

2011 HOUSE FINANCE AND TAXATION

HB 1289

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
January 24, 2011
#13264

Conference Committee

Committee Clerk Signature *Mary Bruckey*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

Please refer to attached testimony #1, #2

Representative Kasper: Sponsor. Support. This bill deals with North Dakota state income tax and a reduction in the tax across the board of 18%. I have not seen the fiscal note I wish I had it but I have not seen it. It would be a nice number to know.

Chairman Wesley R. Belter: Would you like to know? It's \$99,154,000.

Representative Kasper: Thank you for that information. This bill and others that you're hearing today and maybe in the next week or so deal with a fundamental decision the legislature has to make during this session. What is the policy of the state of North Dakota going to be regarding the excess dollars we're collecting in all kinds of taxes, whether it's income tax, corporate income tax, oil production tax, sales tax, you name it we have taxes all over the place. The great thing about what's happening in North Dakota is we have too much of it. So here's the question that I know your committee is going to wrestle with and the rest of the legislature, what are we going to do with excess money? There's some who want to spend all the money because there's going to be more money next session and more money the following session. There are others who want to spend some of the money. I might fall into that category where we may need to spend some of those excess dollars such as one time expenditures. I think the greatest thing we can do to promote economic prosperity for our state and to help our citizens build their businesses in the private sector is to begin gradually to reduce the income taxes and the other taxes that we're collecting to the various sources so that they and the private sector can build their businesses which they will create jobs. That will mean more economic prosperity. That will mean more opportunity for our citizens who go to college and want to stay in North Dakota but can't find a career path. For those people of North Dakota who have not had their education yet but maybe they would be encouraged to do so had we had the entrepreneur companies starting and hiring with better wages. A simple bill gives some of the money back to the people of North Dakota that we're taking it from so we don't spend it and we help the private sector and the individuals of our state have the money. They will spend it better than this government ever can.

Vice Chairman Craig Headland: Co-sponsor. Support. I agree with everything Representative Kasper mentioned in his testimony and I would like to add. When you refer to the business climate here in North Dakota and you look at North Dakota's overall ranking where they take all the taxes and bunch them together statistically North Dakota's rank is 20th but the individual income tax we are on the bottom side, we rank 28th. I think that there are some things relative to North Dakota that we really need to be better in. For one example, if we want citizens to stay here we have a climate that is not very friendly. So anything we can do in the area in taxation will help aide in us to grow our state.

Bill Shalhoob, ND Chamber of Commerce: Please refer to testimony #1. Support.

Dustin Gawrylow, Executive Director of ND Taxpayers Association: Support. This is basically the same bill duplicated from last session. 18% was roughly what the income tax cut last time around was. I point out that \$99 million if you take away \$50 million that the Governor has proposed in income tax reductions the actual amount over the Governor's proposal is roughly \$49 million only beyond what the Governor has proposed.

Representative Scot Kelsh: How do you account for the fact that just a little over two years ago the voters of North Dakota overwhelmingly rejected a sizable income tax cut and then why are we bringing this back in spite of all the emails we have been receiving? The voters spoke pretty plainly on this issue.

Dustin Gawrylow: I attribute that solely so the fact that we were outspent \$600,000 to \$45,000 on that measure. The manager of that measure accounts for the vast majority of the people's vote on that. Simply opposition was louder than this.

Sandy Clark, ND Farm Bureau: Support.

Representative Shirley Meyer: Just so I'm clear with Ms. Loftsgard statements on the last bill, there are 372,000 that owed state tax or 372,000 that filed state tax?

Mary Loftsgard: That would be the number of individual income tax returns that were filed. They may or may not have had a liability.

Representative Shirley Meyer: So the 300,000 that didn't file seems to be such a large number that didn't file a return.

Mary Loftsgard: Again, we have to keep in mind that a number of those 370,000 that were filed would be married and filing joint, dependants that don't have to file a return or you have people that are below the income threshold who don't file a return. If you have a family, husband and wife with four kids, you'll have one return for six people.

Representative Shirley Meyer: Is it broken down on a statistic somewhere a liability?

Mary Loftsgard: We could break that down for the returns that were filed. I don't think we would be able to tell you how many people did not owe tax and then did not file.

Representative Shirley Meyer: Could we have that date please?

Mary Loftsgard: Certainly.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1289.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
February 7, 2011
#14096 and #14099

Conference Committee

Committee Clerk Signature *Mary Becker*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

See attached amendments #1

Vice Chairman Craig Headland: Distributed and reviewed amendments. Please refer to attached amendments #1 (11.0408.01001).

Representative Dave Weiler: The new rates and the table were just somehow omitted and you are just adding them in, is that correct?

Vice Chairman Craig Headland: It was mentioned to me in a conversation with Kathy Strombeck that she had gotten word from Joe Becker that these amendments were needed. I haven't looked at them closely enough to see exactly what they do but the intent is to change the income levels to reflect the reduction.

Representative Lonny B. Winrich: What this does is simply change the points at which we break out the different tax brackets. Instead of a tax rate applying to income below \$33,950 it is going to apply to income below \$34,500 and so on. It doesn't change the rates it simply changes the tax brackets and I'm a little bewildered as to why it makes it an 18% reduction and the first bill didn't.

Vice Chairman Craig Headland: If that is the case, I'm going to have to have Joe Becker come down and explain it.

Committee took a short break to call Joe Becker from the Tax Department to the meeting to clarify some questions the committee members had.

Joe Becker, Tax Department: I worked up some comparison numbers for Representative Headland and in the course of that when I looked at the bill I realized that the tax income brackets in the bill are the 2009 brackets so all that we are doing is bringing them up to date to 2011.

Vice Chairman Craig Headland: That's correct and thank you for refreshing my memory on that. **With that I will move the amendment.**

Representative Mark S. Owens: **Seconded.**

Voice vote taken: MOTION CARRIED.

Representative Roscoe Streytle: **Made a motion for a DO PASS AS AMENDED.**

Representative Patrick Hatlestad: **Seconded.**

Representative Scot Kelsh: Is this in addition to the Governor's proposal for an income tax cut?

Chairman Wesley R. Belter: This is not the Governor's proposal. The Governor's proposal is on the Senate side.

Representative Glen Froseth: Is this a 15% reduction?

Chairman Wesley R. Belter: I believe it is approximately 15%, is that right Joe?

Joe Becker: Yes, that is correct.

**A roll call vote was taken: YES 12 NO 2 ABSENT 0
MOTION CARRIED—DO PASS AS AMENDED.**

Vice Chairman Craig Headland will carry HB 1289.

FISCAL NOTE
 Requested by Legislative Council
 04/26/2011

Amendment to: Engrossed
 HB 1289

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$147,125,000)			
Expenditures			\$341,790,000			
Appropriations			\$341,790,000			

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. 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 1289 with Conference Committee Amendments reduces all individual, corporation, and financial institutions income tax rates, and provides state funding to school districts for mill levy reduction grants.

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.*

Section 2 of the bill reduces the financial institutions tax rate from 7% to 6.5%. Only the state general fund share of the tax revenue is impacted by this change, resulting in a reduction in state general fund revenues of approximately \$2.125 million for the 2011-13 biennium.

Section 6 of the bill reduces all existing corporation income tax rates by 19.5%. This rate reduction is expected to result in a reduction in state general fund revenues of approximately \$25 million for the 2011-13 biennium.

Section 7 of the bill reduces all individual income tax rates by 17.9%. This is expected to reduce state general fund revenues approximately \$120 million in the 2011-13 biennium.

Section 13 provides a general fund appropriation of \$341.790 million to the superintendent of public instruction for grants to school districts under the mill levy reduction program. The Department of Public Instruction concurs that this appropriation is adequate to make the required grants to school districts. Expenditures will increase by this amount.

Section 14 transfers \$295 million from the property tax sustainability fund to the general fund on July 1, 2011. This transfer is not reflected in the state general fund revenues shown above.

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

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

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line*

item, and fund affected and the number of FTE positions affected.

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

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	04/26/2011

FISCAL NOTE
 Requested by Legislative Council
 04/11/2011

Amendment to: Engrossed
 HB 1289

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$111,400,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. 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 1289 with Senate Amendments reduces all individual and corporation income tax rates.

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.*

Section 1 of Engrossed HB 1289 with Senate Amendments reduces the corporate income tax rates in each bracket by 8%. This is expected to reduce state general fund revenues by an estimated \$12.2 million for the 2011-13 biennium.

Section 2 of the bill reduces the individual income tax rates in each bracket by 15%. This is expected to reduce state general fund revenues by an estimated \$99.2 million in the 2011-13 biennium.

Section 3 authorizes the tax rate reductions for tax years 2011 and 2012 only. This could result in an increase in state general fund revenues if withholding and estimated payments are increased effective January 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.*

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
Phone Number:	328-3402	Date Prepared:	04/11/2011

FISCAL NOTE
 Requested by Legislative Council
 03/30/2011

Amendment to: Engrossed
 HB 1289

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$145,300,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **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 1289 with Senate Amendments reduces all individual and corporation income tax rates.

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.*

Section 1 of Engrossed HB 1289 with Senate Amendments reduces the corporate income tax rates in each bracket by 10%. This is expected to reduce state general fund revenues by an estimated \$15.3 million for the 2011-13 biennium.

Section 2 of the bill reduces the individual income tax rates in each bracket by 20%. This is expected to reduce state general fund revenues by an estimated \$130.0 million in the 2011-13 biennium.

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, 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
Phone Number:	328-3402	Date Prepared:	03/30/2011

FISCAL NOTE
 Requested by Legislative Council
 02/11/2011

Amendment to: HB 1289

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$99,154,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **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 1289 reduces all individual income tax rates by 15%.

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.*

Section 1 of Engrossed HB 1289 reduces the tax rates in each bracket by 15%. This is expected to reduce state general fund revenues by an estimated \$99.154 million for the 2011-13 biennium.

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, 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
Phone Number:	328-3402	Date Prepared:	02/12/2011

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: HB 1289

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$99,154,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **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 1289 reduces all individual income tax rates by 15%.

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.*

Section 1 of HB 1289 reduces the tax rates in each bracket by 15%. This is expected to reduce state general fund revenues by an estimated \$99.154 million for the 2011-13 biennium.

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, 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
Phone Number:	328-3402	Date Prepared:	01/20/2011

VK
2/7/11
1083

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1289

- Page 1, line 21, overstrike "\$33,950" and insert immediately thereafter "\$34,500"
- Page 1, line 22, overstrike "\$33,950" and insert immediately thereafter "\$34,500"
- Page 1, line 22, replace "529.62" with "538.20"
- Page 1, line 23, overstrike "\$82,250" and insert immediately thereafter "\$83,600"
- Page 1, line 23, overstrike "\$33,950" and insert immediately thereafter "\$34,500"
- Page 1, line 24, overstrike "\$82,250" and insert immediately thereafter "\$83,600"
- Page 1, line 24, replace "1,939.98" with "1,971.92"
- Page 2, line 1, overstrike "\$171,550" and insert immediately thereafter "\$174,400"
- Page 2, line 1, overstrike "\$82,250" and insert immediately thereafter "\$83,600"
- Page 2, line 2, overstrike "\$171,550" and insert immediately thereafter "\$174,400"
- Page 2, line 2, replace "4,833.30" with "4,913.84"
- Page 2, line 3, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 2, line 3, overstrike "\$171,550" and insert immediately thereafter "\$174,400"
- Page 2, line 4, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 2, line 4, replace "12,405.94" with "12,612.44"
- Page 2, line 6, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 2, line 9, overstrike "\$56,750" and insert immediately thereafter "\$57,700"
- Page 2, line 10, overstrike "\$56,750" and insert immediately thereafter "\$57,700"
- Page 2, line 10, replace "885.30" with "900.12"
- Page 2, line 11, overstrike "\$137,050" and insert immediately thereafter "\$139,350"
- Page 2, line 11, overstrike "\$56,750" and insert immediately thereafter "\$57,700"
- Page 2, line 12, overstrike "\$137,050" and insert immediately thereafter "\$139,350"
- Page 2, line 12, replace "3,230.06" with "3,284.30"
- Page 2, line 13, overstrike "\$208,850" and insert immediately thereafter "\$212,300"
- Page 2, line 13, overstrike "\$137,050" and insert immediately thereafter "\$139,350"
- Page 2, line 14, overstrike "\$208,850" and insert immediately thereafter "\$212,300"
- Page 2, line 14, replace "5,556.38" with "5,647.88"
- Page 2, line 15, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

2083

- Page 2, line 15, overstrike "\$208,850" and insert immediately thereafter "\$212,300"
- Page 2, line 16, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 2, line 16, replace "11,726.54" with "11,921.44"
- Page 2, line 18, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 2, line 21, overstrike "\$28,375" and insert immediately thereafter "\$28,850"
- Page 2, line 22, overstrike "\$28,375" and insert immediately thereafter "\$28,850"
- Page 2, line 22, replace "442.65" with "450.06"
- Page 2, line 23, overstrike "\$68,525" and insert immediately thereafter "\$69,675"
- Page 2, line 23, overstrike "\$28,375" and insert immediately thereafter "\$28,850"
- Page 2, line 24, overstrike "\$68,525" and insert immediately thereafter "\$69,675"
- Page 2, line 24, replace "1,615.03" with "1,642.15"
- Page 2, line 25, overstrike "\$104,425" and insert immediately thereafter "\$106,150"
- Page 2, line 25, overstrike "\$68,525" and insert immediately thereafter "\$69,675"
- Page 2, line 26, overstrike "\$104,425" and insert immediately thereafter "\$106,150"
- Page 2, line 26, replace "2,778.19" with "2,823.94"
- Page 2, line 27, overstrike "\$186,475" and insert immediately thereafter "\$189,575"
- Page 2, line 28, overstrike "\$186,475" and insert immediately thereafter "\$189,575"
- Page 2, line 28, replace "5,863.27" with "5,960.72"
- Page 2, line 29, overstrike "\$186,475" and insert immediately thereafter "\$189,575"
- Page 3, line 1, overstrike "\$45,500" and insert immediately thereafter "\$46,250"
- Page 3, line 2, overstrike "\$45,500" and insert immediately thereafter "\$46,250"
- Page 3, line 2, replace "709.80" with "721.50"
- Page 3, line 3, overstrike "\$117,450" and insert immediately thereafter "\$119,400"
- Page 3, line 3, overstrike "\$45,500" and insert immediately thereafter "\$46,250"
- Page 3, line 4, overstrike "\$117,450" and insert immediately thereafter "\$119,400"
- Page 3, line 4, replace "2,810.74" with "2,857.48"
- Page 3, line 5, overstrike "\$190,200" and insert immediately thereafter "\$193,350"
- Page 3, line 5, overstrike "\$117,450" and insert immediately thereafter "\$119,400"
- Page 3, line 6, overstrike "\$190,200" and insert immediately thereafter "\$193,350"
- Page 3, line 6, replace "5,167.84" with "5,253.46"
- Page 3, line 7, overstrike "\$372,950" and insert immediately thereafter "\$379,150"
- Page 3, line 7, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 8, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 8, replace "12,039.24" with "12,239.54"

Page 3, line 10, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 15, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, replace "124.94" with "127.86"

Page 3, line 17, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 17, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 18, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 18, replace "217.28" with "220.20"

Page 3, line 19, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 19, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 20, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 20, replace "328.20" with "334.88"

Page 3, line 21, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Renumber accordingly

Date: 2-7-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

House Finance and 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 Rep. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED

Date: 2-7-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

House Finance and 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 Rep. Streyle Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 12 No 2

Absent Ø

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE

HB 1289: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1289 was placed on the Sixth order on the calendar.

