

2013 SENATE FINANCE AND TAXATION

SB 2358

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2358

2/6/2013

Job Number 18347

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 57-39.2-02.1, subsection 1 of section 57-40.2-02.1, and section 57-40.3-02 of the North Dakota Century Code, relating to a reduction in the rate of state sales, use, and motor vehicle excise taxes; and to provide an effective date.

Minutes:

Testimony Attached

Chairman Cook opened discussion on SB 2358.

Senator Sinner introduced SB 2358, attachment 1.

Chairman Cook - What's the trend been in sales tax over the last 20 years as far as changing sales tax policy?

Senator Sinner - There's been a lot of exemptions adopted and I think for the most part I think sales taxes in North Dakota have risen.

Chairman Cook - My fear is that once we go to 4.5% we are just going to give another .5% grab to local government and that in fact the people in North Dakota will not end up with any tax relief.

Senator Sinner - I would gladly accept an amendment to limit local sales taxes to where they are today, cap them at 2%.

Senator Burckhard - The fiscal note says \$286 million reduction in revenue.

Senator Sinner - I believe that when I looked at this I looked at \$134 million a year and maybe I got the property tax relief number wrong, that might have been a biennial number.

Vice Chairman Campbell - From people of all income levels, a lot of them aren't even aware what the tax is on clothing. All I hear from where I come from is property tax relief or income tax relief. Not one single person has brought this us. Not that there aren't some out there that would be concerned about it, but where I come from this isn't an issue.

Senator Sinner - Regarding property tax, I would agree fully. That is why in my proposal the majority of the tax relief is property tax relief. This sales tax bill, you go and talk to corporations and companies that spend a lot of money on equipment but pay this tax and it is a huge tax for them.

Senator Miller - How do you feel in terms of the city government, local government that levies taxes, sales tax, what do you think that money should be used for?

Senator Sinner - I have a problem with city sales tax the way it is. I think part of the reason that cities assess sales tax or process tax to begin with is that they didn't get enough aid. This all started back in the 1980's I believe when local governments didn't have enough revenue to pay for their services and so they had to come up with another way to raise revenue.

Discussion followed on counties imposing a tax and how that money is spent. (13:00)

Sandy Clark, North Dakota Taxpayers Association - We will support any bill that calls for a tax reduction. When I looked at the January revenue newsletter from OMB I think the 2011-13 biennium to date, through December 2012 sales tax revenue was up 84% so we think there is a real opportunity here. We think this is an excellent method to return budget surplus money to the taxpayer. The government should not collect more than it needs to operate the government. If citizens have more money in their pocket they spend it. That results in more sales tax income to replace some of the reduction from the lower sales tax rate. (19:08)

Jon Godfread, Greater North Dakota Chamber - We are in opposition to this for the same concerns that have been shared. We are concerned without a mechanism to stop the locals from eating up this tax reduction that it really won't be a tax reduction. It would be a lot more appetizing with the sponsor's amendment.

Chairman Cook - How would we cap it? Cap it where they are at or at the rate the highest one is at?

Jon Godfread - We'd have to look at how we'd work that, but I think there is a way we could do it.

Brief discussion followed on local government and tax options/possibilities.

Chairman Cook - If this bill was to go to the governor would we need to change that effective date? The rate change would have to start at the beginning of a quarter so really the earliest we could start would be October 1st.

Blaine Braunberger, Tax Department - That would probably provide more flexibility to us to remain in compliance with the streamline agreement.

Chairman Cook closed the hearing on SB 2358.

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2358
2/6/2013
Job Number 18373

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 57-39.2-02.1, subsection 1 of section 57-40.2-02.1, and section 57-40.3-02 of the North Dakota Century Code, relating to a reduction in the rate of state sales, use, and motor vehicle excise taxes; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2358.

Chairman Cook - It's got a \$286 million fiscal note. I tend to agree with Sandy Clark, I like anything that reduces taxes, but I'm afraid, in my opinion, this will not reduce taxes for long. It will just be eaten up by political subs.

