened it up so that even the quarterly filers got compensation, whereas before they received nothing. Is that correct?

Myles Vosberg, Tax Commissioner's Office: On the first question about how many permit holders do not hit the cap, I don't have the number. In order to do the fiscal note, we ran a program to look at all the compensation collected, and then we calculated the compensation again if the cap were increased to \$200. I could maybe get that number for you. Regarding the bill last session, there was a bill that would increase compensation, and it was a three tiered system. The more tax a retailer collected, the lower the rate got as you got higher. But it did increase.

Representative Drovdal: I thought it also allowed retailers who paid quarterly...

Myles Vosberg: Prior to last session when the cap was increased from \$85 to \$93.75, only those permit holders that were required to file monthly, because they were the larger filers, were the ones to receive compensation. The bill last year did open it to everyone, whether they file monthly, quarterly, or annually.

Representative Klein: I'm looking at the fiscal note and see the general fund is hit. There's amount in the column for other funds. Where does that come out and why?

Myles Vosberg: That's the state aid distribution fund. Eight percent of all the sales tax collections now goes into the state aid distribution to be given counties and cities.

Representative Froseth: The penalty seems kind of stiff, but I suppose you need an incentive to be able to enforce this. If the penalty equaled the tax liability on the \$93.75, it probably wouldn't be much of an incentive for the business to worry about it. But it does seem kind of high.

Myles Vosberg: The penalty is 5% of the tax. There is a graduated penalty. If someone doesn't file within the first month after the due date, the penalty is 5% of the tax, or \$5. If they fail to file the second month, it's an additional 5%, and that goes on up to 25%. But that's only for those who do not file at all. If it is filed late within that first month, or if it's filed but not paid, then the penalty is 5% of the tax. We have people request waivers of penalty; the Tax Commissioner is eligible to do that. Elaborated with examples of situations for which penalty may be waived.

Representative Kelsh: You're saying there is a month grace period before you're assessed a penalty?

Myles Vosberg: No. The due date is always the last day of the month following the reporting period. So if they file within the next month after the due date, it is a 5% penalty. If they file in the second month late, it's 10%, and so on up to 25%..

Representative Kelsh: Do you have any data of how much of the growth in sales tax is due to new retailers versus existing retailers?

Myles Vosberg: I don't have numbers with me, and I don't know that I can tie the growth in sales tax collections to the new businesses, but I can certainly get you numbers on how many businesses have registered. There has been a substantial increase in the last couple of years.

Vice Chairman Headland: Can you give us an idea of what kind of problem, if there is one at all, of businesses remitting the right amount of sales tax and what kind of a percent of business gets some kind of a fine for not getting it right?

Myles Vosberg: I think you're talking about audit situations. I could provide you with some statistics on audit collections.

Vice Chairman Headland: Is it common in a sales tax audit to find a mistake?

Myles Vosberg: By far, the very largest collections that we have are on tax that was not paid on purchases, equipment, things that companies purchase for their own use rather than tax collected on items that are sold.

Representative Trottier: When we see the numbers on sales tax collected, is that net or gross? Is that before the money is paid back to the retailer?

Myles Vosberg: That is the net collections.

Chairman Belter: Any other neutral testimony?

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1464
February 11, 2013
Job #18703

Conference Committee

Committee Clerk Signature

Mary Bruker

Explanation or reason for introduction of bill/resolution:

A Bill relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes.

Representative Headland: Made a motion to adopt the 01001 amendments.

Representative Hatlestad: Seconded.

Representative Drovdal: The \$200 I agree with as it was probably way too big of a jump but I question whether the \$17 is enough. We as a state get the bills for IT and they are astonished at the amount of money that goes into keeping programs up and redoing programs and so on and I believe the \$17 seems a little low of a jump but this particular time I wish we could jump it up to maybe \$140 or \$150 instead of \$110. I agree that we need to upgrade this as the costs have doubled or tripled in every area including fertilizer over the last few years.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: What are your wishes on 1464?

Representative Klein: Made a motion for a Do Pass as Amended.

Representative Hatlestad: Seconded.

Representative Marie Strinden: Could somebody that is quicker at math let me know about what the new fiscal note would be by adding in those extra dollars?

Representative Drovdal: \$2300 x \$20 roughly would be \$26,000.

Chairman Belter: It's got to be more than that.

Representative Drovdal: That's per month.

Chairman Belter: It's almost a 20% increase.

Representative Drovdal: That's for 20 years.

Representative Kelsh: Since this affects the state aid distribution fund does this mean it has to be re-referred to appropriations?

Chairman Belter: I'm not going to re-fer it to appropriations.

Representative Marie Strinden: I'm going to vote a Do Pass on this but I just want to say that if we are not going to vote to exempt nonprofits from sales tax I wonder why we feel it's more important to give businesses a couple extra \$20 every month. I know a lot of them are family businesses but before voting yes I want to let you know I'm conflicted.

Representative Drovdal: These people are collecting a good share of our income for us and they have expenses to do it. This is just actually a way to cover their expenses. I think when we cause a business to have expenses same as the oil impact dollars because that is the cost of doing business and the government is getting the money so we should send the money back to cover those costs.

Representative Marie Strinden: That's why I'm voting yes on the bill. I'm just sad that we can't help out our nonprofits a little more when they are doing services that help out our government.

Representative Zaiser: I'm questioning because we increased this last year and it is my suggestion in the future that we would tie this to some sort of indusy so that it would go up by a little bit each year and then there wouldn't be any big jump and no argument over the annual increase.

Chairman Belter: When you put things on automatic then in a sense you lose control unless you make a point of going back and redoing them every session.

Representative Zaiser: You're right.

ROLL CALL VOTE:

13 YES

0 NO

1 ABSENT

DO PASS AS AMENDED (.01001)

Representative Hatlestad will carry this bill.

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1464

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,900,000)	\$(339,000)		
Expenditures						
Appropriations						

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

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

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

HB 1464 increases the amount of compensation to sales and use tax permit-holders as reimbursement for the administrative expenses of collecting and remitting sales and use taxes.