Page 1, line 21, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 22, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 22, replace "529.62" with "538.20"

Page 1, line 23, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 1, line 23, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 24, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 1, line 24, replace "1,939.98" with "1,971.92"

Page 2, line 1, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 1, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 2, line 2, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 2, replace "4,833.30" with "4,913.84"

Page 2, line 3, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 3, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 4, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 4, replace "12,405.94" with "12,612.44"

Page 2, line 6, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 9, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 10, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 10, replace "885.30" with "900.12"

Page 2, line 11, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 11, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 12, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 12, replace "3,230.06" with "3,284.30"

Page 2, line 13, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 13, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 14, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 14, replace "5,556.38" with "5,647.88"

Page 2, line 15, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 15, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 16, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 16, replace "11,726.54" with "11,921.44"

Page 2, line 18, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 21, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 22, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 22, replace "442.65" with "450.06"

Page 2, line 23, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 23, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 24, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 24, replace "1,615.03" with "1,642.15"

Page 2, line 25, overstrike "\$104,425" and insert immediately thereafter "\$106,150"

Page 2, line 25, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 26, overstrike "\$104,425" and insert immediately thereafter "\$106,150"

Page 2, line 26, replace "2,778.19" with "2,823.94"

Page 2, line 27, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 2, line 28, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 2, line 28, replace "5,863.27" with "5,960.72"

Page 2, line 29, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 3, line 1, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 2, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 2, replace "709.80" with "721.50"

Page 3, line 3, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 3, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 4, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 4, replace "2,810.74" with "2,857.48"

Page 3, line 5, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 5, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 6, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 6, replace "5,167.84" with "5,253.46"

Page 3, line 7, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 7, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 8, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 8, replace "12,039.24" with "12,239.54"

Page 3, line 10, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 15, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, replace "124.94" with "127.86"

Page 3, line 17, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 17, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 18, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 18, replace "217.28" with "220.20"

Page 3, line 19, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 19, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 20, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 20, replace "328.20" with "334.88"

Page 3, line 21, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1289

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1289
3/9/2011
Job Number 15137

Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to reduction of income tax rates for individuals, estates, and trusts

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on HB 1289.

Representative Kasper – This is a very simple bill. All HB 1289 does is reduce the personal income tax rates of the citizens of North Dakota by approximately 15% across the board. I brought some charts with me (attachment A).

He then spoke of the numbers listed on the charts.

Dustin Govorylow, North Dakota Taxpayers Association – I wanted to address this little game that we seem to have when it comes to slicing this spending and calling it different things. Every biennium every budget has had one time spending. Sometimes it's \$10 million sometimes it \$400 million, or whatever. To take those items out and say, well this isn't spending this is a different kind of spending is kind of a little intellectually dishonest I think because it happens all the time. There is one time spending every budget and unless you look at the total dollars spent every budget you can't have a real genuine notion of what's really going on. Even if you take the property tax spending program to reduce property taxes out, the budget has still increased. Last session north of 20%, even when you take that \$300 million out and so it's just a matter of how big is that spending. We've got to look at reducing the overall burden for everybody. It's unfortunate that the debate this session over tax cuts has been limited to the idea of, well should it be \$50 million or \$100 million because between the revenue and spending growth that we've seen, we should really be talking about \$250 or \$350 million. We should be looking at genuine large scale cuts for everybody. Just as with SB 2178, NDTA believes that higher amount of tax reductions is needed for everybody and those reductions should be permanent. With energy prices skyrocketing right now and commodities hitting all time highs it's just a matter of time before that commodity inflation hits the consumer. North Dakota is in a position to buffer its citizens from that impact. With almost every other state looking at ways to increase their taxes and increase their revenue we have this opportunity to create a situation where North Dakota can leapfrog over other states and increase and improve its ranking with other states without hurting the state's budget all that much. Last session the legislature did cut personal income tax, I think about 13% but we ended up with I believe

another 3% revenue increase so even with the rate cut the tax cut paid for itself because there was more income to be taxed. As long as the economy is growing, these tax cuts will pay for themselves in the long run. The real goal this session must be to get as much money back to the people one way or another. We want permanent rate cuts to be part of that package and they need to be substantial but anything on top of that we are open to. This session the time is now to realize that income tax revenue has increased 60% over the last decade. The state is perfectly positioned to reduce the rates considering those revenue increases and allow taxpayers to keep more of their money.

Senator Triplett – When someone suggests that I'm intellectually dishonest I take exception so we'll start there. In my ideal world things that would qualify as so called onetime expenses would be processed out over the long term. They would be planned for, there would be long term vision about capital expenditures, and those needs for maintaining those public buildings and such, would be worked into an ongoing budget. I think we could agree on that. In these times of stress in a state government as for example during the 1980's it is more possible to reduce or completely eliminate that kind of spending than it is to cut programs that deal with employees and public education, and things like that. Would you agree with that?

Dustin Govorylow, North Dakota Taxpayers Association – I wasn't calling you intellectually dishonest. I was calling the debate and that discussion, and more than just you have; it's folks on both sides and in general. I don't think that debate is proper because spending is spending. The idea that what it's spent on should determine whether it's in this column or that column, it all comes from the people and should all be counted as a lump sum spending, compare it year to year, and that's the only real apples to apples way of doing it. As far as the one time spending, yes your right, that spending in an ideal world would have been integrated in to the overall budget. If it had been integrated it wouldn't be one time spending, it would be overall spending. That just proves my point that one time spending, whether it happens over 10 years or in one year, it's going to happen so it has to be counted as part of that whole total. That is why looking at the charts and looking at the total spending that's the only way to really get the accurate comparison.

Senator Triplett – Then you have to take a longer term view of it I think. You can't just say ok we had some down times in the 80's and started coming back in the 90's and now that we are here you take the last 4 biennium's and say looks like spending is going up really fast because it didn't go up hardly at all previously so if you take the numbers over 20 or 30 years then you will see that, then I think your point is correct that you can look at increases and spending over a long time. I think it's intellectually dishonest to say from a really brief stand point that, oh look we are spending way too fast and it's going up way too much when in fact we are just trying to integrate capital expenditures over a long period of time. I think that we are agreeing that if you look at things in a longer term scale, I think you are right, but I do think that it's appropriate given that we had a long period of not tending to our needs, that it was appropriate for the legislature in recent years to ramp up the spending pretty dramatically, but I don't think that necessarily means that we are on some kind of a trajectory that's going to end up going straight up. I think you would see that if you looked at it over a longer period, that's it's not as dramatic as it looks on a shorter period.

Dustin Govorylow, North Dakota Taxpayers Association – In my car I've got a big chart of the spending since 1969 and if you look at that you see a few things. Particular is the fact that it look from statehood, 1889 to 1983 to hit \$1 billion on the general fund. It took another 20 years, until 2003 to hit \$2 billion. Then we hit \$3 billion in 2009, and now we are looking at getting pretty close to \$4 billion this time around. From a statistical basis that's the hockey stick, where we had growth, we averaged somewhere around 8%-12% over the last 30 years but before this run off. The spending was there, if it wasn't spent on the right things, that's a whole different issue, but the spending was there. We've seen the growth was there, under both parties.

Senator Triplett – When you put those charts together do you always correct them for inflation and put them in constant dollars?

Dustin Govorylow, North Dakota Taxpayers Association – We do both usually to show that there is the growth. When you put it into constant dollars, that slope does become flat, but that just means that the state was holding steady because for all those years we were declining in population. When a state is declining in population, there is no reason to be growing government.

Vice Chairman Miller – What is your take on, what is this going to do economically for North Dakota?

Dustin Govorylow, North Dakota Taxpayers Association – I think that this is going to hold us even as far as buffering us from the national economic forces. We've got a situation where our state is benefitting from energy but the citizens are paying more for that energy. In an ideal world we would come up with a way to substitute gas tax with oil tax money, swap that out. If you could actually make sure it was getting to the consumer at the pump, that would be a considerable tax decrease as well and very appropriate considering the states making its cash on the oil it would be a like sort of tax decrease. Overall, the message is that we've got to reduce the states burden on its citizens while we can because if we don't the national economy is going to start trickling into the state and it's going to reduce the revenues for us.

Bill Shalhoob, North Dakota Chamber of Commerce – (See attached testimony B in favor of HB 1289)

Bob Graveline, Utility Shareholders of North Dakota – We support HB 1289. We believe that the dollars in the marketplace is the grease that makes the economy turn and we think it's better in the hands of the citizens and the businesses than sitting in a building as surplus.

Sandy Clark, North Dakota Farm Bureau – We think this is a good bill individual tax reduction is good tax policy for the state. You passed SB 2178 out of this committee and out of the Senate with \$50 million, we supported that. We don't have a position on the actual dollar amount. We will leave that up to the good judgment of the legislature.

Chairman Cook asked for testimony opposed to HB 1289. No one came forward.

Chairman Cook asked for neutral testimony for HB 1289. No one came forward.

Chairman Cook closed the hearing on HB 1289.

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1289
3/28/2011
Job Number 16082

Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to reduction of income tax rates for individuals, estates, and trusts

Minutes:

Committee Work

Chairman Cook opened discussion on HB 1289.

Senator Hogue – My amendments have perfect symmetry, they reduce the individual income tax rate all brackets by 20% and the corporate brackets by 10% and they don't change any brackets, they don't exclude the first \$75,000 of the first bracket like the House bill did, it's just a 20% and 10% and it's the same fiscal note I think \$149 million for both combined individual and corporate income tax relief. That is the intent and I was just trying to go through the rates to make sure that's the case, but that's what the amendments should do.

Senator Triplett – Can you sort out the fiscal note for us or do you have a written fiscal note explaining how much of it is individual tax and how much is corporate?

Senator Hogue – The \$114 million goes to individuals and \$35 million was corporate. It's like \$149 million for those 2 rates and I got that from Ms. Strombeck with the Tax Commissioners Office.

Chairman Cook – I think maybe that number is going to get reduced, that fiscal note will get reduced based on a new fiscal note that I saw on the corporate income tax bill that reflects the 100% deduction for depreciation and I assume this fiscal note will get reduced also.

The committee referred to HB 1189.

Vice Chairman Miller offered some amendments as well with a brief description followed by discussion.

Vice Chairman Miller – I'll move Senator Hogue's amendments.

Seconded by **Senator Hogue**.

Senator Triplett – Is it possible to divide the question in committee? Can we vote separately on the individual income tax vs. the corporate?

Chairman Cook – Senator Triplett would like to vote separate in the individual and corporate income tax. Is there a second to that?

Seconded by **Senator Dotzenrod**.

Chairman Cook – Any discussion on the individual income tax portion of this bill? All in favor say yea, opposed? (7-0-0)

Senator Triplett – If I could speak to the second part, I guess the point has been made before that we really have pretty low income taxes across the board and as between individual income taxes and corporate income taxes I think it's more important to do tax relief for individual citizens I think that our corporate tax rates are very competitive and really not a burden. I personally haven't received a single email asking me to reduce corporate income tax rates in this session and so I think that as you said the real question that it comes down to, I think everyone is agreeing that when we have a surplus of money we should be doing tax cutting and the question is who do we cut taxes for and I personally would prefer to cut taxes for the citizens of North Dakota and not the corporations.

Chairman Cook – I know when we had the hearing here we had a whole lot of people testifying in support of it. I don't think we had anyone testifying opposed to it.

Senator Hogue – I don't know if we did either. I guess when the bill came over to the House and when I saw it had a 1/3 2/3 ratio between individuals and corporate I guess I was comfortable with that. I thought we ought to be cutting more individual than corporate and if you recall from last session we did a 90/10 and these amendments get that ratio closer to that 90/10. I don't think it quite is 9/1.

Chairman Cook – You are cutting personal by 20% and corporate by 10%.

Senator Hogue – Yes

Senator Dotzenrod – The price tag on the individual is \$130 million and the price tag on the corporate was how much?

Senator Hogue - \$15.3 million

Senator Dotzenrod – The way that we are reducing the corporate, is it a percentage or are we taking so much off of each bracket?

Senator Hogue – 10% for every bracket.

Chairman Cook – All in favor of part B signify by saying yea, opposed? (5-2-0)

Chairman Cook – One more entire vote on the entire amendment as presented. (6-1-0)

Senator Dotzenrod – I will move the amendment to section 1 of the bill on the corporate tax rate to have the rate from \$0-\$75,000 be 0 and from \$75,000 above the rate would be 6.4%.

Seconded by **Senator Triplett**.

Senator Dotzenrod – Most of the filers are in that \$0-\$75,000 and what I would think of is the small businesses.

Chairman Cook – There may be merit to that but what you are doing with that amendment is your greatly affecting who gets corporate income tax and who doesn't out of all the people that apply. The one thing I like about Senator Hogue's amendment is it treats all corporate taxpayers the same. I think if there is an argument to be made that our current brackets are not right then we should have that discussion in a form where we are there to determine what is wrong with the current brackets and they have certainly stood the test of time to some degree. I would suggest that if you want to eventually move down that road I would suggest that you have some sort of a study resolution put together to study the brackets of our personal and corporate income tax to see if they are, however you want to word it, and that is certainly something that could be offered on this bill when it's in Appropriations.

Chairman Cook – All in favor of the motion to change the corporate tax \$0-\$75,000 exempt top bracket of 6.4 signify by saying yea, opposed? (2-5-0)

Vice Chairman Miller – I'll move a Do Pass as Amended and rerefer to Appropriations.

Seconded by **Senator Hogue**.

Chairman Cook – Ask the clerk to take the roll. (5-2-0)

Carried by **Senator Hogue**.

