FISCAL NOTE

Bill #:	HB0592	**Title:**	Standardize penalty and interest calculations for taxes
Primary Sponsor:	Waitschies, K	**Status:**	As Amended in Senate Committee

Sponsor signature Date | David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$0	$0
Revenue:		
General Fund	$541,659	$68,706
Net Impact on General Fund Balance:	$541,659	$68,706

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. HB 592 revises the methods used to determine penalty and interest applied to taxes, fees, and other assessments administered by the Department of Revenue, and the interest rate and penalties applied. This bill, as amended, does the following:
    a) late payment interest penalties are reduced for all individual income tax filers;
    b) late payment interest penalties are reduced for corporate license tax filers who self-assess and report the interest (rather than being assessed the interest due to a Department audit);
    c) the total amount of penalty that can be assessed is reduced for all taxes subject to 15-1-216, MCA;
    d) interest payments imposed on individual income taxes not paid when due will be based on the current 4th quarter IRS interest rate, or 8%, whichever is greater.

The table on the following page provides the changes from current law:

HB 592 - Changes in Penalties and Interest Rates

Type of Penalty / Interest	CL Amount	PL Amount
Late pay penalty rate	1.5% per month on unpaid balance not to exceed 18% of taxes due	1.0% per month on unpaid balance not to exceed 15% of taxes due- Individual Income and Corporate License and Withholding Taxpayers
		1.5% per month on unpaid balance not to exceed 15% of taxes due - Other Business Taxes
Purposeful late pay penalty	Lesser of 25% of amount due or $200	Not less than $1,000 and not more than $10,000
Interest - Individual Income Tax	12% per year	Rate is 8% or rate based on IRS Code 26 computed from due date but updated each 4th quarter which ever is greater

2. The late pay penalty rate would be lowered from 1.5% to 1.0% for unpaid individual income taxes, withholding, and corporate license taxes, and the maximum amount that could be assessed is reduced by 16.7% (from 18% to 15% of the taxes due). It is assumed that lowering the maximum penalty amount would impact 1% of current penalties collected. Under current law, at the 1.5% rate per month, the maximum amount is reach in 12 months. Under the proposal, because of the rate change and the lower maximum assessment, it would take 15 months to reach the maximum assessment amount.
3. The interest rate for individual taxpayers would also be lowered from 12% to either 1) the rate reported in Section 6621 of the Internal Revenue Code for the fourth quarter of the preceding year, or 2) 8%, whichever is greater.
4. Currently, under 15-30-142(6), MCA, if the Department determines that a taxpayer owes more tax than the amount paid, the taxpayer has 60 days from the time of notification to pay the additional amount due without having to pay any penalty. This bill amends this section and provides that the penalty applies to the under-paid amount from the date the taxes were due. This results in an additional two months of revenue from the assessed penalty rate each year.
5. The penalty and interest provisions of the bill in Section 2 are effective January 1, 2007 and apply to tax periods beginning after December 31, 2006. Other sections are effective and apply beginning July 1, 2005.
6. The impact from the penalty rate changes would be on returns filed for tax year 2007 and would not affect revenues until FY 2008.
7. FY 2004 penalty collections from individual taxpayers and corporate license taxpayers totaled $3,249,955. Interest collections from individual income tax filers and corporations who self-assessed and reported interest on unpaid taxes totaled $5,298,788. Combined, penalties and interest totaled $8,792,967.
8. In FY 2006 and FY 2007, the Department would receive an additional **$541,659** ($3,249,955 X .167% (or two months out of the year) from immediate implementation of penalties as provided for in Section 4 on penalty and interest rates assessed on tax year 2005 and 2006 returns at current rates.

9. Lowering the interest rate on individual income taxes not paid starting January 1, 2007 reduces FY 2007 revenue by $472,953, as shown in the following table:

Interest in FY 2006	Annualized Interest Collections on Unpaid Taxes	% of Revenue Received During Second Half of FY 2007	Estimated Interest Payment for Second Half of FY 2007	Interest Income Lost due to Rate Reduction (33%)
Ind. Income Tax	$2,047,416	70%	$1,433,191	($472,953)

10. This interest rate revenue loss is offset by the gain of $541,659 due to immediate implementation of penalties and additional auditing revenues of $460,000 for a net revenue gain of $528,706 in FY2007.
11. The Department anticipates no increase in administrative expenses due to this proposal.

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
Revenues:		
General Fund (01)	$541,659	$68,706
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$541,659	$68,706

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
None.

LONG-RANGE IMPACTS:
FY 2008 is the first year in which all provisions of this bill would be in effect. It is estimated that general fund revenues would be reduced annually by an estimated $1,309,564, as discussed in the following sections:

- The projected impact of the interest rate reduction from 12% to 8%for individual income tax is estimated as ($675,647) or ($2,047,416) X 33%.
- The projected loss in penalty revenues is estimated as **$713,906**. This penalty revenue reduction is the net effect of three factors: (1) a *loss in revenue* of **$1,072,485** ($3,249,955 X rate reduction of 33% = $1,072,485) due to the penalty rate reduction; (2) *a gain in revenue* due to an additional two months assessed penalty revenues at the *proposed* law rates (associated with immediate implementation of penalties in Section 8) of $**362,912** ($3,249,955 X .167% (or two months out of the year) X 2/3 the current rate = $362,912), and (3) a *loss in revenue* of **$(4,333)** due to a reduction in the amount of maximum penalties assessed, as the top penalty rate drops from 18% to 15% but the maximum assessment would be reached over 15 months instead of the 12 months under current law rates ($3,249,955 X 1% of accounts X .167 X .8 = $4,333).
- The above two factors reduce general fund revenues by an annualized amount of $(1,389,553).

- Under the proposal, other unpaid taxes subject to 15-61-216, MCA (natural resources, withholding, lodging / accommodations, retail telecommunications) with tax liability above $3,000 would still be assessed at a penalty rate of 1.5%, but the total maximum penalty assessed is reduced from 18% to 15% of the unpaid taxes due but the maximum assessment would be reached over 15 months instead of the 12 months under current law rates. It is assumed that lowering the maximum would impact 1% of current penalties collected. In fiscal year 2004, all these accounts had liability above $3,000 and represented $8,021 in penalty collections. Based on these FY 2004 figures, general fund revenue collections would be reduced annually by $10.69 ($8,021 in penalties X 1% of accounts X .17% maximum assessment amount reduction X .8 = $10.69).
- Section 2 of this proposal would increase the amount of penalty for *purposefully* filing a late return from $200 to not less than $1,000 and not more than $10,000. The $200 penalty is currently assessed on 100 taxpayers annually. Assuming the same rate of assessment at the rate of $1,000, this would increase annual assessment revenue by a total of $80,000 annually ($1,000-$200 X 100).
- Combining the impact on unpaid individual income / corporate license taxes with those from other taxes less the increase in revenues from assessments on purposeful non-filing, the total anticipated annual impact from this proposal is a reduction to the general fund of $1,329,564.