- 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.*

Sections 1 and 2 of HB 1464 increase the maximum amount of allowable compensation from \$93.75 to \$200.00 per return.

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

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

If enacted, HB 1464 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$4.239 million in the 2013-15 biennium.

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

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013



13.0722.01001
Title.02000

Prepared by the Legislative Council staff for
House Finance and Taxation Committee
February 7, 2013

VR
2/11/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1464

Page 1, line 11, replace "two hundred" with "one hundred ten"

Page 1, line 20, replace "two hundred" with "one hundred ten"

Renumber accordingly

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

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1464

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0722.01001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
01001
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Hatlestad

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Motion Carries

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

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1464

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0722.0100

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

Motion Made By Rep. Klein Seconded By Rep. Hatlestad

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

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

HB 1464: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1464 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "two hundred" with "one hundred ten"

Page 1, line 20, replace "two hundred" with "one hundred ten"

Renumber accordingly

2013 SENATE FINANCE AND TAXATION

HB 1464

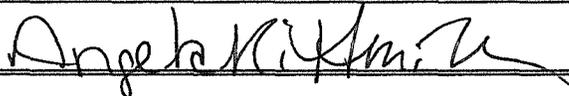
2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1464
3/12/2013
Job Number 19735

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 1 of section 57-39.2-12.1 and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes; and to provide an effective date.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on HB 1464.

Representative Dosch introduced HB 1464 (attachment 1).

Senator Dotzenrod - The filing that is done by retailers, as I understand it it's either monthly or quarterly, this bill doesn't make any distinction between them so regardless, your bill would take the attitude that regardless of monthly or quarterly the compensation you would like to see the monthly compensation for that be capped at \$200.

Representative Dosch - That is correct. I believe the quarterlies don't receive anything right now.

Senator Dotzenrod - As a practical matter this would only apply to the monthly filers.

Representative Dosch - That is correct.

Senator Burckhard - If it goes to \$110 it's a 17% increase which seems like a decent increase, but really, not that much is it.

Representative Dosch - No, especially when you consider last session we raised it \$8.75 and I think the chairman kind of knows about that. It was part of the conference committee at the end. It was supposed to be a 3 tier payment process and they ended up just taking the lowest tier. It has been 20-25 years since that amount had been changed. So you take a business that perhaps would on an annual basis collect \$100,000 in sales tax over the year, they are compensated at that original \$85 level. With prices and volumes and everything going up they are probably collecting \$150,000 but yet they are still being compensated at that same level. My concern is not so much the collection effort but the liability that's out there on the business. (11:02)

Vice Chairman Campbell - Is it the smaller stores that are driving demand for this?

Representative Dosch - It's kind of across the board. The problem is you don't have to be a very big business to hit this maximum. Anything you do over and above that you're not being

compensated at all. Our business, we're a small business and we hit this all the time, the cap. Anything over and above that people aren't being compensated for that although they have the liability of collecting that additional sales tax for the state, being responsible for any errors or anything they do wrong, and yet there is no compensation because they have hit that cap.

Senator Triplett - Do you have any sense whether or not the state tax department enforcement folks exercise any discretion in imposing the liability or is it just kind of a strict enforcement policy? If someone makes the decimal point error that you described and it's the first time they have ever make a mistake, is there some sort a waiver for a first time mistake or everyone is liable equally?

Representative Dosch - It's been my experience when I filed late once, you get busy and all the sudden you get the letter in the mail. They were good because it had never happened before and they said okay get it in we will waive the penalty but on the tax end of it, you owe the tax, if you make a mistake like that, it's my experience that you are going to have to pay that.

Chairman Cook - Have you ever been audited?

Representative Dosch - Did they show you any discretion when you had to pay the... I'm assuming you probably had to pay in, or maybe you got a 100%.

Representative Dosch - I believe I was 99.1% accuracy in our collection efforts but they required us, because when we did get audited it was like 3 years after the fact and in our business we have to be very careful because for example if you are there on state business you are tax exempt (no sales tax for the room), however that's only if it's direct billed to the school or agency and only if paid by agency check, but if someone comes up and says I'm just going to pay cash for this, then we are responsible for collecting sales tax. If you get someone that makes this mistake and says okay your just paying cash we won't collect the tax and we get audited 3 years later and they say no they paid cash you should have collected sales tax and they say you can go back and get it from the person. Yeah, 3 years ago you stayed at our hotel you owe us \$9. It's not going to happen; you pay the tax out of your pocket.

Senator Dotzenrod - We have a fiscal note that shows \$865,000 affect if we went to the \$110 in the House version, do you recall when this bill was introduced on the House side, what the fiscal note was?

Representative Dosch - The original fiscal note they said \$3.9 million and that would be increasing it to \$200.

Senator Dotzenrod - I'm not really personally acquainted with what's involved for the retailer to try to do all this work, but on your example of \$15,000 if you were in a subdivision with no local tax and 5% state tax that would be \$750. That is what you would have to pay to the state. If you had local taxes at another 2% then it would be \$1,050. The local tax goes to the state along with; you don't try to allocate that to locals, just 100% of that 7% goes as one check to the state.

Representative Dosch - We have to break it down, what tax is what on our forms, but we submit everything to the state and the state will then disperse that out.

Senator Triplett - The payment itself is intended to compensate for the hassle and the business of setting up your computer systems and such and training your employees and doing the job, and your concern is about liability issues and I can see where the liability could end up being many multiples of the actual compensation, but they do seem like kind of whole separate issues and I'm wondering if insurance carriers would cover you for that for error or omission. Can you buy insurance against this kind of liability?

Representative Dosch - In this case they don't and it is 2 different issues but it is the collection effort and the work you have to go through, and taxes change, and you have to pay for the reprogramming of your computer, that is all business expense. The other part is if you truly wanted to be fair to businesses you say we will pay you 1.5% of whatever you collect. That would be too much so we cap it but is that cap reasonable.

Senator Triplett - I understand the argument you are making, I'm just not quite making the connection between the slightly higher payments versus the liability. They do seem like different issues and many need a different solution.