Date: 3-28-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

Senate Finance and 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 Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote on individual income tax

Date: 3-28-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

Senate Finance and 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 Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

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

verbal vote on corporate income tax

Date: 3-28-11
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

Senate Finance and 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 Dotzenrod Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

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

Verbal vote to change the
corporate tax

March 25, 2011

[Handwritten signature]
3-29-11
lsh

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two~~one and ~~one-tenth~~eighty-nine hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~seventy-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~seventy-six hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing

2014

status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$33,950~~\$34,500 1.84%1.47%

Over ~~\$33,950~~\$34,500 ~~\$624.68~~\$507.15 plus 3.44%2.75%
 but not over ~~\$82,250~~\$83,600 of amount over ~~\$33,950~~\$34,500

Over ~~\$82,250~~\$83,600 ~~\$2,286.20~~\$1,857.40 plus 3.81%3.05%
 but not over ~~\$171,550~~\$174,400 of amount over ~~\$82,250~~\$83,600

Over ~~\$171,550~~\$174,400 ~~\$5,688.53~~\$4,626.80 plus 4.42%3.54%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$171,550~~\$174,400

Over ~~\$372,950~~\$379,150 ~~\$14,590.41~~\$11,874.95 plus 4.86%3.89%
 of amount over ~~\$372,950~~\$379,150

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$56,750~~\$57,700 1.84%1.47%

Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$848.19 plus 3.44%2.75%
 but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700

Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,093.57 plus 3.81%3.05%
 but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350

Over ~~\$208,850~~\$212,300 ~~\$6,542.10~~\$5,318.54 plus 4.42%3.54%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300

Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,225.03 plus 4.86%3.89%
 of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 1.84%1.47%

Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.75%
 but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850

Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,546.78 plus 3.81%3.05%
 but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675

Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,659.27 plus 4.42%3.54%

304

but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$106,150
 Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,612.52 plus ~~4.86%~~3.89%
 of amount over ~~\$186,475~~\$189,575
 d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 ~~1.84%~~1.47%
 Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$679.88 plus ~~3.44%~~2.75%
 but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250
 Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,691.50 plus ~~3.81%~~3.05%
 but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400
 Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$4,946.98 plus ~~4.42%~~3.54%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350
 Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,524.30 plus ~~4.86%~~3.89%
 of amount over ~~\$372,950~~\$379,150
 e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 ~~1.84%~~1.47%
 Over \$2,300 ~~\$42.32~~\$33.81 plus ~~3.44%~~2.75%
 but not over ~~\$5,350~~\$5,450 of amount over \$2,300
 Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$120.44 plus ~~3.81%~~3.05%
 but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450
 Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$207.36 plus ~~4.42%~~3.54%
 but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300
 Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$315.33 plus ~~4.86%~~3.89%
 of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

4 of 4

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. ~~For taxable years beginning after December 31, 2009, the~~ The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of ~~1954~~ 1986, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

Date: 3-28-11
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1289

Senate Finance and 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 Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod		X
Joe Miller - Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Hogue

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

REPORT OF STANDING COMMITTEE

HB 1289, as engrossed: 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** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1289 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two~~one and ~~one-tenth~~eighty-nine hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~seventy-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~seventy-six hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.
 - a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$33,950~~\$34,500 1.84%1.47%
Over ~~\$33,950~~\$34,500 ~~\$624.68~~\$507.15 plus 3.44%2.75%
but not over ~~\$82,250~~\$83,600 of amount over ~~\$33,950~~\$34,500
Over ~~\$82,250~~\$83,600 ~~\$2,286.20~~\$1,857.40 plus 3.81%3.05%
but not over ~~\$171,550~~\$174,400 of amount over ~~\$82,250~~\$83,600
Over ~~\$171,550~~\$174,400 ~~\$5,688.53~~\$4,626.80 plus 4.42%3.54%
but not over ~~\$372,950~~\$379,150 of amount over ~~\$171,550~~\$174,400
Over ~~\$372,950~~\$379,150 ~~\$14,590.41~~\$11,874.95 plus 4.86%3.89%
of amount over ~~\$372,950~~\$379,150

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:
Not over ~~\$56,750~~\$57,700 1.84%1.47%
Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$848.19 plus 3.44%2.75%
but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700
Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,093.57 plus 3.81%3.05%
but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350
Over ~~\$208,850~~\$212,300 ~~\$6,542.10~~\$5,318.54 plus 4.42%3.54%
but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300
Over ~~\$372,950~~\$379,150 ~~\$13,796.32~~\$11,225.03 plus 4.86%3.89%
of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:
Not over ~~\$28,375~~\$28,850 1.84%1.47%
Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.75%
but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850
Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,546.78 plus 3.81%3.05%
but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675
Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,659.27 plus 4.42%3.54%
but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$106,150
Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,612.52 plus 4.86%3.89%
of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 1.84%1.47%

Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$679.88 plus ~~3.44%~~2.75%

but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250

Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,691.50 plus ~~3.81%~~3.05%

but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400

Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$4,946.98 plus ~~4.42%~~3.54%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350

Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,524.30 plus ~~4.86%~~3.89%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 1.84%1.47%

Over \$2,300 ~~\$42.32~~\$33.81 plus ~~3.44%~~2.75%

but not over ~~\$5,350~~\$5,450 of amount over \$2,300

Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$120.44 plus ~~3.81%~~3.05%

but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450

Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$207.36 plus ~~4.42%~~3.54%

but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300

Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$315.33 plus ~~4.86%~~3.89%

of amount over ~~\$11,150~~\$11,350

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In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. ~~For taxable years beginning after December 31, 2009, the~~The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of ~~1954~~1986, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
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SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

2011 SENATE APPROPRIATIONS

HB 1289

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1289
Job # 16221
March 31, 2011

Conference Committee

Committee Clerk Signature

Alice Diger

Explanation or reason for introduction of bill/resolution:

A BILL relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

"Attached Testimony."

Chairman Holmberg called the committee to order in reference to HB 1289. We have the prime sponsor on this bill, Representative Kasper. Tad H. Torgerson and Becky J. Keller, also present.

Representative Kasper, District 46, Fargo. I would make some comments about the amendment for the record. I did ask the Tax Dept. to print off what the amendments did.

Chairman Holmberg states, we would like them the amendments. We have the latest fiscal note.

Rep. Kasper states, I did bring along a copy of the fiscal note on the original HB1289 before the Senate Finance and Tax committee amended it. When the House sent over to the Senate our income tax desires, we got two bills #1289 and #1189. HB 1289 is the bill before you, which originally dealt only with personal income tax reductions, and that had about \$100M of personal income tax reductions in it. HB 1189, which was sponsored by Rep. Headland, was our corporate income tax reduction bill and that had roughly \$46M of corporate tax reductions, we thought originally. When the new federal policy was learned about, the depreciation being increased, that reduced it down to \$30M+ of corporate tax deductions. I think the House felt good, about where we are at, on those two bills and would have liked to have seen that policy continue. The Senate Finance and Tax committee did is, on note I gave to you from Kathy Strombeck, amended the corporate HB 1189 into HB 1289. The end result is in Section 1 of the bill, with the amendments; with the corporate income tax rates reduced a flat 10% across the board. Which would reduce corporate income taxes, estimated by \$15.3, over the next biennium. Section 2, the individual income tax rates were reduced by 20% from current law, and that increased the projected revenue reduction in tax savings to our citizens, up to \$130M, from the \$99M. I would hope and I don't know how the Senate operates as far as where you make your amendments or not, but I would hope this committee would consider increasing the corporate tax reduction and taking that increase out of the personal tax reduction. It is my feeling, the more we can continue to improve our business climate ranking, nationwide, we are

getting some great publicity throughout the country about all the good things that are happening in ND. Businesses, I think are seriously looking at moving to our state and the more we can do with our tax climate to help encourage those movements, I think the better it will be for our state and for our overall future.

Rep. Headland, District 29, Montpelier, ND. I am asking the Appropriations Committee to restore the provisions of HB1189 into this bill. As Rep. Kasper mentioned, HB 1189 as written, moved us from a ranking from 28th to 30th, depending on what publication you are looking at, all the way up to 3rd with states that do have a corporate income tax. What this is telling businesses, who want to do business in ND, is that ND wants us. We are open for business here in ND.

V. Chair Grindberg asks, what feedback did you get back directly from businesses, other than the state chamber? Do you have any specific companies that were part of your process on the House side?

Rep. Headland states, I am trying to think back to the testimony in the House. I am not sure any business came and asked us to support that bill. However, in the Senate, the room was full of business leaders from across the state asking to support the House provisions.

V. Chair Grindberg states, I have been in economic development since 1994. I know how to market the state to attract business. I have done it for almost 20 years. I have been a co-sponsor, to reduce personal and corporate income tax. Corporate business tax is not what is on the minds of businesses outside the state. It is access to talent, stable operating environment, its utilities and tax rates are part of it. It's much broader than tax rates.

Rep. Headland states, you may be right in some fashion, however, in another hearing, I asked a manufacturer. do you want tax credits for lean manufacturing or corporate reductions? His answer is both. He did indicate the corporate tax is the big piece of business and that it is important.

V. Chair Bowman asks, if you give businesses \$100M corporate income tax reduction, how many new businesses have to come into the state before you break even on that \$100M?

Rep. Headland states, I can't compute that. Maybe not, any new businesses have to come to recoup that loss in revenue. If more things occur, people get out and spend money, revenues flow into the companies that are doing business here. They may make up that revenue shortfall themselves.

Senator Hogue, (Written Testimony attached # 3). My chairman asked me to stop by. I realize you work with numbers every day. I am not trying to defend numbers. We can have those debates about money and we can all be right. I wanted to give you the benefit of the Senate Finance and Taxation Committee. We looked at what should be the overall dollar reduction. I know that is something your committee is concerned about. We know we passed a \$50M of individual income tax relief over to the House and the House passed us back approximately \$148M. We thought that number was okay. We thought that number seemed sustainable. I think that is something we can defer to this committee. We came up with a combination of \$145.3M of total individual and corporate income tax relief. What we did was,

in comparison to the House, is we dramatically shifted that from basically a two-thirds, one-third ratio to about a 8½% to 9% individual tax relief and one part corporate tax relief. I would submit, we did that this time for the same reasons we did it last session. Last session it was about a 9:1 ratio. If you are interested, I present to you, what each of the brackets cost for the individuals. For the first bracket of the individuals, is \$56.648M and that is the most expensive bracket and everyone goes through and gets that relief. The next bracket is \$32.925M and the third is \$9.677M and the fourth is \$10.205M and the last bracket cost is \$20.542M. The Senate version is a straight 20% for individuals for all brackets, not changing the brackets; the corporate is a 10% reduction for all three brackets, not changing the brackets. On the corporate side, we looked at those numbers as well. The House exempted all corporate income up to \$75,000 and we didn't agree with that. Here is why not. There are approximately 4,314 corporate tax payers and 3,100 of them would be fully exempt under that change. What it wouldn't include is the 25,000 businesses that are not incorporated and an additional 30,000 farmers who are not incorporated. So it seems to us, that you would be targeting tax relief to a very small group of small employers. The numbers would be 3,192 out of approximately 60,000 and that seemed unfair to us. What you probably would be doing, if you get rid of the brackets, all the way up to \$75,000, you would be driving sole proprietorships and farmers to go and incorporate. You would be driving them to do a business in a corporate form, that they would otherwise aren't doing, business as. So we thought it was not good tax policy to drive them into doing business in a certain way. We had a lot of pleas to simplify the corporate tax. The Finance and Tax thought that 3 brackets are still quite simple. It is first \$25,000, \$25,000-\$50,000 and then over \$75,000. So we still think the tax is simple and we think it is fair to all small businesses and that is our reasoning.

Senator Krebsbach asks, I have a question in reduction of income tax, whether it is personal or corporate? Has there been any thought of a sunset on this bill because of the uncertainty of the economy and we never know what is coming tomorrow and we don't know about the reductions from federal?

Senator Hogue states, there was talk about that at one time. We thought we should get rid of the individual income tax return altogether. Now I think it would be a wrong approach. Our approach, as a committee, is to keep reducing it and to continue to reduce it as long as all the other revenues are going up. The sales tax, the oil and gas tax collection etc. We felt comfortable with the \$150M level or \$145.3M. I would certainly defer to the expertise of this committee, since you deal with projections, and you are directly in contact with OMB and you know what those numbers are. We, for our part, thought that it was a manageable reduction. In reference to your question, yes, we thought about it and yes, we thought it was manageable.

Bill Shalhoob, ND Chamber of Commerce and a number of business groups. We are in favor of HB 1289. We came over here and talking about a tax cut that is meaningful to the people of ND. We need to talk about the distribution of that tax cut. We encourage the House to put in both of those bills. We do think that is the correct number. Attracting outside businesses, however, it also adds to the rewards to the folks in the state that have done business here. The corporate payers in this state have helped drive our economy to where it is. Whether it is in oil or whether it is in the Valley. As a tax paying base, they should be supported along with the property owners, the property tax people and we have done a good job of doing that and the individual income taxes and showing the fruits of that and the surpluses we have created, if we look at the collections. The last projection has about \$620M

in personal income tax collected in this biennium, as an estimate, \$180M-\$200M to corporate income tax. If we take a look at it in the last couple of biennium's, we are looking at a split that is somewhere between 75-25 and 80-20, the amount of money coming into the state from those two sources. When we coupled that with the taxes that were cut last biennium, 90-10, we think the tax cuts, in proportion to the people who pay, should be around to 80-20 basis and in this time, on a one time basis, 33-66, makes up for the lack of a cut last time and brings it back, over the two biennium's, the tax cuts are in exact proportion to the amount the people pay and that is fair. We do support \$150M in tax relief and obviously some disagreement about how it should be given and that is fine and we would hope this committee would move forward with \$150M and we will talk about other parts of the bill.

Chairman Holmberg states, your members also want good roads, don't they?

Bill Shalhoob states, we have supported all the road bills, the governor's bill and we understand that there is infrastructure problems and we have supported flood control for Fargo and Devils Lake outlets. We believe we have enough money to do all of those things.

Senator Wanzek asks, can you tell me, when we say it's a \$100M tax cut, are we taking into account the less I have to pay in taxes, I am going to spend or invest it? Do we take that into account when we do the fiscal note, as far as that might be generating more sales tax, and economic activity?

Bill Shalhoob states, I don't know. Based on the last tax cut, the state was collecting \$680M in personal income taxes before a \$90M cut. Which in theory should have lowered the figure to \$590M. So the net effect of that tax cut was \$60M, not \$90M. There are lots of reasons that went on. We had huge farm crisis and taxes being paid by our agricultural community at levels that haven't been for a long time based on commodity prices. We had huge increases in oil in western ND and certainly royalty income etc. that people were paying more taxes on. How much is that contribute to the increased activity in the state and how much would be attributed to the fact that more money went into people's pockets that they spent that generated more income tax revenue and then created more sales tax revenue. That is the effect of what happened, due to the result of the \$90M tax cut, in the last session.

Chairman Holmberg asks, does the corporate reduction go to Bentonville, AR?

Bill Shalhoob states, he does not know.

Senator Robinson states, I just heard from our Chamber and development people yesterday and they share some of the concerns that V. Chair Grindberg and Senator Krebsbach have. They are on the list but are not a very good list. It is one thing to take taxes off but there are not a lot of people around to put them back on. I believe there is some responsibility here if we take the lead in taking them off. We should be the first ones out of the shoot by taking the lead and putting them back on when that time comes. It will come. The other concern we have in our community is we are not funding infrastructure at the level that we would like. We have some day care issues that are not funded. I haven't been in economic development, like Senator Grindberg. I have read my publications and the bottom line is taxes are part of the picture. Also, the quality of life, good schools, infrastructure, daycare, and workforce come before taxes. If taxes are reasonable, those other issues are, as, or more important. I get a

little concerned that we will be in a bind here sooner rather than later with an issue that is near and dear to tax payers across the state and that is property taxes. We are at \$341M for the next couple of years and we will very soon be in a situation where we are going to have to deal with that. I can assure you, that is going to be one of the most unpopular things we do when we start reducing it or taking it away. That is what I hear. Property tax, property tax, property tax. I haven't heard anything on income tax. What I do hear, it's almost nonexistent right now. The former Senator Evan Lipps use to tell me, protect your revenue stream. He led the charge on referral in 1989. Again, Senator Hogue, talked about it is easy to reduce it little by little but I can assure you, putting it back on is extremely difficult.