Senator Miller - I support the principal here. I want to make sure though that we have caps because I don't want this thing to be something where we pass the tax cut and then everyone starts raising a half a penny and then we're sitting here with less equity amongst the smaller communities that don't have that ability to generate taxes. But, if there was a proposal and this is probably a whole different kind of proposal, if we were to do something such as raise the state sales tax, cap the cities at like a penny and just let everybody levy a penny, and that is their own money to play with, and then we increase the distribution in some fashion. I have a very big problem with using sales taxes to fund things like economic development because, yeah, it can be good and the principal is to create jobs, but so often we see projects like in Fargo that was proposed a few years ago, a half a penny, that was so broad, it wasn't necessarily for economic development, it was for research and things like that. You've got rich companies, large companies with lots of money coming and taking money from sales taxes which are being paid by everybody and there's a huge inequity.

Chairman Cook - They are thinking they are going to get something in return from that investment and that is how they justify that. About the only way I could support this bill is if the amendments capped every political subdivision at where they are at right now. (4:10)

Senator Dotzenrod - It does seem like when these local communities take on sales tax the people outside the community will either react in a positive supportive way or pretty negatively depending on what it's used for. I was surprised during the time when they put

the half cent on for the Dome how out in the county there was wide support, but when you use it for a city water system or for economic development, or education, there is a different reaction you get. If we put a cap in, would it make any sense to have the half cent reduction and the cap together and make it a 2 year proposition?

Chairman Cook asked **Senator Dotzenrod** and **Senator Triplett** to visit with John Walstad as to what ability the legislature has to cap cities and counties ability to levy a sales tax.

Chairman Cook closed discussion on SB 2358.

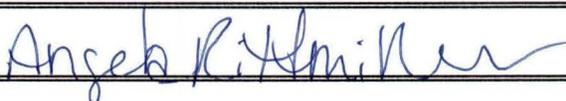
2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2358
2/11/2013
Job Number 18659

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 57-39.2-02.1, subsection 1 of section 57-40.2-02.1, and section 57-40.3-02 of the North Dakota Century Code, relating to a reduction in the rate of state sales, use, and motor vehicle excise taxes; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2358.

There was brief discussion about home rule charter.

Chairman Cook - How would we impose a cap at 2% on taxing jurisdictions? If you're in a county the county and the city together has to be capped at 2%.

John Walstad, Legislative Council - I don't think what is in this amendment does that. So the intention would be that this would not disrupt any existing combined county city rate that beginning July 1, 2013 anything on the ballot could not put a rate in place that would be more than 2%.

Chairman Cook - Yes

John Walstad - Counties could put cities out of the sales tax game by triggering delayed rates that would trigger into effect when city rates die.

Chairman Cook - The city is still in the county.

John Walstad - But the city wouldn't get the revenue. The county could eventually have a 2% rate and no cities would have any.

Senator Triplett - Encourage cities and counties to work together.

John Walstad - Maybe another way of dealing with this is keep the questions off the ballot if the combined rate of a city and county sales tax increase would put the consolidated rate beyond 2%. Then they would have to work together.

Chairman Cook closed discussion on SB 2358.

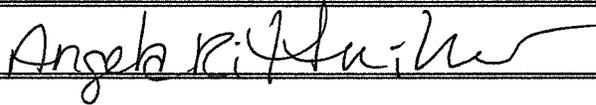
2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2358
2/11/2013
Job Number 18713

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 57-39.2-02.1, subsection 1 of section 57-40.2-02.1, and section 57-40.3-02 of the North Dakota Century Code, relating to a reduction in the rate of state sales, use, and motor vehicle excise taxes; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2358.

Senator Dotzenrod - I move that we adopt the amendments numbered 13.0824.01002.

Seconded by **Senator Triplett**.

Chairman Cook - I am afraid that if we go down this road that you will see a race in local governments to get up to 2%. I think in most counties without a major city in the county you are going to see the county go after the tax.

Verbal Vote on Amendment 7-0-0

Senator Dotzenrod - I haven't talked to Senator Sinner so I don't know what he would think of turning this in to a 2 year bill. I think he probably wanted it permanent. I think a 2 year bill would make it more passable and probably make it so that that race to get to the 2% wouldn't take place.

Chairman Cook - The other thing I would suggest is that we change that effective date to taxable events beginning after October 1st. That would reduce the fiscal note. We want the cap to go into effect immediately but the tax rates that are in section 1, 2 and 3 would be September 30, 2013. So it would be sections 3, 4 and 5. Section 4 would be sections 3, 4 and 5 of this act are effective for events occurring after September 30, 2013; section 1 and 2 would be effective after June 30, 2013.