Rudie Martinson, North Dakota Hospitality Association - We are the trade association for the restaurant, lodging and retail beverage industries in North Dakota. I just wanted to touch on the issue of sales tax collection in our industry. I have been in front of this committee a few times over the last couple for session's discussing various different issues of how stays in hotel rooms are taxed and Representative Dosch kind of eluded to it. If I work for a state agency and I'm there on state business that's not a taxable room but it's only not a taxable stay if it's paid directly by the state agency, if I pay it and get reimbursed by the agency then tax gets charged on that. Or, if I'm with a state agency or not, if I stay 30 days that is a tax exempt stay as long as I was the only person in the room. If my company pays for it and 2 of us trade off from night to night then it's a taxable stay. If the hotel gets audited 3 years later then they need to prove to the tax department that I was the only one in that room if they didn't not charge the tax. Those kinds of issues do get functionally pretty complicated to collect this tax in hotel related situations. We feel it would be fair to increase this compensation rate a little bit given that it's only gone up \$8.75 over the last 25 years or so.

Senator Oehlke - When this was first established how do you think they calculated the tax? Did they have computers or done by hand?

Rudie Martinson - By hand

Senator Oehlke - I think part of the reason it was \$93 or whatever is because they knew it was going to take the owner or someone 4-5 hours to do all the calculations where now it's a little but different. I have to agree with Senator Triplett when she talks about the different issues between the liability side of things for a mistake versus what the cost is to actually do the calculation. I'm not saying it shouldn't go up, I'm saying there is a difference here.

Bonnie Staiger, National Federation of Independent Business - We are in favor of this bill. I'm with Senator Triplett in thinking about the actual administrative costs outside of the liability, just the escalating cost of paying an administrative person to submit the reports. I'm thinking about a mom and pop shop which 90% of our members, probably don't have the sophisticated computer equipment to do all of those calculations on the computer or have someone who is not entirely comfortable with the computerized process. We feel very strongly that reimbursement should be kept in line with cost of doing business.

Myles Vosberg, Tax Department - I would mention just a couple of things in response to some earlier questions. There are quarterly, semiannual, and annual returns and everyone gets the compensation and that was approved last session when the rate was increased from \$85 to \$93.75. It was also provided to all filers regardless of how often you file.

Senator Triplett - Can you respond to my concern that the bill seems to be trying to solve a different problem in terms of the liability versus the burden on the retailers and do you have any suggestions of how we could think about the liability issue separately if someone makes an honest mistake like the decimal point example.

Myles Vosberg - I would look at those as 2 separate issues. In the law it states the compensation is to help some of the cost associated with setting up systems and programming what items are taxable and so on. I also agree there is a lot of liability for the retailers and we do hold them responsible if there was something that was not taxed. (29:20)

Senator Triplett - Could we make a separate rule that would require the insurance industry to provide them insurance?

Myles Vosberg - I can't answer that.

Myles Vosberg - I do have if anyone is interested printed off the federation of tax administrators' website that provides information about the other states (attachment 2).

Senator Triplett - This is an amazing range from none to \$3,100 a year or \$1,000 a month, how do you explain that?

Myles Vosberg - I don't know that I can. One thing that I would point out is our retailers report by location so the \$93.75 cap that they get is per location. I think that is rare, for most states have all locations report on one return therefore you could come up with some of the larger numbers that way.

Senator Dotzenrod - It looks like in order to hit the \$200 cap at 1.5% that would be about \$13,300 of monthly sales. I don't know in our retailers in North Dakota, would half the retailers in the state hit the \$200 cap?

Myles Vosberg - You would have annual sales of \$3.2 million in order to reach the cap and again it's per location.

Vice Chairman Campbell closed the hearing on HB 1464.

2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1464
3/25/2013
Job Number 20421

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 1 of section 57-39.2-12.1 and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes; and to provide an effective date.

Minutes:

Chairman Cook opened discussion on HB 1464.

Senator Miller - We did this last session, did we not?

Chairman Cook - It used to be \$75 if my memory is correct and we raised it to \$93. We tried to raise it more than that for larger retailers. It ended up in a conference committee and we got stuck at \$93.

Senator Burckhard - As I recall Representative Dosch said it's more about the liability issue if a small business makes a mistake.

Chairman Cook - I will tell you that the compensation that a retailer gets to be the tax collector for the state of North Dakota doesn't even come close to what it costs to actually administer the sales tax collection and Representative Dosch brought out the liability issue and that is very correct. I started mine in 1989 and in 1994 the auditors came, nice guys, they spend 2.5 days, I wrote a check, penalty and interest and then I had to get a whole bunch of money back from Minnesota that I had given Minnesota that North Dakota claimed was theirs. It's a pain in the neck. It's just the price of doing business. To me any compensation you get is a sign, to some degree, of appreciation and it beats the heck out of a Christmas card.

Senator Triplett - I didn't buy Representative Dosch's liability argument because I didn't think that was ever the point of the reimbursement in the first place but I did think the increase to \$110 was a reasonable amount relative to the actual cost of doing business so I would move a **Do Pass and refer to Appropriations**.

Seconded by **Vice Chairman Campbell**.

Roll Call Vote 7-0-0

FISCAL NOTE
Requested by Legislative Council
02/12/2013

Amendment to: HB 1464

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(796,000)	\$(69,000)		
Expenditures						
Appropriations						

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

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

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

Engrossed HB 1464 increases the amount of compensation to sales and use tax permit-holders as reimbursement for the administrative expenses of collecting and remitting sales and use taxes.

- 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.*

Sections 1 and 2 of engrossed HB 1464 increase the maximum amount of allowable compensation from \$93.75 to \$110.00 per return.

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

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

If enacted, engrossed HB 1464 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$865,000 in the 2013-15 biennium.

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

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/13/2013

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1464

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,900,000)	\$(339,000)		
Expenditures						
Appropriations						

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

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

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

HB 1464 increases the amount of compensation to sales and use tax permit-holders as reimbursement for the administrative expenses of collecting and remitting sales and use taxes.

- 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.*

Sections 1 and 2 of HB 1464 increase the maximum amount of allowable compensation from \$93.75 to \$200.00 per return.