Bill Shalhoob states, I am not going to disagree with very much that you said, I will point out, there is different opinions on the revenue stream. Our opinion is that the revenue stream is more than sufficient to cover this and all of the things you said in future years. Granted, I will be the first to concede a couple of things in the revenue stream that are beyond our control, the price of oil, the fracturing as part of the EPA and in turns of production, I believe the revenue stream is assured, at not only current level, but at very high future levels. I am using the numbers the industry is saying, not necessarily the tax dept. or anything else. We are poised to top out somewhere, in terms of production, somewhere between 700,000 and 1M barrels a day. That takes into account the ascending curve; it takes into account the declining curve on the backside because of the lower production or how fast we lose production and also the number of wells we are drilling. We think the revenue is there. We think between the legislative and administrative branch, they set levels that are sufficient of that and they get the revenue there to do that. In past years I can't remember if there have been tax or fee increases that we oppose that. If it is necessary to run government, we understand that. As long as we are looking at the spending side at the same time as the revenue side, for increasing in revenue and decreasing spending, when the time comes, that would be a fair way to look at it.

Senator Robinson states, I really believe there is an underlying responsibility on all of us. I hope we can put a lot of energy into these types of proposals. I would hope if we ever get into that situation, we put at least as much energy in bring it back. I want quality of life, our chamber wants quality of life, our development corporation wants quality of life and they are telling me this is not a good move at this time.

V. Chair Grindberg states, I appreciate your comment on the existing businesses and the benefit vs. the appeal that if reduce this it is going to have the flood gates open with businesses moving to ND. That won't happen. It will certainly be on the list but it is not what was prescribed earlier. It is clear we need tax relief, tax reduction, based on the overall strength of the state. That is basic common sense and the right thing to do but how much? Do we have information that is readily available that shows the numbers in the state of how many businesses in the state are paying corporate tax? Of the businesses paying corporate tax, what categories are they in? When we advance the R&D tax credit, positioning ND, to have the most aggressive tax credit, based on federal liability, that is only 16 companies. When you get it all in the right context, what are we talking about here? Are these companies all out of state? What percentage of companies and businesses located here are filing individually or corporately? I would like to have a summary of that. I think it would be helpful.

Bill Shalhoob states, I will comment, subject to correction by the Tax Dept. There are approximately 35,000 business filers in ND, about 22,000 pass through corporations. For the record, that is everything but a C-Corp. Things such as sole proprietors, LLC's, LLP's are legal entities are filing their taxes through the individual side.

V. Chair Grindberg states, they would be getting a 20% reduction.

Bill Shalhoob states, that is correct. There is approximately 12,000 C-Corp filers. Senator Hogue's numbers were new to me on corporate and I appreciate those very much.

V. Chair Bowman asks, when you look at the legacy fund, that is the best savings for everyone, because someday that is going to grow into a huge amount of money. The interest goes back into the general fund and when that happens, that is less money than all of us have to pay to run our government. I think that is the best benefit that we passed for businesses and individuals as far as taxes. What is your thought?

Bill Shalhoob states, we agree 100%, the Chamber was one of the main sponsors of the Legacy Fund. By the time we need that fund, will be in excess of \$5B. Oil, given the present curve, that in 2017, we aren't going to need that money. If you do the math on that, at 4%, it is going to produce a huge amount of money for the general fund and as it was planned to do. It allows this to happen since there is a source down the line, that if we run into problems, we can use.

V. Chair Bowman states, the point is that, if we give away the farm, because we are depending on the legacy fund, we might be putting ourselves in a financial bind for a couple of biennium's. I am not for raising taxes. I just want to make sure we have enough funds to take care of our obligations.

Bill Shalhoob states, we agree, the chamber was opposed to the vote, that we lowered income tax by 50% and corporate taxes by 25%, 4 years ago. We opposed that measure. We believe that tax decreases should be measured and proportionate. We never have advocated the elimination of personal or corporate income taxes and the key is the number to find that measured and proportionate response. We also think the government should collect as much money as it needs to operate, no more. A few years ago, this legislature left town with \$10M in the bank and thought it was wonderful. Now we leave town with a billion to a billion and a half in the bank and we are concerned. Think about that, in terms, of where we have gone in terms of where we have gone. I realize we have raised spending and we have raised programming and all of that. \$150M in our economy is not the farm.

Sandy Clark, ND Farm Bureau supports HB1289. We do support reduction of individual income tax and corporate income tax. Our policy does not state a dollar amount. We support the concept and leave the dollars to your wisdom. We do believe when we have a surplus, we should reduce taxes and return it to the tax payers who paid it. We believe in some rainy day fund. There should be cuts in government spending.

Chairman Holmberg asks, including government spending for infrastructure, roads in rural ND?

Senator Robinson asks, how would this stack up with your membership, if we threw in the issue of sustaining property tax relief and infrastructure? Would this still be #1?

Sandy Clark states, we support spending for infrastructure and we support the property relief package. We have stood in every committee over the last couple of sessions, when we have talked about property tax relief package and said we have questions, whether that is sustainable over the long term? Decisions have to be made. We are in good times.

Senator Christmann asks, just a comment, refreshing too, when an organization comes, doesn't have a complete picture, and their folks people are locked into that. It's refreshing that the Farm Bureau took this approach. Encouraging tax relief and also recognizing that the information needs to come forward and develop and they support the concept and trusting us with the kind of numbers we are dealing with.

Chairman Holmberg states, thank you Sandy.

Scott Rising, Soybean Growers Association. I will talk about infrastructure first and tax cuts second. If we are going to move forward with this, I want to put a plug in what Senate Finance & Tax Committee did for apportioning this effort. Those in the ag community, derive more benefit from the larger proportion, being individual and tax cuts than we would from the other side of it. If there is a risk mitigation factor in here and you choose to use something that deals with the sunset clause, we would certainly be supportive of that also.

Chairman Holmberg closed the hearing on HB 1289.

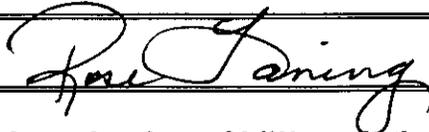
2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1289
April 7, 2011
Job # 16427

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

You may make reference to "attached testimony."

Becky J. Keller and Allen H. Knudson –Legislative Council; **Tad H. Torgerson** – OMB

Chairman Holmberg called the committee hearing to order on HB 1289. You should have in your books – that should be 1289 with Senate Amendments. Asked Becky to walk thru it. It's \$145M

Becky J. Keller: 1289 does in fact reduce the corporate income tax rate in each bracket by 10% and that's expected to reduce the state general fund revenues by \$15.3M for the 2011-13 biennium. Section two of the bill reduces the individual income tax rates in each bracket by 20% and this is expected to reduce the state general fund revenues by \$130M for a total of \$145.3M.

Chairman Holmberg: And the House position was more, correct? What's the difference between the House and Senate position as far as the dollar amount? The old fiscal note \$145 versus..... They had two bills though...

Becky J. Keller: They combined the two bills.

Chairman Holmberg: The two bills combined, one was \$99M and the other one was? Remember, we didn't see that bill, that was in Finance & Tax and they killed it.

Allen H. Knudson: I don't know the specific amount, but the Senate version was about \$8M more than the combined House version. They were the \$138M.

Senator Wardner: Isn't the fiscal note on this bill about \$145 - I thought it was \$99.

Chairman Holmberg: No, because they increased The difference, if we just leave the bill alone, the difference between the House and Senate version is that the Senate has given more individual and corporate income tax relief than the House did. Is that correct?

\$149 – in actuality, if we leave bill alone – the senate has given more individual and corporate tax relief than the House did.

Allen H. Knudson: HB 1189 was a reduction of \$38.5M and HB 1289 was \$99,154,000. That's almost \$138M.

Chairman Holmberg: The Senate is \$145M in this bill and the House was \$137M.

Senator Grindberg: To take that a step further, if Allen or Becky could share with us the amount in SB 2042 on the reduction of charitable gaming tax.

Allen H. Knudson: The Senate passed that as a reduction of general fund revenues at \$10.8M and then as it passed the House, it's a reduction of \$5.8M. So the House reduced the impact by \$5M.

Senator Grindberg: Whatever we agree to here, versus corporate of 15.3 of which as we all know part of that goes out of state for tax relief. The 10.3 reduction for charitable gaming reduction that we passed benefits the entire state and that is something that we need to be cognizant of.

Chairman Holmberg: There were other implications here too, as far as total tax relief because we have the issue of the financial institutions which will be going to conference committee, and the tax relief they were looking at. Their point, which was valid, if you're giving corporate tax relief, please remember that we don't pay taxes in the same way as others do. If you're returning that to corporations, please consider the financial institutions and the taxes that they pay. Don't give it just to one section in our economy and not give it to the other. What's the amount on that - that they were asking for?

Allen H. Knudson: SB 2320 negative \$2,125,000.

Senator Grindberg: What is the projected fiscal revenue collection from financial institutions in the budget 2011-13, I believe it's around \$8M expected? Collections have been down and then there was a slight bump in the forecast if I recall.

Becky J. Keller: As of yesterday, our business privilege financial institutions tax is estimated to be \$6.335M.

Senator Grindberg: It seems my numbers were pretty close. So the \$6M is down to \$4M – I'm sorry, what's the forecasted revenue for that line item?

Becky J. Keller: Currently, it's \$6.335M and that's with the 2125 coming out.

Senator Grindberg: My point then, minus \$2M of SB 2210 which has been concurred, has a potential of \$4M in tax credits. So if the financial institutions participated in that housing loan program and capitalized their opportunity on a tax credit combined with SB 2320, we in essence, could have \$0 collections from the financial institutions the next biennium. Another way to look at that – tax free.

Chairman Holmberg: Is there a consensus that you like the numbers in this bill - \$145.3M reduction in revenue? Senator Erbele is not happy with it, nor Senator Bowman and Senator Krebsbach.

Senator Wardner: I'm OK with a tax reduction, but this is a little more than I'd like to go.

Senator Kilzer: I'd like to see it under \$100M.

Senator Grindberg: Lukewarm. The point on gaming taxes is important for the non-profits. Unless we let this go, we're kind of out of control. I'm all for the balanced tax reduction, but just to remind everybody, two-thirds of the businesses in the state receive it through personal. Our effort has to more than just about a ranking, it's about what is right for the state, irregardless of a ranking. In a National publication, is all for show to some degree, particularly the testimony we received. It isn't going to boost economic development by companies shutting down and moving to our state. It's not going to happen.

Senator Warner: Would it be appropriate to poll the committee on the original Dalrymple bill – the Governor's projection of \$50M or some. I had the sense that was the level that the Senate was comfortable with.

Chairman Holmberg: We voted on the \$50M and that was the Senate's position, but now the position of the Senate Finance & Tax is \$145.3M to put us in a negotiating position with a body that was way above us initially in tax relief. We were at \$50M and they started at \$135M.

Senator Warner: Now we are actually higher than they are.

Senator Robinson: Is it possible for us to mull this over. We're caucusing at 12:00. I would only make a couple comments. I concur with Senator Grindberg on the charitable gaming. We've got to do that. This is a bit steep for me. I can support the relief and I'm probably the lone kid on the block here, but I'm uneasy when we make permanent these tax breaks. I would be interested in the sunset. If it's such a good idea, we can do it again in two years, but we won't lock ourselves in. We have this property tax thing which is on the horizon here. That is a concern, and major challenges down the road in infrastructure. I would hope they find a way to do something with daycare, so I'm struggling.

Chairman Holmberg: We will take a break. We go on the floor at 1:00.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1289
04-07-2011
Job # 16435

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE FOR A DO PASS AS AMENDED RE: INCOME TAX RATES

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order in reference to HB 1289 Tad H. Torgerson, OMB and Becky J. Keller, Legislative Council were also present.

Chairman Holmberg: The amendments are coming down. We could open the hearing and you can talk about them. The actual amendment is very, very simple but you can give us the version and we can discuss it and then before we vote you will have the amendment in your hand.

Senator Wardner: I had amendments that went with 15% reduction in individual income tax rather than the 20 and 8% reduction in corporate rather than the 10, I went to Kathy Strombeck and she worked it all out, if you combine them, 15% in individual income tax, 8% in corporate income tax the revenue reduction would be \$111.2M. That is what the amendments will say. We can tweak it if we want to reach \$100M for the biennium then she said you could leave the corporate at 8 and go with the income tax at 13. That's the information I have, we are waiting for them now, if there is any discussion,

Chairman Holmberg: Are there questions? Here they come! This is a work in progress and this will be handled by Finance and Tax Committee in their negotiations. I did visit with the chairman and he is willing to carry the bill.

Senator Christmann: Did Kathy give a breakdown or if she just gave the total?

Senator Wardner: She just gave me the total. She did not give me a breakdown how much the individual income verses the corporate.

Chairman Holmberg: Becky has it.

Becky J. Keller: We did have a slight adjustment to the number to she quoted Senator Wardner. The actual impact will be \$111,398,000; \$99,154,000 of that will be for individual and \$12,244,000 for corp.

She was asked to repeat those numbers.

Senator Christmann: Refresher where the bill is at with the bank taxes and did that take it from 7 to 6 or to 7 to 6 1/2.

Chairman Holmberg: I know it went to conference committee and I don't know if they met.

Senator Christmann: What does the goal at this point as we passed it strive to do?

Chairman Holmberg: That was to reduce their taxes by \$2.1M roughly.

Senator Christmann: I am wondering if we went from 7 to 3 1/2, we gave them a 50% cut and this would be 8 on corporate. I am trying to figure out a percentage.

Chairman Holmberg: They would argue that most banks are not going to involve themselves in that other program that is what their lobbyist told me earlier today.

V. Chair Bowman: I don't know if this is worth discussing or not but you know we've done a lot of tax lowering. We are starting to use more oil money for general fund money. Is this something we ought to sunset at the end of the next biennium so we can review where we're at. I think there'd be some merit in that because none of us know the ramifications of the oil industry, that can shut down in 2 weeks. We're going to pass this and become law and we don't know that unknown. We kind of have a pretty good idea where we are at with the rest of our income but that could be a major blow, and then we'd have to make some major changes again in our tax policy so; it's just a suggestion and I don't know if it's worthy of putting on there but it's something to think about.

Chairman Holmberg: That has been discussed before. Some would say anything over \$50M dollar tax cut is a gift to the bloggers.