Senator Triplett - I'll move that amendment.

Seconded by **Senator Miller**.

Verbal Vote on Amendment 7-0-0

Senator Triplett - I'll move a **Do Pass as Amended and re-refer to Appropriations.**

Seconded by **Senator Dotzenrod.**

Roll Call Vote 6-1-0

Carried by **Senator Dotzenrod.**

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2358

- 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			\$(286,000,000)			
Expenditures						
Appropriations						

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

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

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

SB 2358 reduces the sales, use and motor vehicle excise tax rates from 5% to 4.5%.

- 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, 2 and 3 of SB 2358 reduce the sales, use and motor vehicle excise tax rates from 5% to 4.5%. The sales tax rate on mobile homes and the gross receipts tax rates on liquor and farm machinery are not affected by this bill.

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, SB 2358 is expected to reduce state general fund revenues by an estimated \$286 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



PROPOSED AMENDMENTS TO SENATE BILL NO. 2358

Page 1, line 1, after "reenact" insert "subsection 2 of section 11-09.1-05, subsection 16 of section 40-05.1-06,"

Page 1, line 2, after "to" insert "a limitation on the rate of sales, use, and gross receipts taxes imposed by a city or county under home rule authority and"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects. After ~~December 31, 2005~~ June 30, 2013, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs,

on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by a city, would make the consolidated rate of county and city taxes more than two percent in any part of the county.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

SECTION 2. AMENDMENT. Subsection 16 of section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

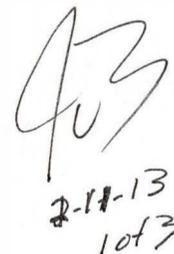
- 16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. ~~After December 31, 2005~~ June 30, 2013, sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs,

on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by the county, would make the consolidated rates of county and city taxes more than two percent in any part of the county."

Renumber accordingly

February 11, 2013



Handwritten signature and date: 2-11-13
1 of 3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2358

Page 1, line 1, after "reenact" insert "subsection 2 of section 11-09.1-05, subsection 16 of section 40-05.1-06,"

Page 1, line 2, after "to" insert "a limitation on the rate of sales, use, and gross receipts taxes imposed by a city or county under home rule authority and"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects. After ~~December 31, 2005~~ June 30, 2013, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs,

2 of 3

on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by a city, would make the consolidated rate of county and city taxes more than two percent in any part of the county.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

SECTION 2. AMENDMENT. Subsection 16 of section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- 16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. ~~After December 31, 2005~~ June 30, 2013, sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs,

on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by the county, would make the consolidated rates of county and city taxes more than two percent in any part of the county."

Page 4, line 1, replace "This" with "Sections 3, 4, and 5 of this"

Page 4, line 1, replace "is" with "are"

Page 4, line 2, replace "June" with "September"

Renumber accordingly

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

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2358

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0824.01002 title 02000

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

Motion Made By Senator Dotzenrod Seconded By Senator Triplett

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

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

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2358

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0824.01003 title 02000

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

Motion Made By Senator Triplett Seconded By Senator Miller

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 2-11-13
 Roll Call Vote #: 3

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2358**

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 Dotzenrod

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

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Dotzenrod

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

REPORT OF STANDING COMMITTEE

SB 2358: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2358 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 2 of section 11-09.1-05, subsection 16 of section 40-05.1-06,"

Page 1, line 2, after "to" insert "a limitation on the rate of sales, use, and gross receipts taxes imposed by a city or county under home rule authority and"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects. ~~After December 31, 2005~~ June 30, 2013, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.

- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by a city, would make the consolidated rate of county and city taxes more than two percent in any part of the county.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

SECTION 2. AMENDMENT. Subsection 16 of section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- 16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. ~~After December 31, 2005~~ June 30, 2013, sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

- e. May not be placed on the ballot for approval of a tax to be imposed after June 30, 2013, at a rate that, in combination with the rate of tax to be imposed by the county, would make the consolidated rates of county and city taxes more than two percent in any part of the county."