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

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

If enacted, HB 1464 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$4.239 million in the 2013-15 biennium.

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

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013

Date: 3-25-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1464

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Triplett Seconded By Senator Campbell

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Campbell

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

REPORT OF STANDING COMMITTEE

HB 1464, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1464 was
referred to the **Appropriations Committee**.

2013 SENATE APPROPRIATIONS

HB 1464

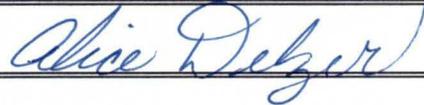
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1464
04-03-2013
Job # 20805

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL regarding Retailer reimbursement (DO PASS)

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Wednesday, April 03, 2013. All committee members were present.

Brady Larson- Legislative Council
Joe Morrissette - OMB

Chairman Holmberg We have before us 1464. Do we have anyone testifying on 1464? This is a Carlisle bill and as I understand it adds the amount of money that a retailer can receive as compensation for collecting sales and use tax from a maximum of \$93.00 to \$100.00.

Senator Carlisle: It ups the fees for the retailers that are collecting. When I had my business you received a little compensation for filling out the form and this basically expands it.

Miles Vosvik, Tax Commissioner's Office: We are neutral on this bill. Right now each retailer is entitled to up to \$93.75 per return that they file of compensation, so it's 1½% of the tax up to that amount. This increases the cap up to \$110.00

Chairman Holmberg: When was the last time this was changed?

Mr. Vosvik: Last session it was increased from \$85.00 to \$93.75. The compensation started back in 1983 when we required retailers to file monthly deposits. Before that everyone was filing quarterly returns and so when they put the monthly deposits in place back in 1983 they provided up to \$250.00 of compensation a quarter and then that was changed in 87 to \$85 a month, until last session.(2.23)

Senator Warner asked if there are multiple locations for one company if that is only one return and asked about the average retail volume.

Mr. Vosvik: It is per location.

Senator Warner: What would be the average retail volume?

Mr. Vosvik: Under \$93.75. The increase would raise it to about \$147, in taxable sales. \$7,300 in taxes to hit the \$110 cap.

Senator Carlisle: Most of the sponsors are mostly business men. You get the form and you have to fill it out.

Senator Carlisle moved a do pass. 2nd Senator Gary Lee .

Chairman Holmberg: Call the roll on a Do Pass on 1464.

A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0.

Chairman Holmberg: This goes back to Finance and Tax. **Senator Campbell will carry the bill.**

The hearing was closed on HB 1464.

FISCAL NOTE
Requested by Legislative Council
02/12/2013

Amendment to: HB 1464

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(796,000)	\$(69,000)		
Expenditures						
Appropriations						

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

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

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

Engrossed HB 1464 increases the amount of compensation to sales and use tax permit-holders as reimbursement for the administrative expenses of collecting and remitting sales and use taxes.

- 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.*

Sections 1 and 2 of engrossed HB 1464 increase the maximum amount of allowable compensation from \$93.75 to \$110.00 per return.

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

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

If enacted, engrossed HB 1464 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$865,000 in the 2013-15 biennium.

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

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/13/2013

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1464

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,900,000)	\$(339,000)		
Expenditures						
Appropriations						

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

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

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

HB 1464 increases the amount of compensation to sales and use tax permit-holders as reimbursement for the administrative expenses of collecting and remitting sales and use taxes.

- 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.*

Sections 1 and 2 of HB 1464 increase the maximum amount of allowable compensation from \$93.75 to \$200.00 per return.

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

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

If enacted, HB 1464 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$4.239 million in the 2013-15 biennium.

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

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/05/2013

Date: 4-3-12

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1464

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By Carlisle Seconded By Lee

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment F & Lee Campbell

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

REPORT OF STANDING COMMITTEE

HB 1464, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1464 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1464

HB 1464

/

HB 1464
2-6-2013

HOUSE FINANCE AND TAXATION COMMITTEE

CHAIRMAN BELTER

FORT TOTTEN

February 6th, 2013

Mr. Chairman and members of the Finance and Taxation committee, for the record my name is Mark Dosch, State Representative from District 32. I'm here today to ask your support for HB 1464 and for business across ND.

HB 1464 simply increases the compensation allowance that business are granted by the state for the collection of state sales and use taxes from the current maximum amount of \$93.75 per month to a maximum of \$200 per month.

To give you a brief history, the compensation allowance was increased last session by \$8.75. This has been the only increase in over 20 years. At the same time, sales tax collections by the state have increased from 717 Million dollars a biennium in 2003-05 to \$2.5 Billion that is estimated in the 2013-15 biennium. (See chart).

In the real world, when business sales increase, insurance companies increase their premiums to cover the increase in sales. The higher the sales, the greater the insurance expense to the business owner. Now, if the state would act in a similar fashion, compensation allowance would have been adjusted each biennium to the same level as the sales tax collections, thus monthly compensation rate would be at least \$350 dollars not the \$93.75 we are currently allowing. HB 1464 is asking an increase to only \$200.

Most business are more than happy to do their part in assisting the State of ND in their tax collection efforts. But at the same time, they simply want to be treated fairly by the State.