Senator O'Connell: If that was a motion, I'd second it.

V. Chair Bowman made a motion. Second by Senator O'Connell.

Chairman Holmberg: We have a motion and a second. Discussion.

Senator Robinson: The other issue in addition to what Senator Bowman referenced is the, I don't want to call it uncertainty, but certainly we do know that there's going to be significant reductions on the federal side, that's a given, and we won't know the extent of those. I think that they will be rolling out over the next 24 or 36 months so that would be another consideration that we should keep in mind.

Senator Wardner: Just a point of order.

Chairman Holmberg: We haven't voted on your amendment, Senator Wardner You are absolutely right

Senator Wardner: I would move the amendment to 1289 #.02005. Second by V. Chair Grindberg.

A roll call vote was taken on the amendment .02005. Yea: 11; Nay: 1; Absent: 1. (later Senator Wanzek signed it as a yea so total yea is 12) Motion carried.

V. Chair Bowman: made a motion.

Chairman Holmberg: Your motion is to further amend it. What is the sunset?

V. Chair Bowman made the motion to put sunset clause on whenever this is done, whenever the two years, when this starts and the two years that it's?

Chairman Holmberg: June 30, 2013.

V. Chair Bowman: Then we will be back here and we can review it and see if it's working the way it is suppose to and if it isn't that will give us an option to make a decision.

Chairman Holmberg: I know that particular idea of having a sunset has been discussed; the arguments people use you are going to be criticized if you don't continue a tax break, just like you had under the Busch tax cuts, everyone was criticized for raising taxes if they didn't vote to continue the tax break.

Senator Krebsbach: I am wondering if we don't have to look at the year of Jan 1 because it's based on a tax year.

Senator Wardner: That's exactly right. We have to line it up with the taxable year.

V. Chair Bowman: That would work for me too.

Chairman Holmberg: is it January 1 or December 31?

Senator Wardner: I'm going to support this motion simply because of the federal government. We have no idea what's going to happen there so I don't mind if we have to vote at the end of the current biennium. That's fine.

Chairman Holmberg: Would you call the roll please on an amendment to put a date, December 31st, for taxable years after December 31st.

There was more discussion regarding the date

V. Chair Bowman: Whenever this ends and if we need to do it in January or whenever we meet again we have time to review it and then take the sunset off or extend it for another two years you have my blessing.

Chairman Holmberg: We have to make sure this is absolutely correct.

Senator Christmann: I don't want this, but what you want is the bill as it is goes into effect for tax years after December 31st, 2010, so you want on here is to have this bill then become ineffective after 2012. And then we chose to renew it we would do that in the 2013 session and make it back to the beginning of 2013 just like we are doing here.

Chairman Holmberg: I am going to join with Senator Christmann in voting no because I think it's a crutch to make it more palatable but I think putting the date might hurt the bill. Would you call the roll please on the Bowman amendment.

A roll call vote was taken on the Bowman amendment. Yea: 9; Nay: 3; Absent: 1 (after the hearing Senator Wanzek came into the office and voted yea.) so the total yea is 10.

Senator Wardner moved a do pass as amend. Second by Senator Christmann.

Chairman Holmberg: Call the roll on a Do Pass as Amended on HB 1289.

A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1289. YEA: 8; NAY: 4; ABSENT: 1. (after the hearing Senator Wanzek came in and voted yes) Motion carried. Senator Cook will carry the bill. V. Chair Bowman will carry the second amendment.

Chairman Holmberg: Let the record should show that the Senate Appropriations Committee completed their work on the second half of the session for passing bills out at 4:27 p.m. and we are excused.

April 7, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

In lieu of the amendments adopted by the Senate as printed on pages 913-917 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "reenact" insert "section 57-38-30 and"

Page 1, line 2, after "for" insert "corporations and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~twoone~~ and ~~one-tenth~~ninety-three hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~eighty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenth~~eighty-nine hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years."

Renumber accordingly

Date: 4-7-11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1289

Senate APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.0408.02005

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

Motion Made By Wardner Seconded By Grindberg

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓	✓			
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek					

Total (Yes) 12 No 1

Absent 0 (1) But Wanzek Voted yes later

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

In lieu of the amendments adopted by the Senate as printed on pages 913-917 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "reenact" insert "section 57-38-30 and"

Page 1, line 2, after "for" insert "corporations and"

Page 1, line 2, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two one~~ and ~~one tenth~~ ninety-three hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five four~~ and ~~twenty five~~ eighty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six five~~ and ~~four tenth~~ eighty-nine hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years."

Page 4, line 24, after "for" insert "the first two"

Page 4, line 25, after "2010" insert ", and is thereafter ineffective"

Renumber accordingly

Date: 4-7-11

Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1289

Senate APPROPRIATIONS 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 Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner		✓
Senator Bowman	✓		Senator O'Connell		✓
Senator Grindberg	✓		Senator Robinson		✓
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓	✓			
Senator Wanzek	✓				

Total (Yes) 9 No 4

Absent 1 (But Wanzek voted later (yes))

Floor Assignment _____

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

Cook - if doesn't like amendment, then Bowman

REPORT OF STANDING COMMITTEE

HB 1289, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1289, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 913-917 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "reenact" insert "section 57-38-30 and"

Page 1, line 2, after "for" insert "corporations and"

Page 1, line 2, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

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2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years."

Page 4, line 24, after "for" insert "the first two"

Page 4, line 25, after "2010" insert ", and is thereafter ineffective"

Re-number accordingly

2011 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1289

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 14, 2011
Job # 16612

Conference Committee

Committee Clerk Signature *Jeanette Cook*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

No amendments

Chairman Wesley R. Belter: Could the Senate go over what happened to our two tax bills and what you have before us.

Senator Cook: Your Senate Tax and Finance conferees are in a predicament because the bill that we passed out of Finance and Tax got amended in House Appropriations, and we had a good discussion on the floor over their amendments. It is safe to say that we lost our position. We sit here representing the Senate, but the Senate Finance and Tax Committee might have a different opinion. I think what we are prepared to do is try to have a good conversation to see if we can't find something closer in total dollars to where the two tax committee bills came out. Then take it back to the floor with a better effort and explanation of justifying why that is the right thing to do. We put the corporate income tax and the personal income tax in the same bill. We have another bill out there that deals with bank tax and a study on that also, which has been a part of that process to study the merit of eliminating the financial institutions' tax, and tax them like we tax corporations. I would hope, maybe we would consider, as we try to move forward with a sound tax policy regarding tax on income, that we start with the understanding that \$150 million is a good figure to look at. If we can take it up there, and justify it in a manner that would be successful, I think it should include all three taxes: personal, corporate, and bank. What we need to focus our time on is trying to find somewhere where the six of us have a majority agreement on just what the various tax rates of the three tax reduction plans should be. We need to make sure that we are sound in our judgment, then take it back up to our bodies to find the support we need, and then take it back to the governor. As it is now, it is at about \$111 million dollars, I believe. We took it to the floor with a 20% personal income tax reduction, a 10% corporate income tax reduction, and as you see it now, the corporate is at 8% and the personal is at 15%. There is also a sunset involved in here too, and we have to deal with that. I certainly am not a supporter of the sunset, and I don't think that will be a major problem on the Senate floor.

Chairman Wesley R. Belter: From the House perspective I think we can certainly come to an agreement on the \$150 million as a realistic objective that I know the House would support. I would also agree with you that we do not want the sunset in there. We certainly support putting the bank tax into this bill to be included in the \$150 million package. I think that we are in agreement on those issues. It is just a mix between the personal and the corporate that we need to resolve. I do have a set of amendments that I would be willing to pass out and offer. I don't have an exact fiscal note on this, but what we are looking at is the bank tax, also included with the bank tax in Section 7 is a study of our financial institution tax (page 6). But, we have a personal income tax reduction here of approximately \$118 million. Those numbers probably need to be adjusted some. The corporate is approximately \$32 million. The income tax was a little short of that.

Representative Headland: I believe that it was a 17% reduction on the individual income tax.

Senator Hogue: The Senate tried on two occasions to add some money to the Legacy Fund to get that started. At one point we had \$52 million, and our Appropriations Committee took that out. We started out with the \$150 million, but I was wondering what the House's appetite would be that we add some money to the Legacy Fund, or if we can't do that, we take the \$150 million up to \$200 million.

Chairman Wesley R. Belter: I think the House would possibly look at that figure.

Representative Headland: I agree. I think maybe we should look at increasing the level up to the \$200 million range; however, I'm not sure that placing it in the Legacy Fund would be something that I would support. I think that if we are collecting more money than is needed, and effort should be put forward to return as much money as we can to the people. I think we'll attempt to achieve that with tax reductions.

Chairman Wesley R. Belter: I would add, that as far as increasing the tax reductions to \$200 million, we need to see some expenditure reductions along the way on the part of both the House and the Senate in order to achieve those types of reductions. If we can see the spending reductions brought into line, I wouldn't have a problem with going to that number.

Senator Cook: I've said this many times during this session; you start a session with a surplus amount of money and you have three choices. You spend it, you save it, or you give it back. The only way that we give it back is that we reduce taxes. I think we need to balance it, and taking this fiscal note any higher than \$150 million, I would certainly hope that we do it in a manner that is truly saving some money. I think that there is a lot of support in the state. They understand that it is wise to save. What I would ask is that we go back to the last year that we passed an income tax reduction bill. I think that it reduced the personal income tax by \$90 million and the corporate by \$10 million. I would like to get refreshed on exactly how we did that. Was it a straight percentage across the board, and if so, how much was that percentage for each one of those rates? We could get the exact numbers. I assume here (the amendment) in the personal income tax, that you are keeping all of the tax brackets, and reducing each bracket by the same percentage. Is that what you are doing?

Chairman Wesley R. Belter: That's correct.

Senator Cook: 17% The corporate tax bracket, the bill that you sent over to us created one bracket with \$75,000 of exemption. We were not too keen on that \$75,000 exemption. We not too keen on really making a change on the various brackets. What are you doing here with the corporate income tax?

Representative Headland: We've created two brackets; the first would be on the first \$75,000 of income, and that rate would be at 2%. Then all income over \$75,000 would be taxed at 4.9%. What we are really striving for in the House is to come with the top rate at no higher than 5%.

Senator Cook: We have also heard a lot of talk regarding what the highest rates are in states that have corporate income taxes. I would request that someone from Council find out for us what that is to date. Then we can use that as accurate information as we make our decision and take it to the floor.

Chairman Wesley R. Belter: We can certainly do that.

Senator Cook: Your effective date on this is going to be for tax year 2011?

Chairman Wesley R. Belter: Yes.

Senator Cook: It will be income that is being made right now.

Chairman Wesley R. Belter: Yes.

Representative Headland: Just one more comment relative to depositing money in the Legacy Fund. I think all of us support saving money, however, by putting it in the tax package and reducing taxes by the additional money, helps us next biennium if we believe that excess revenues are going to continue to be available to us through other revenue sources, such as oil, sales, etc. That is another real reason why I think that if we are going to add to the number, it should be added to the tax reduction.

Chairman Wesley R. Belter: Are there any other comments from the committee members? I think we will get further information that has been requested, and then have another meeting tomorrow. I also want to take a look at our personal income tax brackets and make sure that our numbers all fit the \$150 million proposal that we have right here.

Senator Cook: We probably should ask for an updated fiscal note on this bill, as you have offered the amendments. It doesn't have to include any financial institution tax. We know what that will be.

Chairman Wesley R. Belter adjourned the meeting.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 15, 2011
Job # 16630

Conference Committee

Committee Clerk Signature

Janette Cook

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

See attached amendments and additional tax information Tax Commissioner's Office.

Chairman Wesley R. Belter: Distributed new amendments (.02008). Reviewed information brought in by Kathy Strombeck (two handouts). Kathy has prepared a comparison of corporate rates in various states. Please refer to attachments. Are there any questions?

Representative Headland: When you incorporate the new rates into this package it appears that we would have a very favorable tax in North Dakota. As far as where it would rank us under the business climate compared to other states, I think it would put us in an enviable situation. I am really supportive of that provision in this bill.

Senator Dotzenrod: On the corporate reduction that is listed, \$32.71 million, if we get past these federal depreciation expansion, and we return to the standard schedule of depreciation, we are in an unusual position to see a cut at the federal level that is passed down to the state because of what they are doing. It has an expiration date that is intended to be temporary. What does that 32.71 become if you don't have this temporary federal effect?

Kathy Strombeck, Research Analyst for Office of Tax Commissioner: Relative to the current forecast, that \$32.71 million becomes \$42.48 million. When it expires, we suspect that we would have a broader tax base to begin with. Had that expansion of the depreciation not occurred, these rates would have reduced revenues \$42.48 million.

Senator Cook: When you look at these comparisons of other states' tax rates, Kansas has a flat rate of 4% for everybody, Colorado is a flat rate of 4.63; it would definitely make a 4.9 rather attractive. I understand why you are trying to distribute this tax decrease in the corporate filers, so that you reach that 4.9, but if you look at how it affects the corporations that are paying tax right now, those that are paying tax on \$25,000 or less will see reduction in their corporate income tax rate from 2.1 to a flat 2%. Those that are between

\$25,000 and \$50,000 will see theirs go down from 4.25 to 2%. That is a substantial decrease for them. Then those that are over \$50,000 ... inaudible.... currently. Those under \$75,000 will see theirs reduced from 6.4 down to 2%. They will be the biggest winners. The ones over \$75,000 today will see theirs reduced from 6.4 to 4.9. We discussed this in all the tax bills in the Senate Tax and Finance Committee, and we are reluctant to try to start making bigger winners and losers by the adjusting of the brackets, not to say that there isn't some wisdom in that. We are reluctant to do it because we didn't know how we would justify what it is we are doing in giving one individual corporation a bigger tax break than we give another simply because of the income level that they are paying taxes on. That why we just went to straight deduction. Our corporate bill kept three brackets and reduced each bracket by the same amount of money. I can see your argument of the merit of getting to 4.9, but I would like you to speak to how you would answer the question, "How come one corporation got a lot greater tax deduction than another one, simply because of the income level that they were at?"

Representative Headland: My response to the Senate would be that the majority of the tax collected would be in those brackets that are receiving the greatest benefit. Also, the Senate Tax and Finance Committee passed us over an individual income tax bill that did the very thing that they are not approving in the corporate. They gave bigger reductions to different levels of income. That is how it would have worked because of progressive nature of how it was passed. I think what we are trying to achieve is a climate where we are going to attract business. I think that is what our provision does. I would ask Kathy to provide us with that information to show us exactly what we are talking about here.