Page 4, line 1, replace "This" with "Sections 3, 4, and 5 of this"

Page 4, line 1, replace "is" with "are"

Page 4, line 2, replace "June" with "September"

Renumber accordingly

2013 SENATE APPROPRIATIONS

SB 2358

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2358
02-20-20-13
Job # 19242

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A BILL for reduction in the rate of state sales, use and motor vehicle excise taxes (DO NO PASS)

Minutes:

Attached testimony

Chairman Holmberg called the committee to order on Wednesday, February 20, 2013 in regards to SB 2358. All committee members were present. Brady Larson, Legislative Council and Joe Morrisette, OMB were present.

Senator George Sinner - District 46 - Introduced the bill - See written testimony (1)

Vice Chairman Bowman - Asks Senator Sinner about the statement he made and if it was his intent to let out of state oil companies benefit from the sales tax reduction to which Senator Sinner replies yes and in regards to major out of state corporations he was referring to income tax relief.

Vice Chairman Grindberg -Asks Senator Sinner how he came about his figures, Senator Sinner said they came out of the tax booklet provided by the state tax department. He explains how he thinks the tax department comes up with numbers.

Vice Chairman Bowman -Asks Senator Sinner if it his intention to lower the amount of revenue that political subdivisions get from tourism dollars that are generated from out of state people. Senator Sinner said no that this does not affect local sales tax collections and he believes out of state visitors will spend more because our taxes are lower.

Chairman Holmberg asks if there is a requirement in here that local governments could add ½ percent, is there a shift from the state receiving this money to the locals receiving the money and the tax payers getting no relief. Senator Sinner said that amendment failed in the Senate that the committee passed but the full Senate rejected.

Chairman Holmberg - Asks if it is possible for the city of Fargo to raise it by ½ percent. Senator Sinner replies yes but that is a local decision voted on by local people.

Vice Chairman Grindberg moved a do not pass. 2nd by Vice Chairman Bowman.

Discussion

Vice Chairman Grindberg says he doesn't think this is something people are looking for.

A Roll Call vote was taken. Yea: 11; Nay: 2; Absent: 0.

Vice Chairman Grindberg will carry the bill.

The hearing was closed on SB 2358.

FISCAL NOTE
Requested by Legislative Council
02/13/2013

Amendment to: SB 2358

- 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			\$(250,000,000)			
Expenditures						
Appropriations						

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

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

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

Engrossed SB 2358 reduces the sales, use and motor vehicle excise tax rates from 5% to 4.5%. It also restricts the local option sales tax rates that can be imposed by cities and counties after July 1, 2013.

- 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 3, 4 and 5 of engrossed SB 2358 reduce the sales, use and motor vehicle excise tax rates from 5% to 4.5%. The sales tax rate on mobile homes and the gross receipts tax rates on liquor and farm machinery are not affected by this bill. The rate reductions would become effective October 1, 2013.

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

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

If enacted, engrossed SB 2358 is expected to reduce state general fund revenues by an estimated \$250 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: 02/14/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2358

- 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			\$(286,000,000)			
Expenditures						
Appropriations						

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

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

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

SB 2358 reduces the sales, use and motor vehicle excise tax rates from 5% to 4.5%.

- 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, 2 and 3 of SB 2358 reduce the sales, use and motor vehicle excise tax rates from 5% to 4.5%. The sales tax rate on mobile homes and the gross receipts tax rates on liquor and farm machinery are not affected by this bill.

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, SB 2358 is expected to reduce state general fund revenues by an estimated \$286 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: 2-20-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2358

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Grindberg Seconded By Bowman

Senators	Yes	No	Senator	Yes	No
Chariman 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) 11 No 2

Absent _____

Floor Assignment Grindberg

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

REPORT OF STANDING COMMITTEE

SB 2358: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO NOT PASS (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2358 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2358

Testimony to the Senate Finance & Tax Committee

Wednesday, February 6, 2013

Mr. Chairman and members of the committee,

My name is George Sinner, I am the Senator from District 46.

Thank you for allowing me to come before you today to present my testimony on Senate Bill 2358. As you know, SB 2358 reduces the amount of sales and use tax from the current 5% to 4½%.

Senate Bill 2358 is part of my three phase plan to provide comprehensive tax relief to the residents of District 46 and the citizens of North Dakota.