Collecting sales tax is one thing, but of great concern to business is the liability that is placed upon the business to assess and remit the tax. Take for example if an owner of a convince store gets in a seasonal shipment of snow shovels for \$2,000 in retail value. Now, when entering in the new item into the stores main computer, the office manager codes the item as nontaxable in error. Hence, when the item is rung up at the tills, no sales tax is collected. Now assume a year later, that business is audited, and the error is found. The tax department will demand payment of the sales tax (\$120 dollars PLUS penalties and interest)

e.p.#1

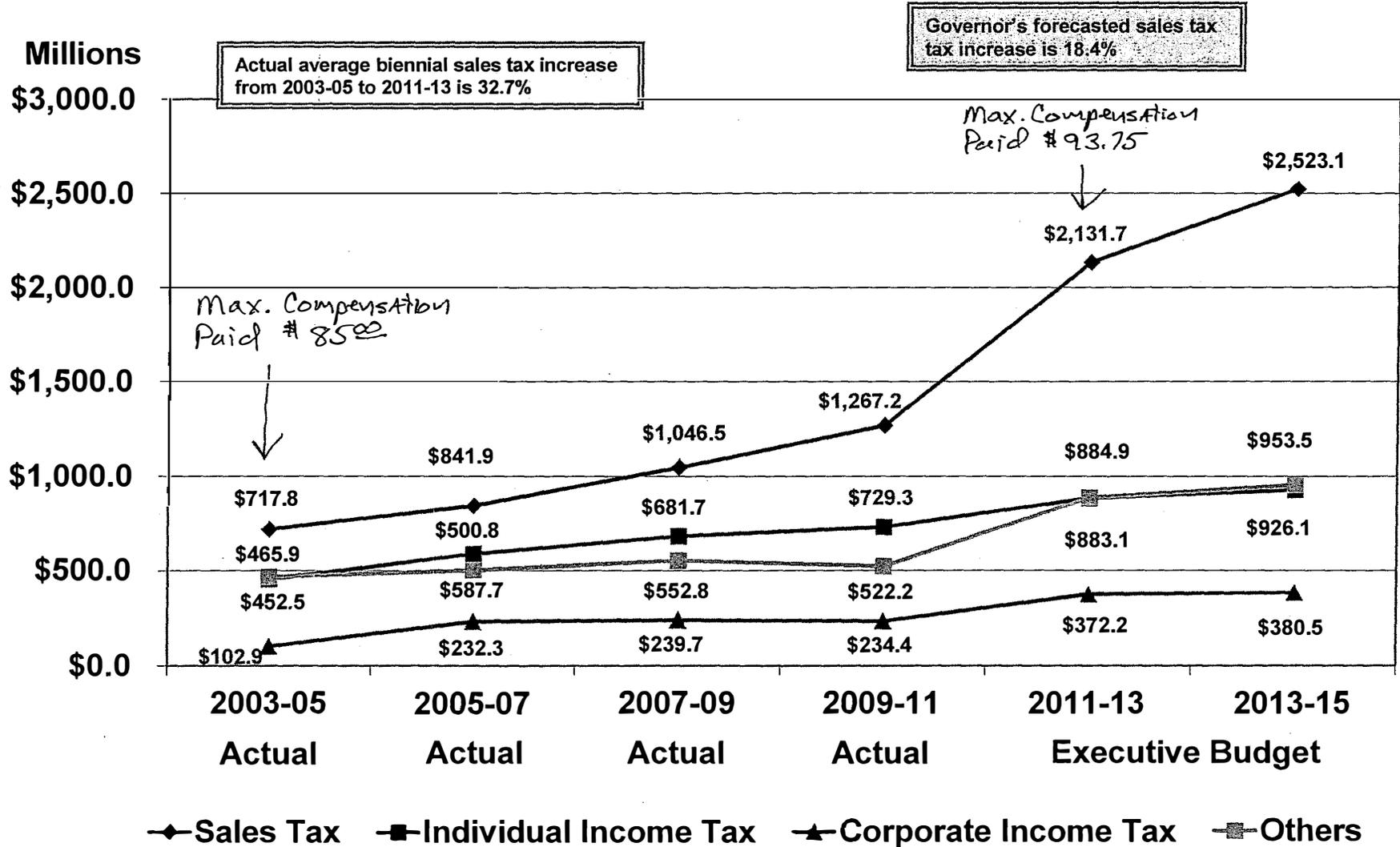
in this case from the proprietor, even though it was not collected. The store owner must absorb the loss, even though it was an honest mistake. THE BUSINESS IS LIABLE.

Now assume, a business makes a mistake, and files his return a few days late. The state will assess substantial penalties to the business. Again, the business is acting as the tax collector for the state, yet THE BUSINESS IS LIABLE. (See the attached example.)

Mr. Chairman and members of the committee, as I said before, business across the state are more than happy to assist the State of ND in their tax collection efforts. But they also realize that one miss step can create enormous liability and expense to the business. Business didn't ask for this responsibility, they didn't ask for this task of being the tax collectors. But yet we require them to do it. Thus, the state should be providing somewhat reasonable compensation to our businesses in ND, which now collects and are held liable for over \$2 Billion dollars of sales tax each biennium to our state.

Thank You.

General Fund Revenues - Major Revenue Types



PENALTY BY LINE

BUSINESS

STATE

15,000 Sales Taxes
x 1.5% Compensation Allowance

15,000
3x Higher → x 5% Penalty

225⁰⁰

750 penalty
NO MAX

↓
93⁷⁵ max paid

8x Higher →

↓
200

→ HR 1464 Increases max Paid to \$200



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

Memorandum

To: Chairman Belter
House Finance and Taxation Committee Members

From: Myles Vosberg
Director, Tax Administration Division

Date: February 10, 2013

Subject: HB 1464

This memo is in response to questions asked by the House Finance and Taxation Committee during the hearing for HB 1464 regarding compensation provided to retailers on sales and use tax returns.

Representative Headland requested information about sales tax audits and the frequency of audit assessments. The table on page 2 of this memo provides statistics for the audit collections, refunds and related penalty and interest resulting from audits resolved during the past two fiscal years.

Representative Kelsh inquired about the growth of sales tax permits and the amount of compensation resulting from that growth. We do not have records that document the amount of compensation paid to new sales tax permit holders. The number of active sales tax permits has grown from 34,905 in January of 2011 to 37,751 in January of 2013 or about 8.2 percent during the two year period.

Representative Drovdal inquired about the quantity of sales tax permits that do not currently reach the \$93.75 compensation maximum. Our program that calculated the fiscal note, counted returns processed that received compensation under the current law and also calculated the number of returns that would have received additional compensation. Based on these volumes of returns, we estimate approximately 2,300 of the existing sales tax permits would receive additional compensation if the maximum amount of compensation per month were increased. Each permit represents a business location (store) and not a separate entity.