Senator Cook: I think we all have that information. I believe that the top twenty-five corporations pay almost half of the corporate income tax, but again, the \$50 million income tax bill that we passed over, reduced each bracket by the same number of points. Yes, that is more progressive of the tax decrease. The bill that we took out of the Finance and Tax Committee to the floor had our fingerprints on it. Other than the governor's, it was the same percentage. We still treated each bracket, to some degree, the same. I think it is a policy question. I would feel much more comfortable, ... When we start changing brackets I think that it is important that we have good justification for doing so. There may be a good justification for doing it, or for a flat tax. We see a lot of states that have them. Whatever we do, I would hope that we tack a study on here to study our corporate and personal tax brackets to study the degree that they are regressive or progressive, and to the degree that they are wise places to have our brackets and are sound policy in today's time. Did someone just create them years ago, and we have just been modifying them as we move along? Is there really some common sense and reason for why we have brackets established the way we do? The only other question I would have at this time is on the corporate income tax. It represents an average reduction of 21%; individual income tax represents a 17% reduction. The question will get asked, why give more to corporate than you do to personal. I would like to see what the fiscal note would look like if each percentage was the same. It would probably be around 18.5% to 19%.

Chairman Wesley R. Belter: We can certainly look at that. I think one of the things to keep in perspective is last session when we reduced personal income tax by \$90 million and corporate by \$10 million, we gave the big relief to the personal. Actually if you look at the relief that we are giving this time, it is still very comparable. If you look at the last two

biennia, you will find that we are pretty much keeping the two in a comparable percentage reduction.

Senator Cook: These amendments include the financial institutions tax?

Chairman Wesley R. Belter: Yes.

Senator Cook: Then again, the reason that we have to conversations and questions is because we have to take these to the floors and be successful with it. We are going to get asked some questions, as we need to be able to have sound judgment on what we bring forward.

Senator Hogue: One of the areas where there is a fundamental disagreement between the Senate and the House is the on the corporate rates. The House has a belief that these corporate rates are important in attracting new business to North Dakota. Of course, we have some in the Senate that think that corporate rates are really not an incentive for anyone to come here. I am wondering if the House had some information or testimony that shows that corporations actually look to corporate rates when they are trying to figure out whether they would consider relocating to North Dakota.

Chairman Wesley R. Belter: No, I'm not aware of any information, but I look at it from the perspective of the overall business climate that we in North Dakota are presenting. I think from a corporate perspective, when corporations are looking at coming to North Dakota, I think they do look at tax rates both personal as well as corporate. I do think that they look at our work comp. rules and regulations and our property taxes. I understand that there is a disagreement with you in the Senate over these various issues, but I find it hard to believe that a lot of companies are looking at what I call "the little special interest" tax issues that we have seen quite a few of this session. I don't think that is really what attracts business. We are very fortunate, now, in North Dakota. We have Microsoft, John Deere, and now have Caterpillar here. We have some of these bigger corporations, including the purchaser of Bob Cat. Looking at the overall business climate, we are seeing some states that are looking at raising their corporate taxes, if they have financial problems. They are making their business climate unfavorable. They are looking at raising personal income taxes, too. To be competitive I think it is important to get both our corporate and personal rate down, so we are favorable when they are making comparisons and looking at the business statistics that these companies look at.

Representative Headland: Although the evidence is anecdotal, all we have to do is look to South Dakota and what has happened down there since they have essentially exempted business from taxation. Back when they did that in the late 80's our populations were similar. Today they have 100,000 more residents than we do. If you look for the reason why, a lot of businesses have moved from Minnesota to South Dakota for that very reason. There is still an exodus from Minnesota. As we look to try to encourage some of those businesses to locate here, we have to realize that our number one competitor is South Dakota. They do not have a corporate income tax. That is what we are up against as a state. The time to move in this direction is now. These are the reasons that we feel in the House that it is important that we do this.

Senator Cook: I'm not sure when South Dakota has seen their growth, and I certainly know that it is an attractive state to go to with no income tax. But, if I was going to consider locating a large corporation somewhere and take a look at the total tax policy, I would certainly catch wind of the fact that they have the largest sales tax base that you find in the country. They tax many of the services that are business to business services, and we don't. They have a different property tax structure also. Granted they have a very interactive income tax rate, but it is the big picture that I think everybody looks at. I understand the importance of having a message sent to businesses that we are on solid ground. That we have a decreasing and very consistent and predictable tax rate. I understand that these are the people that employ people, and making them more successful makes their employees more successful and increases salaries also. Again, I think it is imperative that we have these discussions, so what we take out of here is the right thing. I don't think that there is any disagreement on the amount, just how we divide it up and who gets it.

Chairman Wesley R. Belter: I have scheduled another conference today at 3:00pm. The meeting was adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 15, 2011
Job # 16673

Conference Committee

Committee Clerk Signature *Jeanette Cook*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

See attachments.

Chairman Wesley R. Belter: You have some information for us, Senator Cook?

Senator Cook: I did not have time to get the information. I think it is important for us to be able to confer with our colleagues and have something that will get support on the floor.

Representative Headland: I have some information that I think is relative to the conversation. I would like Kathy Strombeck to provide that to the committee. It is information that you can ponder in your discussions.

Kathy Strombeck distributed 2008 Corporate Income Tax returns by apportionment factor and reviewed them. This was basically to look at what is a definition of a North Dakota corporation. Obviously, in the purest sense a North Dakota corporation has an apportionment factor of one, where everything is assigned, all payroll, property and sales assigned in North Dakota. That is not necessarily the only definition of a North Dakota corporation. Please refer to attachment.

Representative Kelsh: Can you tell me how many with an apportionment factor of one pay no income tax in North Dakota?

Kathy Strombeck: I don't, but I could get that for you.

Representative Headland: The point is that this clearly shows what companies that are on the high end of the tax rate contribute to our economy, and the impact of that, and that they are deserving of relief. I thought this was important, so everyone knows what we are talking about.

Senator Dotzenrod: In the Senate we had a combined corporate and individual income tax bill that the Tax Committee had voted in favor of. It went to the Appropriations

Committee. When the Appropriations Committee brought it back to the floor of the Senate, they had amendments to reduce the size, getting it down to around \$145 million. They changed some of the rates and brought it down to about \$111 million between the two. Those amendments were debated on the floor of the Senate, and the Senate did approve the amendments to reduce the size. So, the position the Senate, by vote of the majority of the members, is to bring this package down in size to \$111 million. That was the position of the Senate going into this conference committee. I think we do need to visit with our members and get a sense of what they are thinking.

Chairman Wesley R. Belter: We will look at this over the weekend. I think as this session comes to a close, the appropriators need to get their spending in line, and that there is plenty of room for the package as far as the number of dollars that we sent out of the House. I hope next week we can resolve this and come forward to with an amount within the \$150 million dollar area. I really think the revenues are there if we manage our expenditures appropriately.

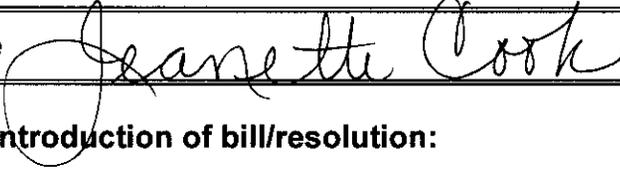
The meeting was adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 18, 2011
Job # 16722

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

Distributed amendments.

Chairman Wesley R. Belter: I believe at our last meeting it was requested that you have some time to talk with your colleagues.

Senator Cook: I don't know anything more today than I did when I made the request. We have had so many conference committees and no one was around for the week-end. I think understanding that there's a tax package that came out of the Senate Finance and Tax Committee. There is a tax package that came out of the Senate Appropriations Committee that is a lot less money, and it had a sunset on it. I would say that the Senate is all over the place on this issue. It is imperative that we work toward a level that we have some degree of getting it passed on the Senate floor. Taking the sunset off is something that we should be able to do. Taking a bill up there that is \$150 million is going to have a certain amount of risk, but I am prepared to fight that fight. I think the other thing that will determine if we are successful is to what degree we have personal, corporate, and what the actual rates are. There are interesting numbers. I asked Kathy if we reduced the tax by the same percentage for both individual and corporate, we can see the percentage is 18%. It is roughly \$120 million in personal income tax and \$27 million in corporate income tax. That is an option that would be nice, so we could say we are treating them both the same. It is a good argument to be able to make. It is a little bit less than you had in corporate and a little bit more in personal. It is pretty close to what you had. It is an option we have on the table.

Senator Hogue: Maybe we can't agree today on where we're going to end up as a conference, but I thought I would prepare some amendments where we have some common ground to try to move us closer. Then we can try to present to the respective chambers. I drafted up amendments. One takes the sunset off. The second thing was to put the tax rates where the Senate Finance and Taxation Committee had set them when it left the committee. It was for an overall \$145.3 million of total reductions and approximately \$130 million in individual reductions and \$15.3 million in corporate reductions. I recognize

that is probably not where the House wants to be, but I would certainly like to at least get us on record as going up to \$145 million as opposed to \$111 million and getting the sunset off. That is the purpose of me offering the amendments today.

Chairman Wesley R. Belter: One of the points I would like to make is that we need to keep in perspective that during the last session we only gave a 4% reduction to the corporate versus 12.3 on individual. With the House version that we proposed right now, we are talking about a 21% increase to corporate versus 17% to the individual, but if you look at the two biennia we are looking at approximately a 25% reduction in corporate and a 29.3% in individual income tax reduction. So, from that standpoint I think that what the House proposed here is pretty fair if you want to use the measurement of equal reduction. I do appreciate the idea of doing away with the sunset, because it is something the House will not support. Then bringing the amount up closer to the \$150 million is appreciated. In our last proposal we were at about \$148 million on the total. We are getting closer, but our measurement stick to start out with was \$150 million.

Senator Hogue: I haven't included the financial institutions entities, so if we added that on, we would be at \$147.5, which is pretty close. I really couldn't support an equal reduction of corporate and individual tax rates, simply because the overwhelming majority of our small businesses are either sole proprietorships or pass through entities that are getting the benefit of the reduction through an individual rate. If we are going to select a ratio, it should be very heavy on the individual because that individual rate provides the majority of our small businesses tax relief. The corporate doesn't; it doesn't provide them a dime of tax relief. I think that is why I have always leaned very heavily on the individual tax relief.

Representative Headland: I'm failing to understand how the pass throughs (S corps) are not going to get relief in this package that we have offered. The fact is that they are going to get substantial relief. They received substantial relief last biennium when we passed income tax reductions. I believe that it is not an accurate statement to say that no small business gets reduction through the corporate tax relief that we are providing. I think that there are some small businesses in this state that are C corps, and the fact that those small business that file taxes and are C corps and didn't get any relief last time, that is reason that justifies why they should get a very nice reduction this time. So, we are far apart, possibly, on what we are offering. I think that if as a matter of policy we want to treat all business fairly, then we need to offer a fair and substantial reduction in corporate like we have in the House.

Chairman Wesley R. Belter: Is it the consensus that at the present time you wouldn't be prepared to take what the House has offered to the floor and see where we're at?

Senator Cook: Right. I have a question for Kathy Strombeck. On this report that Rep. Headland handed out, it shows where most of the payroll is coming from and where most of the filers are regarding those that have an apportionment factor of one, those who are between $\frac{3}{4}$ and one, those who are between $\frac{1}{2}$ and $\frac{3}{4}$, and then you list the multi-state and the multi-national corporations. So, the first thing is those that could also be listed as those corporate filers who have an apportionment factor of less than five, right?

Kathy Strombeck: That's correct.

Senator Cook: Do you have any idea of what the average apportionment factor is for these companies that you call multi-national corporations?

Kathy Strombeck: I don't know, but I could get that.

Senator Cook: I would like to have that.

Representative Headland: Could you repeat that, Senator Cook?

Senator Cook: This report that you handed out, these multi-national corporations would have an apportionment factor of less than 5. I was curious as to what the average apportionment factor would be. I understand the motive that the House has when you have a desire to get the corporate rate below 5. I can understand how the state could make an argument that that makes us attractive for out-of-state business that look at locating in North Dakota. But, I would also argue that this apportionment factor has a lot to do with what states look at, probably more so than the rate. If we are really going to make this a business friendly state, there are other things that we could do besides just have a tax rate that is below 5. Whatever we do with this, I certainly hope that we would put a study on this bill to study and work on the language and all of the factors that out-of-state corporations look at when they consider location. We should also study ways in which we could reduce the burden that is placed on corporate filers. We have had a lot of discussions on the corporate rate, whether we have two brackets or three brackets. I would just show you that by keeping three brackets, if you look at the middle bracket in the report that Kathy handed out, you can see the corporate rate at 17.9% with three brackets it is 1.65, 4.15, and 5.05. Keeping that other bracket would help reduce the impact, and still allow you to get below 5. I just wanted to point that out. We are going to have to discuss at some point, two corporate brackets or three.

Chairman Wesley R. Belter: Any other comments from committee members.

Representative Headland: If we looked at the individual rates, I believe these brackets would still take effect the same way they do currently. The filers in that midrange if we go with this scenario, would probably still be taxed at a rate of double or more than an S corp filing as an individual simply because of the rates and the income levels.

Senator Cook: I'd have to compare them.

Senator Hogue: Distributed amendments and reviewed them. Please refer to the attached amendments. Amendment .02009 amends 1289 to put the rates for individuals and corporations at where they were when it was voted on by the Senate Finance and Tax committee. The rate reductions are across all brackets, 20% for individuals and 10% for corporations. It leaves the three corporate brackets in place. There is no sunset on it, and the fiscal note is \$130 million for individual, \$15.3 for corporations.

Chairman Wesley R. Belter: Your total fiscal was what?

Senator Hogue: \$145.3 million.

Chairman Wesley R. Belter: That didn't include the financial institutions tax?

Senator Hogue: No, it didn't.

Chairman Wesley R. Belter: We will certainly take a look at this, but we would really like to see the corporate rate under 5%. We do like the fact that if we add the financial institution tax in, we are getting closer on the overall tax reduction.

The meeting was adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 19, 2011
Job # 16782

Conference Committee

Committee Clerk Signature *Jeanette Cook*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

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Chairman Wesley R. Belter: Our amendments will be here shortly.

Representative Headland began to review the amendments .02011. They were the wrong amendments. The committee members handed the amendments back. I apologize for this. I think we should adjourn.

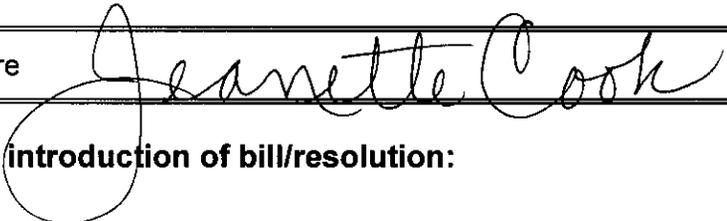
Chairman Wesley R. Belter: We will adjourn.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 19, 2011
Job # 16765

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

Chairman Wesley R. Belter: I think we are at the point in the House that we would like to the amendments that we discussed earlier drafted. They had about \$32 million in corporate tax. I don't know what other amendments are out there.

Senator Cook: You don't have amendments today to offer?

Chairman Wesley R. Belter: No.

Senator Cook: What are you looking at for a rate on the corporations?

Chairman Wesley R. Belter: I believe they were at 4.9.