1. Exempting clothing from sales taxes - cost about \$40 million.
2. Reducing the sales tax by one half percent - cost about \$135 million.
3. Reducing property taxes across the board by 40% for all properties in North Dakota in Senate Bill 2362 which has not yet been heard. SB 2362 has a fiscal note of about \$825 million, most of which was already set forth in other program. This bill, however, will provide an element of fairness that all other bills lack.

All total, these bills provide over \$1 billion in across the board fair tax relief to the tax payers of North Dakota.

The purpose of Senate Bill 2358 is simple. It provides broad based tax relief to all North Dakota taxpayers, including all corporations, all companies, all partnerships, and all individuals who spend money in this State. When analyzed on a per capita basis, did you know that North Dakota's sales tax collections are the third highest in the nation at \$1709 per person in 2011? And, with the increases shown in 2012, we all know that this number will be much higher.

The last time I appeared before this committee, the honorable chairman asked a question regarding the regressiveness of sales taxes? If we agree that sales taxes are regressive as stated, then why would we not provide tax relief by lowering the most regressive all taxes? I believe that 10% reduction of the sales tax is both fair and affordable.

Mr. Chairman and members of the committee, some would have us believe that the current system of taxation in North Dakota is fair...I submit to you that it is not. In fact, I strongly disagree. And, to further the regressiveness of our tax revenue system, we have heard proposals to provide individual income tax relief as well as income tax relief for corporations doing business in North Dakota. While, I will nearly always support tax relief that goes to individuals, I find it unconscionable for this committee and the full Senate to even consider giving tax relief, 82% of which goes to out of state companies

conglomerates like Berkshire Hathaway whose chairman has publicly stated that our income tax rates are too low on the wealthiest of our society. Again, let me ask you...why would you sent tax relief to someone asking us not to? What sense does that make? Think about it...that's what we are doing by providing corporate tax relief. And again I ask you, how will you explain that to your constituents when they ask? How will you answer the question about why you gave tax relief to Walmart and passed on the opportunity to help both the customer and Walmart?

Mr. Chairman and members of the committee, I recommend that you forward this bill to the full Senate with a unanimous Do-Pass recommendation and provide tax relief to all taxpayers in North Dakota. Thank you.



Testimony to the Senate Appropriations Committee

Wednesday, February 20, 2013

Mr. Chairman and members of the committee,

My name is George Sinner. I am the Senator from District 46.

Thank you for allowing me to come before you today to present my testimony on Senate Bill 2358. As you know, SB 2358 reduces the amount of sales and use tax from the current 5% to 4½%, a reduction of 10%.



The purpose of Senate Bill 2358 is simple. It provides broad based tax relief to all North Dakota taxpayers, including all corporations, all companies, all partnerships, and all individuals who spend money in this State. When analyzed on a per capita basis, did you know that North Dakota's sales tax collections are the third highest in the nation at \$1709 per person in 2011? And, with the increases shown in 2012, we all know that this number will be much higher.



If we agree that sales taxes are among the most regressive of all forms of taxation, then why would we not provide some tax relief by lowering the most regressive all taxes? I believe that this 10% reduction of the sales tax is both fair and affordable.

/

Mr. Chairman and members of the committee, some would have us believe that the current system of taxation in North Dakota is fair...I submit to you that it is not. In fact, I strongly disagree. And, to further the regressiveness of our tax revenue system, we have heard proposals to provide additional tax relief in the form of individual income tax relief and corporate income tax relief.

While, I will nearly always support tax relief that goes to individuals, I find it unconscionable for the legislature to even consider giving tax relief to out of state companies & conglomerates like Berkshire Hathaway whose chairman has publicly stated that our income tax rates are too low on the wealthiest of our society. Again, let me ask you...why would you sent tax relief to someone asking us not to? What sense does that make? Think about it...that's why I am here today... to offer this form of tax relief that will go to all taxpayers in North Dakota.

And again I ask you, how will you explain these questions to your constituents when they ask? How will you answer the question about why you gave tax relief to Walmart and passed on the opportunity to help both the customer and Walmart?

Mr. Chairman and members of the committee, I recommend that you forward this bill to the full Senate with a Do-Pass recommendation and provide tax relief to all taxpayers in North Dakota. Thank you.