I am also attaching to this memo a copy of a table prepared by the Federation of Tax Administrators showing the sales tax rate and vendor compensation for each state. The table is dated January 2013; however, the maximum compensation amount identified for North Dakota is outdated and identifies our retailer compensation maximum as \$85 rather than \$93.75.

If you have additional questions, please contact me at 701-328-3471 or [mvsosberg@nd.gov](mailto:mvosberg@nd.gov).

Sales Tax Audit Collections¹
Fiscal Years 2011-2012

Quantity of Audits		State	Local	Penalty	Interest	Total
	<u>Fiscal Year 2011:</u>					
354	Collections/Receivables	\$8,669,893.79	\$103,499.21	\$53,648.99	\$2,070,311.56	\$10,897,353.55
20	Refunds	-171,272.50	-143,480.66	2,153.45	-27,685.62	-340,285.33
34	No Tax or Refund Due	0.00	0.00	0.00	0.00	0.00
408	Summary 2011	<u>\$8,498,621.29</u>	<u>-\$39,981.45</u>	<u>\$55,802.44</u>	<u>\$2,042,625.94</u>	<u>\$10,557,068.22</u>
	<u>Fiscal Year 2012:</u>					
300	Collections/Receivables	\$10,599,432.53	\$215,921.39	\$105,319.51	\$2,336,441.26	\$13,257,114.69
15	Refunds	-410,612.11	-40,531.27	4,539.74	-136,874.76	-583,478.40
28	No Tax or Refund Due	0.00	0.00	0.00	0.00	0.00
343	Summary 2012	<u>\$10,188,820.42</u>	<u>\$175,390.12</u>	<u>\$109,859.25</u>	<u>\$2,199,566.50</u>	<u>\$12,673,636.29</u>

¹ All collections and refunds are net results for an audit (periods within an audit may have tax due or refund)

STATE SALES TAX RATES AND VENDOR DISCOUNTS

(January 1, 2013)

STATE	STATE SALES TAX RATE	RANK	VENDOR DISCOUNT	MAX/MIN
ALABAMA	4.0%	38	5.0%-2.0% (1)	\$400/month (max)
ALASKA		N/A		
ARIZONA (9)	6.6%	9	1.0%	\$10,000/year (max)
ARKANSAS	6.0%	16	2.0%	\$1,000/month (max)
CALIFORNIA	7.50%	1	None	
COLORADO	2.9%	46	2.22% (4)	
CONNECTICUT	6.35%	11	None	
DELAWARE		N/A		
FLORIDA	6.0%	16	2.5%	\$30/report (max)
GEORGIA	4.0%	38	3.0%-0.5% (1)	
HAWAII	4.0%	38	None	
IDAHO	6.0%	16	None (5)	
ILLINOIS	6.25%	11	1.75%	\$5/year (min)
INDIANA (2)	7.00%	2	0.73% (2)	
IOWA	6.00%	16	None	
KANSAS (9)	6.3%	11	None	
KENTUCKY	6.0%	16	1.75%-1.0% (1)	\$1,500/period (max)
LOUISIANA	4.0%	38	1.1%	
MAINE	5.0%	31	None (5)	
MARYLAND	6.0%	16	1.2%-0.90% (1)	\$500/return (max)
MASSACHUSETTS	6.25%	11	None	
MICHIGAN	6.0%	16	0.5% (6)	\$6/monh (min), \$15,000/month (max)
MINNESOTA	6.875%	7	None	
MISSISSIPPI	7.0%	2	2.0%	\$50/month (max)
MISSOURI	4.225%	37	2.0%	
MONTANA		N/A		
NEBRASKA	5.5%	28	2.5%	\$75/month (max)
NEVADA (9)	6.85%	7	0.25%	
NEW HAMPSHIRE		N/A		
NEW JERSEY	7.0%	2	None	
NEW MEXICO	5.125%	30	None	
NEW YORK	4.0%	38	5.0%	\$200/quarter (max)
NORTH CAROLINA	4.75%	34	None	
NORTH DAKOTA	5.0%	31	1.5%	\$85/month (max)
OHIO	5.5%	28	0.75%	
OKLAHOMA	4.5%	36	1.0%	2,500/month (max)
OREGON		N/A		
PENNSYLVANIA	6.0%	16	1.0%	
RHODE ISLAND	7.0%	2	None	
SOUTH CAROLINA	6.0%	16	3.0%-2.0% (1)	\$3,100/year (max)
SOUTH DAKOTA	4.0%	38	None	
TENNESSEE	7.0%	2	None	
TEXAS	6.25%	11	0.5% (7)	
UTAH (3)	4.7%	34	1.31%	
VERMONT	6.0%	16	None (5)	
VIRGINIA (3)	4.0%	38	1.6%-0.8% (8)	
WASHINGTON	6.5%	10	None	
WEST VIRGINIA	6.0%	16	None	
WISCONSIN	5.0%	31	0.5%	\$10/period (min)
WYOMING	4.0%	38	None	
DIST. OF COLUMBIA	6.0%	16	None	
U. S. MEDIAN	6.0%			26 states allow vendor discounts

Source: Compiled by FTA from various sources.

(1) In some states, the vendors' discount varies by the amount paid. In AL and SC, the larger discounts apply to the first \$100. In GA, the larger discount applies to the first \$3,000. In KY, the larger discounts apply to the first \$1,000, while MD applies the larger discount to annual collections of \$6,000. The lower discounts apply to the remaining collections above these amounts.

(2) Utilities are not permitted to take discount. Collection allowances are 0.73% if total sales tax collected is less than \$60,000; 0.53% if total taxes is between \$60,000 and \$600,000; 0.26% if total sales tax collected is more than \$600,000.

(3) Rate does not include a statewide local rate of 1.0% in VA and 1.25% in UT.

(4) Local option sales tax discount varies from 0% to 3.33%.

(5) Vendors are allowed to keep any excess collections prescribed under the bracket system.

(6) Vendor discount only applies to the first 4.0% of the tax. A 0.75% discount if paid by the 7th of the month.

(7) An additional discount of 1.25% applies for early payment.