Representative Headland: I would propose that we draft a top rate of 4.9 and a second rate of 2% on the first \$75,000.

Senator Cook: I would welcome you to bring in your amendments.

Chairman Wesley R. Belter: Any other comments from committee members

Senator Dotzenrod: When the bill was amended in the Senate, there was a two year expiration date. The Senate and the House are different in that respect. Has there been any consideration of putting a two year expiration date just as a way of having to look at this again two years from now? Or, is that something that the committee doesn't want to consider? I could offer it as a motion when we are amending.

Chairman Wesley R. Belter: The House has no interest in a sunset. We feel every session has an opportunity to look at every issue, so subsequently everything has a potential sunset. I don't believe it is necessary to draft it into a piece of legislation such as this.

Senator Hogue: I spoke about the financial institutions tax, and it wasn't part of the amendment that I distributed. I've since had Mr. Walstad from Legislative Council prepare a new amendment that has that tax reduction from 7 to 6 ½. The benefit of the amendment is that all three tax reductions are in one amendment, the financial institutions, the individual, and the corporate.

Chairman Wesley R. Belter: You can pass those out.

Representative Headland: It would be my intent to have the financial institutions tax incorporated into my amendments as well.

Chairman Wesley R. Belter: Senator Hogue, did you want to review your amendments?

Senator Hogue: it is the 20% reduction for individuals, 10% for corporations, and the financial institutions goes from 7% to 6 ½%. I think that is about a 7% reduction for the financial institutions.

**Senator Cook moved the amendments from Senator Hogue.
Senator Hogue seconded the amendments.**

Chairman Wesley R. Belter: The House at this point is not prepared to accept this line. I still think that we are in need of additional corporate. So, I will not be supporting these amendments.

**A roll call vote was taken on the amendments from Senator Hogue.
Aye 4 Nay 2 Absent 0
The motion failed.**

The meeting was adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1289
April 22, 2011
#16848

Conference Committee

Committee Clerk Signature *Mary Brucher*

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of income tax rates for individuals, estates, and trusts; and to provide an effective date.

Minutes:

No attachments.

Senator Cook: I make a motion for the Senate to recede from the Senate amendments and amend 1289 into a hog house to be the exact same as HB 1047. The clerk will simply reference the number on the hog house amendments that come down that mirror 1047.

Chairman Wesley R. Belter: We have a motion from Senator Cook. Is there a second?

Representative Headland: Seconded.

Chairman Wesley R. Belter: Any discussion?

A roll call vote was taken: YES 5 NO 1 ABSENT 0
MOTION CARRIED.

Meeting adjourned.

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House finance + Tax

Bill/Resolution No. HB 1289 as (re) engrossed

Date: 4-14-11, 4-15-11^{am}, 4-15-11^{pm}

Roll Call Vote #: _____

Action Taken

- HOUSE accede to Senate amendments
- HOUSE accede to Senate amendments and further amend
- SENATE recede from Senate amendments
- SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: _____ Seconded by: _____

Representatives	4-14	4-15	4-15	Yes	No	Senators	4-14	4-15	4-15	Yes	No
Chairman Belter	✓	✓	✓			Senator Cook	✓	✓	✓		
Rep. Headland	✓	✓	✓			Senator Hogue	✓	✓	✓		
Rep. S. Kelsh	✓	✓	✓			Senator Dotzenrod	✓	✓	✓		

Vote Count Yes: _____ No: _____ Absent: _____

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

April 18, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal and pages 913-916 and pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two~~one and ~~one-tenth~~eighty-nine hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~seventy-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~seventy-six hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing

state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$33,950~~\$34,500 1.84%1.47%
Over ~~\$33,950~~\$34,500 ~~\$624.68~~\$507.15 plus 3.44%2.75%
but not over ~~\$82,250~~\$83,600 of amount over ~~\$33,950~~\$34,500
Over ~~\$82,250~~\$83,600 ~~\$2,286.20~~\$1,857.40 plus 3.81%3.05%
but not over ~~\$171,550~~\$174,400 of amount over ~~\$82,250~~\$83,600
Over ~~\$171,550~~\$174,400 ~~\$5,688.53~~\$4,626.80 plus 4.42%3.54%
but not over ~~\$372,950~~\$379,150 of amount over ~~\$171,550~~\$174,400
Over ~~\$372,950~~\$379,150 ~~\$14,590.41~~\$11,874.95 plus 4.86%3.89%
of amount over ~~\$372,950~~\$379,150

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$56,750~~\$57,700 1.84%1.47%
Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$848.19 plus 3.44%2.75%
but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700
Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,093.57 plus 3.81%3.05%
but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350
Over ~~\$208,850~~\$212,300 ~~\$6,542.10~~\$5,318.54 plus 4.42%3.54%
but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300
Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,225.03 plus 4.86%3.89%
of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 1.84%1.47%
Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.75%
but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850
Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,546.78 plus 3.81%3.05%

but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675
 Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,659.27 plus 4.42%3.54%
 but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$106,150
 Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,612.52 plus 4.86%3.89%
 of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 1.84%1.47%
 Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$679.88 plus 3.44%2.75%
 but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250
 Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,691.50 plus 3.81%3.05%
 but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400
 Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$4,946.98 plus 4.42%3.54%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350
 Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,524.30 plus 4.86%3.89%
 of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 1.84%1.47%
 Over \$2,300 ~~\$42.32~~\$33.81 plus 3.44%2.75%
 but not over ~~\$5,350~~\$5,450 of amount over \$2,300
 Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$120.44 plus 3.81%3.05%
 but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450
 Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$207.36 plus 4.42%3.54%
 but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300
 Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$315.33 plus 4.86%3.89%
 of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and

- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. ~~For taxable years beginning after December 31, 2009, the~~The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of ~~1954~~1986, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House finance + Tax

Bill/Resolution No. HB 1289 as (re) engrossed

Date: 4-18-11, 4-19-11

Roll Call Vote #: _____

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar MOVE AMENDMENTS

Motion Made by: Senator Cool Seconded by: Senator Hogue

Representatives				Senators					
	H/H	H/H	Yes	No		H/H	H/H	Yes	No
Chairman Belter	✓	✓		✓	Senator Cool	✓	✓	✓	
Rep. Headland	✓	✓		✓	Senator Hogue	✓	✓	✓	
Rep. S. Kelah	✓	✓	✓		Senator Dotson	✓	✓	✓	

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

★ MOTION FAILS ★

April 22, 2011

VR
4/25/11
10612

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-15-01.1, 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30, subsection 1 of section 57-38-30.3, and sections 57-64-01, 57-64-02, 57-64-03, and 57-64-04 of the North Dakota Century Code and section 13 of chapter 520 of the 2007 Session Laws, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax, a reduction in income tax rates for corporations, individuals, estates, and trusts, and allocation of state funding to school districts for mill levy reduction grants and property tax levies of school districts; to repeal chapter 57-16 of the North Dakota Century Code, relating to certain excess levies of school districts; to provide an appropriation; to provide for a transfer; to provide for legislative management studies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

- b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
- a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
 - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.

4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is sevensix and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 3. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed five and seven-tenths~~four and six-tenths~~ percent of the tax before credits

allowed under this section, or two thousand five hundred dollars, whichever is less.

- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
 - c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
- 2.
- a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
 - b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that

received the tax overpayment until the sum of the deductions equals the credit; and

- (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 4. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 5. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 6. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

6-8/2

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~twoone~~ and ~~one-tenth~~sixty-eight hundredths percent.
 - b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~fivefour~~ and ~~twenty-five~~twenty-three hundredths percent.
 - c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~sixfive~~ and ~~four-tenth~~sifteen hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 7. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.
 - a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$33,950 <u>\$34,500</u>	1.84% <u>1.51%</u>
Over \$33,950 <u>\$34,500</u>	\$624.68 <u>\$520.95</u> plus 3.44% <u>2.82%</u>
but not over \$82,250 <u>\$83,600</u>	of amount over \$33,950 <u>\$34,500</u>
Over \$82,250 <u>\$83,600</u>	\$2,286.20 <u>\$1,950.57</u> plus 3.81% <u>3.13%</u>
but not over \$171,550 <u>\$174,400</u>	of amount over \$82,250 <u>\$83,600</u>
Over \$171,550 <u>\$174,400</u>	\$5,688.53 <u>\$4,747.61</u> plus 4.42% <u>3.63%</u>
but not over \$372,950 <u>\$379,150</u>	of amount over \$171,550 <u>\$174,400</u>
Over \$372,950 <u>\$379,150</u>	\$14,590.41 <u>\$12,180.04</u> plus 4.86% <u>3.99%</u>
	of amount over \$372,950 <u>\$379,150</u>

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

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Not over ~~\$56,750~~\$57,700 1.84%1.51%
 Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$871.27 plus 3.44%2.82%
 but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700
 Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,173.80 plus 3.81%3.13%
 but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350
 Over ~~\$208,850~~\$208,850 ~~\$6,542.10~~\$5,457.14 plus 4.42%3.63%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300
 Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,513.79 plus 4.86%3.99%
 of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 1.84%1.51%
 Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.81%
 but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850
 Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,586.90 plus 3.81%3.13%
 but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675
 Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,728.57 plus 4.42%3.63%
 but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$69,675
 Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,756.90 plus 4.86%3.99%
 of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 1.84%1.51%
 Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$698.38 plus 3.44%2.82%
 but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250
 Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,761.21 plus 3.81%3.13%
 but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400
 Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$5,075.84 plus 4.42%3.63%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350
 Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,820.38 plus 4.86%3.99%
 of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 1.84% 1.51%

Over \$2,300 ~~\$42.32~~ \$34.73 plus ~~3.44%~~ 2.82%

but not over ~~\$5,350~~ \$5,450 of amount over \$2,300

Over ~~\$5,350~~ \$5,450 ~~\$147.24~~ \$123.56 plus ~~3.81%~~ 3.13%

but not over ~~\$8,200~~ \$8,300 of amount over ~~\$5,350~~ \$5,450

Over ~~\$8,200~~ \$8,300 ~~\$255.83~~ \$212.77 plus ~~4.42%~~ 3.63%

but not over ~~\$11,150~~ \$11,350 of amount over ~~\$8,200~~ \$8,300

Over ~~\$11,150~~ \$11,350 ~~\$386.22~~ \$323.48 plus ~~4.86%~~ 3.99%

of amount over ~~\$11,150~~ \$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

g. ~~For taxable years beginning after December 31, 2009, the~~ The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 8. AMENDMENT. Section 57-64-01 of the North Dakota Century Code is amended and reenacted as follows:

57-64-01. Definitions.

For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a mill levy reduction grant.
3. ~~"Weighted student unit" means weighted student unit as determined for the school district under chapter 15.1-27.~~

SECTION 9. AMENDMENT. Section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

57-64-02. Mill levy reduction allocation and grant.

Each qualifying school district in the state is entitled to a mill levy reduction allocation and grant as provided in this chapter, subject to legislative appropriation to the superintendent of public instruction.

1. The mill levy reduction allocation rate for each qualifying school district is equal to the payments to the school district based on the per student payment rate as determined for the school year under chapter 15.1-27.
2. The grant to a qualifying school district may not exceed the smallest of:
 - a. The allocation determined under subsection 1;
 - b. The taxable valuation of property in the school district in the previous taxable year times the number of mills determined by subtracting one hundred mills from the combined education mill rate of the school district for taxable year 2008; or
 - c. The taxable valuation of property in the school district in the previous taxable year times seventy-five mills.
3. The grant to a qualifying school district may not be less than the grant to that school district in the preceding school year.
4. The grant to a qualifying school district may not exceed the grant to that school district in the preceding school year by a percentage that is more than the percentage increase in statewide taxable valuation which was determined for the previous taxable year.
5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of

university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.

- 4.6. The superintendent of public instruction shall report to each qualifying school district by July fifteenth of each year the mill levy reduction grant in dollars available to that school district during the upcoming school year.
- 5.7. By December first, January first, February first, and March first of each school year, the superintendent of public instruction shall forward to each qualifying school district installments equal to twenty-five percent of the total mill levy reduction grant the district is eligible to receive during that school year.
- 6.8. Allocations to a school district under this chapter are not considered per student payments or state aid for purposes of chapter 15.1-27.
- 7.9. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter.

SECTION 10. AMENDMENT. Section 57-64-03 of the North Dakota Century Code is amended and reenacted as follows:

57-64-03. School district levy compliance.

- 1. To be eligible to receive a grant under this chapter, a qualifying school district must establish a spending level that does not result in a general fund mill rate exceeding one hundred ten mills. The certificate of levy form filed with the county auditor by a qualifying school district must reflect the revenue to be received by the school district under this chapter and that the general fund mill rate for the school district will not exceed one hundred ten mills unless:
 - a. The district has approval of a majority of the electors of the school district for a higher levy;
 - b. The higher levy is the result of a school district reorganization in compliance with chapter 15.1-12; ~~or~~
 - c. The higher levy does not produce an amount in dollars exceeding the amount allowed under section 57-15-01.1 ~~for taxable year 2008~~ reduced by the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year; or

- d. The district has authority for a higher levy under subdivision b of subsection 2.
2. The authority under subdivision a or b of subsection 1 for a school district to levy a general fund mill rate exceeding one hundred ten mills applies for not more than ten taxable years at a time after taxable year 2008 unless a majority of the electors of the school district approve an extension of that authority. Approval by electors of extension of levy authority under subdivision a or b of subsection 1 is effective for not more than ten taxable years at a time. A ballot measure for approval by electors of extension of levy authority under subdivision a or b of subsection 1 is subject to the following:
 - a. The ballot measure must specify the number of mills for the general fund mill rate for which approval is sought.
 - b. If a ballot measure for approval of extension of levy authority to levy a specific number of mills under this section is not approved by a majority of the electors of the school district voting on the question, the school district general fund levy limitation for subsequent years is subject to the limitations as determined for the school district's budget year under section 57-15-01.1 or 57-15-14, whichever produces the higher levy limitation.

SECTION 11. AMENDMENT. Section 57-64-04 of the North Dakota Century Code is amended and reenacted as follows:

57-64-04. Levy reduction priority.

In setting mill rates for qualified school districts, the county auditor shall apply funds allocated to a school district under this chapter for mill levy reduction first to reduce the number of mills levied for general fund purposes and, if allocation funds remain after the general fund mill rate is reduced to zero, the balance must be applied to reduce the high school tuition levy and, if allocation funds remain after the high school tuition levy mill rate is reduced to zero, then to reduce the high school transportation levy of the qualified school district.

SECTION 12. REPEAL. Chapter 57-16 of the North Dakota Century Code is repealed.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$341,790,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 14. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND - GENERAL FUND. The office of management and budget shall transfer the sum of \$295,000,000 from the property tax relief sustainability fund to the general fund on July 1, 2011.

SECTION 15. AMENDMENT. Section 13 of chapter 520 of the 2007 Session Laws is amended and reenacted as follows:

SECTION 13. LEGISLATIVE COUNCIL MANAGEMENT STUDY.