(8) Discount varies; 1.2% (1.6% for food) of the first \$62,500, 0.92% (1.2%) of the amount to \$208,000, and 0.6% (0.8%) of the remainder. Applies to the state tax only. No discount allowed on electronically file returns.

(9) Sales tax rate in AZ is scheduled to fall to 5.6% on 6/1/13; KS will fall to 5.7% and NV will fall to 6.5% on 7/1/13.

HB 1464

SENATE FINANCE AND TAXATION COMMITTEE

CHAIRMAN COOK

LEWIS AND CLARK ROOM

March 12, 2013

Mr. Chairman and members of the Finance and Taxation committee, for the record my name is Mark Dosch, State Representative from District 32. I'm here today to ask your support for HB 1464 and for business across ND.

HB 1464 simply increases the compensation allowance that business are granted by the state for the collection of state sales and use taxes from the current maximum amount of \$93.75 per month to a maximum of \$200 per month. (House amended the bill to \$110.00).

To give you a brief history, the compensation allowance was increased last session by \$8.75. This has been the only increase in over 20 years. At the same time, sales tax collections by the state have increased from 717 Million dollars a biennium in 2003-05 to \$2.5 Billion that is estimated in the 2013-15 biennium. (See chart).

In the real world, when business sales increase, insurance companies increase their premiums to cover the increase in sales. The higher the sales, the greater the insurance expense to the business owner. Now, if the state would act in a similar fashion, compensation allowance would have been adjusted each biennium to the same level as the sales tax collections, the monthly compensation rate would be at least \$350 dollars not the \$93.75 we are currently allowing. HB 1464 is asking an increase to only \$110.00 (\$200).

Most business are more than happy to do their part in assisting the State of ND in their tax collection efforts. But at the same time, they simply want to be treated fairly by the State.

Collecting sales tax is one thing, but of great concern to business is the liability that is placed upon the business to assess and remit the tax. Take for example if an owner of a convince store gets in a seasonal shipment of snow shovels for \$2,000 in retail value. Now, when entering in the new item into the stores main computer, the office manager codes the item as nontaxable in error. Hence, when the item is rung up at the tills, no sales tax is collected. Now assume a year later, that business is audited, and the error is found. The tax department will demand payment of the sales tax (\$120 dollars PLUS penalties and interest)

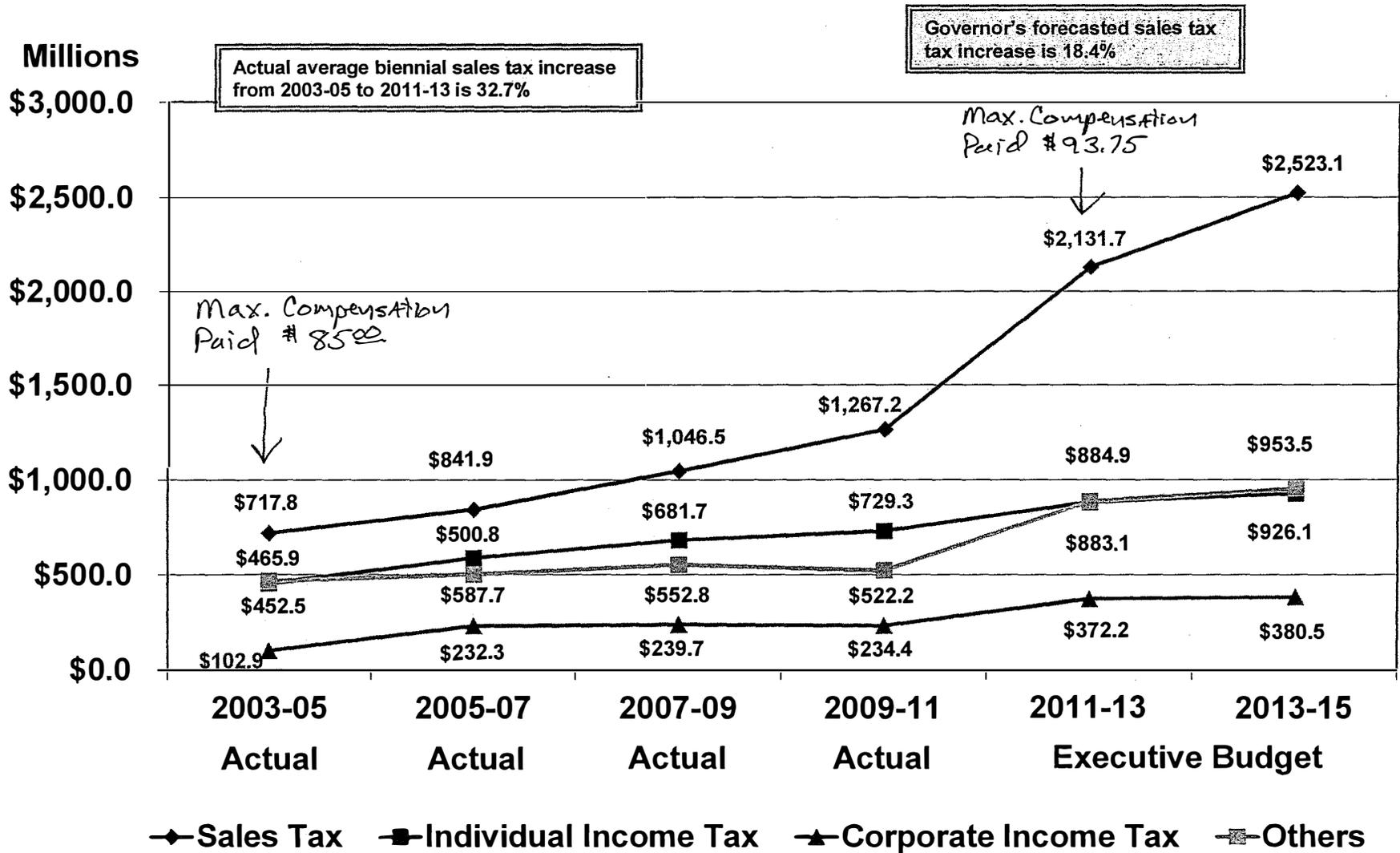
in this case from the proprietor, even though it was not collected. The store owner must absorb the loss, even though it was an honest mistake. THE BUSINESS IS LIABLE.

Now assume, a business makes a mistake, and files his return a few days late. The state will assess substantial penalties to the business. Again, the business is acting as the tax collector for the state, yet THE BUSINESS IS LIABLE. (See the attached example.)

Mr. Chairman and members of the committee, as I said before, business across the state are more than happy to assist the State of ND in their tax collection efforts. But they also realize that one miss step can create enormous liability and expense to the business. Business didn't ask for this responsibility, they didn't ask for this task of being the tax collectors. But yet we require them to do it. Thus, the state should be providing somewhat reasonable compensation to our businesses in ND, which now collects and are held liable for over \$2 Billion dollars of sales tax each biennium to our state.

Thank You.

General Fund Revenues – Major Revenue Types



PENALTY BY STATE

BUSINESS

STATE

\$ 15,000 Sales Taxes
x 1.5% Compensation Allowance

\$ 15,000
3x Higher → x 5% Penalty

\$ 225⁰⁰

\$ 750 penalty
NO
MAX

↓
\$ 93²⁵ max Paid

8x Higher →

↓
\$ 200 → HR 1464 Increases max Paid to \$ 200

Business Friendly ? ?

STATE SALES TAX RATES AND VENDOR DISCOUNTS

(January 1, 2013)

STATE	STATE SALES TAX RATE	RANK	VENDOR DISCOUNT	MAX/MIN
ALABAMA	4.0%	38	5.0%-2.0% (1)	\$400/month (max)
ALASKA	-----	N/A-----	-----	-----
ARIZONA (9)	6.6%	9	1.0%	\$10,000/year (max)
ARKANSAS	6.0%	16	2.0%	\$1,000/month (max)
CALIFORNIA	7.50%	1	None	
COLORADO	2.9%	46	2.22% (4)	
CONNECTICUT	6.35%	11	None	
DELAWARE	-----	N/A-----	-----	-----
FLORIDA	6.0%	16	2.5%	\$30/report (max)
GEORGIA	4.0%	38	3.0%-0.5% (1)	
HAWAII	4.0%	38	None	
IDAHO	6.0%	16	None (5)	
ILLINOIS	6.25%	11	1.75%	\$5/year (min)
INDIANA (2)	7.00%	2	0.73% (2)	
IOWA	6.00%	16	None	
KANSAS (9)	6.3%	11	None	
KENTUCKY	6.0%	16	1.75%-1.0% (1)	\$1,500/period (max)
LOUISIANA	4.0%	38	1.1%	
MAINE	5.0%	31	None (5)	
MARYLAND	6.0%	16	1.2%-0.90% (1)	\$500/return (max)
MASSACHUSETTS	6.25%	11	None	
MICHIGAN	6.0%	16	0.5% (6)	\$6/month (min), \$15,000/month (max)
MINNESOTA	6.875%	7	None	
MISSISSIPPI	7.0%	2	2.0%	\$50/month (max)
MISSOURI	4.225%	37	2.0%	
MONTANA	-----	N/A-----	-----	-----
NEBRASKA	5.5%	28	2.5%	\$75/month (max)
NEVADA (9)	6.85%	7	0.25%	
NEW HAMPSHIRE	-----	N/A-----	-----	-----
NEW JERSEY	7.0%	2	None	
NEW MEXICO	5.125%	30	None	
NEW YORK	4.0%	38	5.0%	\$200/quarter (max)
NORTH CAROLINA	4.75%	34	None	
NORTH DAKOTA	5.0%	31	1.5%	\$93.75/month (max)
OHIO	5.5%	28	0.75%	
OKLAHOMA	4.5%	36	1.0%	2,500/month (max)
OREGON	-----	N/A-----	-----	-----
PENNSYLVANIA	6.0%	16	1.0%	
RHODE ISLAND	7.0%	2	None	
SOUTH CAROLINA	6.0%	16	3.0%-2.0% (1)	\$3,100/year (max)
SOUTH DAKOTA	4.0%	38	None	
TENNESSEE	7.0%	2	None	
TEXAS	6.25%	11	0.5% (7)	
UTAH (3)	4.7%	34	1.31%	
VERMONT	6.0%	16	None (5)	
VIRGINIA (3)	4.0%	38	1.6%-0.8% (8)	
WASHINGTON	6.5%	10	None	
WEST VIRGINIA	6.0%	16	None	
WISCONSIN	5.0%	31	0.5%	\$10/period (min)
WYOMING	4.0%	38	None	
DIST. OF COLUMBIA	6.0%	16	None	
U. S. MEDIAN	6.0%			26 states allow vendor discounts

Source: Compiled by FTA from various sources.

(1) In some states, the vendors' discount varies by the amount paid. In AL and SC, the larger discounts apply to the first \$100. In GA, the larger discount applies to the first \$3,000. In KY, the larger discounts apply to the first \$1,000, while MD applies the larger discount to annual collections of \$6,000. The lower discounts apply to the remaining collections above these amounts.

(2) Utilities are not permitted to take discount. Collection allowances are 0.73% if total sales tax collected is less than \$60,000; 0.53% if total taxes is between \$60,000 and \$600,000; 0.26% if total sales tax collected is more than \$600,000.

(3) Rate does not include a statewide local rate of 1.0% in VA and 1.25% in UT.

(4) Local option sales tax discount varies from 0% to 3.33%.

(5) Vendors are allowed to keep any excess collections prescribed under the bracket system.

(6) Vendor discount only applies to the first 4.0% of the tax. A 0.75% discount if paid by the 7th of the month.

(7) An additional discount of 1.25% applies for early payment.

(8) Discount varies; 1.2% (1.6% for food) of the first \$62,500, 0.92% (1.2%) of the amount to \$208,000, and 0.6% (0.8%) of the remainder. Applies to the state tax only. No discount allowed on electronically file returns.

(9) Sales tax rate in AZ is scheduled to fall to 5.6% on 6/1/13; KS will fall to 5.7% and NV will fall to 6.5% on 7/1/13.