The legislative ~~council~~management shall study in each interim through 2012 the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual property tax bill to an amount that is not more than one and one-half percent of the true and full value of property, and including examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts and examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The legislative management shall consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. The legislative ~~council~~management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the legislative assembly subsequent to each interim.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS AND CORPORATE INCOME TAXATION. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The study under this section must include consideration of corporate income taxes, including corporate income apportionment factors and potential impact of federal legislation on state corporate income taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 17. EFFECTIVE DATE. Sections 1 through 7 of this Act are effective for taxable years beginning after December 31, 2010. The remainder of this Act is effective July 1, 2011."

Renumber accordingly

April 22, 2011

VJK
4/25/11
10812

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-15-01.1, 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30, subsection 1 of section 57-38-30.3, and sections 57-64-01, 57-64-02, 57-64-03, and 57-64-04 of the North Dakota Century Code and section 13 of chapter 520 of the 2007 Session Laws, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax, a reduction in income tax rates for corporations, individuals, estates, and trusts, and allocation of state funding to school districts for mill levy reduction grants and property tax levies of school districts; to repeal chapter 57-16 of the North Dakota Century Code, relating to certain excess levies of school districts; to provide an appropriation; to provide for a transfer; to provide for legislative management studies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

- b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
- a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
 - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.

4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is seven-six and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 3. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed five and seven-tenths~~four and six-tenths~~ percent of the tax before credits

allowed under this section, or two thousand five hundred dollars, whichever is less.

- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
 - c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
- b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that

received the tax overpayment until the sum of the deductions equals the credit; and

- (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.

- 3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 4. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 5. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 6. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

- 1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two and one-tenths~~sixty-eight hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~twenty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~fifteen hundredths percent.
- 2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 7. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- 1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.
 - a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$33,950 <u>\$34,500</u>	4.84% <u>1.51%</u>
Over \$33,950 <u>\$34,500</u>	\$624.68 <u>\$520.95</u> plus 3.44% <u>2.82%</u>
but not over \$82,250 <u>\$83,600</u>	of amount over \$33,950 <u>\$34,500</u>
Over \$82,250 <u>\$83,600</u>	\$2,286.20 <u>\$1,950.57</u> plus 3.81% <u>3.13%</u>
but not over \$171,550 <u>\$174,400</u>	of amount over \$82,250 <u>\$83,600</u>
Over \$171,550 <u>\$174,400</u>	\$5,688.53 <u>\$4,747.61</u> plus 4.42% <u>3.63%</u>
but not over \$372,950 <u>\$379,150</u>	of amount over \$171,550 <u>\$174,400</u>
Over \$372,950 <u>\$379,150</u>	\$14,590.41 <u>\$12,180.04</u> plus 4.86% <u>3.99%</u>
	of amount over \$372,950 <u>\$379,150</u>

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$56,750~~\$57,700 4.84%1.51%
 Over ~~\$56,750~~\$57,700 \$1,044.20\$871.27 plus 3.44%2.82%
 but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700
 Over ~~\$137,050~~\$139,350 \$3,806.52\$3,173.80 plus 3.81%3.13%
 but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350
 Over ~~\$208,850~~\$208,850 \$6,642.10\$5,457.14 plus 4.42%3.63%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300
 Over ~~\$372,950~~\$379,150 \$13,795.32\$11,513.79 plus 4.86%3.99%
 of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 4.84%1.51%
 Over ~~\$28,375~~\$28,850 \$522.10\$424.10 plus 3.44%2.81%
 but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850
 Over ~~\$68,525~~\$69,675 \$1,903.26\$1,586.90 plus 3.81%3.13%
 but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675
 Over ~~\$104,425~~\$106,150 \$3,271.05\$2,728.57 plus 4.42%3.63%
 but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$69,675
 Over ~~\$186,475~~\$189,575 \$6,897.66\$5,756.90 plus 4.86%3.99%
 of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 4.84%1.51%
 Over ~~\$45,500~~\$46,250 \$837.20\$698.38 plus 3.44%2.82%
 but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250
 Over ~~\$117,450~~\$119,400 \$3,312.28\$2,761.21 plus 3.81%3.13%
 but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400
 Over ~~\$190,200~~\$193,350 \$6,084.06\$5,075.84 plus 4.42%3.63%
 but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350
 Over ~~\$372,950~~\$379,150 \$14,161.61\$11,820.38 plus 4.86%3.99%
 of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 4.84% 1.51%

Over \$2,300 ~~\$42.32~~ \$34.73 plus ~~3.44%~~ 2.82%

but not over ~~\$5,350~~ \$5,450 of amount over \$2,300

Over ~~\$5,350~~ \$5,450 ~~\$147.24~~ \$123.56 plus ~~3.81%~~ 3.13%

but not over ~~\$8,200~~ \$8,300 of amount over ~~\$5,350~~ \$5,450

Over ~~\$8,200~~ \$8,300 ~~\$255.83~~ \$212.77 plus ~~4.42%~~ 3.63%

but not over ~~\$11,150~~ \$11,350 of amount over ~~\$8,200~~ \$8,300

Over ~~\$11,150~~ \$11,350 ~~\$386.22~~ \$323.48 plus ~~4.86%~~ 3.99%

of amount over ~~\$11,150~~ \$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

g. ~~For taxable years beginning after December 31, 2009, the~~ The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 8. AMENDMENT. Section 57-64-01 of the North Dakota Century Code is amended and reenacted as follows:

57-64-01. Definitions.

For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a mill levy reduction grant.
3. ~~"Weighted student unit" means weighted student unit as determined for the school district under chapter 15.1-27.~~

SECTION 9. AMENDMENT. Section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

57-64-02. Mill levy reduction allocation and grant.

Each qualifying school district in the state is entitled to a mill levy reduction allocation and grant as provided in this chapter, subject to legislative appropriation to the superintendent of public instruction.

1. The mill levy reduction allocation rate for each qualifying school district is equal to the payments to the school district based on the per student payment rate as determined for the school year under chapter 15.1-27.
2. The grant to a qualifying school district may not exceed the smallest of:
 - a. The allocation determined under subsection 1;
 - b. The taxable valuation of property in the school district in the previous taxable year times the number of mills determined by subtracting one hundred mills from the combined education mill rate of the school district for taxable year 2008; or
 - c. The taxable valuation of property in the school district in the previous taxable year times seventy-five mills.
3. The grant to a qualifying school district may not be less than the grant to that school district in the preceding school year.
4. The grant to a qualifying school district may not exceed the grant to that school district in the preceding school year by a percentage that is more than the percentage increase in statewide taxable valuation which was determined for the previous taxable year.
5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of

university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.

- 4-6. The superintendent of public instruction shall report to each qualifying school district by July fifteenth of each year the mill levy reduction grant in dollars available to that school district during the upcoming school year.
- 6-7. By December first, January first, February first, and March first of each school year, the superintendent of public instruction shall forward to each qualifying school district installments equal to twenty-five percent of the total mill levy reduction grant the district is eligible to receive during that school year.
- 6-8. Allocations to a school district under this chapter are not considered per student payments or state aid for purposes of chapter 15.1-27.
- 7-9. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter.

SECTION 10. AMENDMENT. Section 57-64-03 of the North Dakota Century Code is amended and reenacted as follows:

57-64-03. School district levy compliance.

- 1. To be eligible to receive a grant under this chapter, a qualifying school district must establish a spending level that does not result in a general fund mill rate exceeding one hundred ten mills. The certificate of levy form filed with the county auditor by a qualifying school district must reflect the revenue to be received by the school district under this chapter and that the general fund mill rate for the school district will not exceed one hundred ten mills unless:
 - a. The district has approval of a majority of the electors of the school district for a higher levy;
 - b. The higher levy is the result of a school district reorganization in compliance with chapter 15.1-12; ~~or~~
 - c. The higher levy does not produce an amount in dollars exceeding the amount allowed under section 57-15-01.1 ~~for taxable year 2008~~ reduced by the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year; or

d. The district has authority for a higher levy under subdivision b of subsection 2.

2. The authority under subdivision a or b of subsection 1 for a school district to levy a general fund mill rate exceeding one hundred ten mills applies for not more than ten taxable years at a time after taxable year 2008 unless a majority of the electors of the school district approve an extension of that authority. Approval by electors of extension of levy authority under subdivision a or b of subsection 1 is effective for not more than ten taxable years at a time. A ballot measure for approval by electors of extension of levy authority under subdivision a or b of subsection 1 is subject to the following:

- a. The ballot measure must specify the number of mills for the general fund mill rate for which approval is sought.
- b. If a ballot measure for approval of extension of levy authority ~~to levy a specific number of mills under this section~~ is not approved by a majority of the electors of the school district voting on the question, the school district general fund levy limitation for subsequent years is subject to the limitations as determined for the school district's budget year under section 57-15-01.1 or 57-15-14, whichever produces the higher levy limitation.

SECTION 11. AMENDMENT. Section 57-64-04 of the North Dakota Century Code is amended and reenacted as follows:

57-64-04. Levy reduction priority.

In setting mill rates for qualified school districts, the county auditor shall apply funds allocated to a school district under this chapter for mill levy reduction first to reduce the number of mills levied for general fund purposes and, if allocation funds remain after the general fund mill rate is reduced to zero, the balance must be applied to reduce the high school tuition levy and, if allocation funds remain after the high school tuition levy mill rate is reduced to zero, then to reduce the high school transportation levy of the qualified school district.

SECTION 12. REPEAL. Chapter 57-16 of the North Dakota Century Code is repealed.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$341,790,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 14. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND - GENERAL FUND. The office of management and budget shall transfer the sum of \$295,000,000 from the property tax relief sustainability fund to the general fund on July 1, 2011.

SECTION 15. AMENDMENT. Section 13 of chapter 520 of the 2007 Session Laws is amended and reenacted as follows:

1-0

SECTION 13. LEGISLATIVE COUNCIL MANAGEMENT STUDY.

The legislative ~~council~~management shall study in each interim through 2012 the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual property tax bill to an amount that is not more than one and one-half percent of the true and full value of property, and including examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts and examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The legislative management shall consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. The legislative ~~council~~management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the legislative assembly subsequent to each interim.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS AND CORPORATE INCOME TAXATION. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The study under this section must include consideration of corporate income taxes, including corporate income apportionment factors and potential impact of federal legislation on state corporate income taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 17. EFFECTIVE DATE. Sections 1 through 7 of this Act are effective for taxable years beginning after December 31, 2010. The remainder of this Act is effective July 1, 2011."

Renumber accordingly

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Finance + Tax

Bill/Resolution No. HB 1289 as (re) engrossed

Date: 4-19-11 pm, 4-22-11

Roll Call Vote #: 1

Action Taken

- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
to hoghouse to 1047, identical
make it
- House/Senate Amendments on HJ/SJ page(s) _____

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1289 was placed on the Seventh order of business on the calendar

Motion Made by: Senator Cook Seconded by: Rep. Headland

Representatives	4/19	4/22	Yes	No		Senators	4/19	4/22	Yes	No
Chairman Belter	✓	✓	✓			Senator Cook	✓	✓	✓	
Rep. Headland	✓	✓	✓			Senator Hoag	✓	✓	✓	
Rep. S. Kelsh	✓	✓		✓		Senator Doty	✓	✓	✓	

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION CARRIED.

REPORT OF CONFERENCE COMMITTEE

HB 1289, as engrossed: Your conference committee (Sens. Cook, Hogue, Dotzenrod and Reps. Belter, Headland, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1576, adopt amendments as follows, and place HB 1289 on the Seventh order:

That the Senate recede from its amendments as printed on page 1576 of the House Journal pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-15-01.1, 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30, subsection 1 of section 57-38-30.3, and sections 57-64-01, 57-64-02, 57-64-03, and 57-64-04 of the North Dakota Century Code and section 13 of chapter 520 of the 2007 Session Laws; relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax, a reduction in income tax rates for corporations, individuals, estates, and trusts, and allocation of state funding to school districts for mill levy reduction grants and property tax levies of school districts; to repeal chapter 57-16 of the North Dakota Century Code, relating to certain excess levies of school districts; to provide an appropriation; to provide for a transfer; to provide for legislative management studies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and

- d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
 - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrepealable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.

- b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is ~~sevensix and one-half~~ percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 3. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly

offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.

- d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
 - b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
 - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
 3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 4. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05,

must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 5. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 6. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~twoone~~ and ~~one-tenth~~sixty-eight hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~fivefour~~ and ~~twenty-five~~twenty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~sixfive~~ and ~~four-tenths~~fifteen hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 7. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax

purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$33,950~~\$34,500 1.84%1.51%

Over ~~\$33,950~~\$34,500 ~~\$624.68~~\$520.95 plus 3.44%2.82%

but not over ~~\$82,250~~\$83,600 of amount over ~~\$33,950~~\$34,500

Over ~~\$82,250~~\$83,600 ~~\$2,286.20~~\$1,950.57 plus 3.81%3.13%

but not over ~~\$171,550~~\$174,400 of amount over ~~\$82,250~~\$83,600

Over ~~\$171,550~~\$174,400 ~~\$5,688.53~~\$4,747.61 plus 4.42%3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$171,550~~\$174,400

Over ~~\$372,950~~\$379,150 ~~\$14,590.41~~\$12,180.04 plus 4.86%3.99%

of amount over ~~\$372,950~~\$379,150

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$56,750~~\$57,700 1.84%1.51%

Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$871.27 plus 3.44%2.82%

but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700

Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,173.80 plus 3.81%3.13%

but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350

Over ~~\$208,850~~\$212,300 ~~\$6,542.10~~\$5,457.14 plus 4.42%3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300

Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,513.79 plus 4.86%3.99%

of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 1.84%1.51%

Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.81%

but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850

Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,586.90 plus 3.81%3.13%

but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675

Over ~~\$104,425~~\$106,150 ~~\$3,271.06~~\$2,728.57 plus 4.42%3.63%
but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$69,675

Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,756.90 plus 4.86%3.99%
of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 4.84%1.51%

Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$698.38 plus 3.44%2.82%

but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250

Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,761.21 plus 3.81%3.13%

but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400

Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$5,075.84 plus 4.42%3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350

Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,820.38 plus 4.86%3.99%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 4.84%1.51%

Over \$2,300 ~~\$42.32~~\$34.73 plus 3.44%2.82%

but not over ~~\$5,350~~\$5,450 of amount over \$2,300

Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$123.56 plus 3.81%3.13%

but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450

Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$212.77 plus 4.42%3.63%

but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300

Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$323.48 plus 4.86%3.99%

of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and

- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. ~~For taxable years beginning after December 31, 2000, the~~The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 8. AMENDMENT. Section 57-64-01 of the North Dakota Century Code is amended and reenacted as follows:

57-64-01. Definitions.

For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a mill levy reduction grant.
3. ~~"Weighted student unit" means weighted student unit as determined for the school district under chapter 15.1-27.~~

SECTION 9. AMENDMENT. Section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

57-64-02. Mill levy reduction allocation and grant.

Each qualifying school district in the state is entitled to a mill levy reduction allocation and grant as provided in this chapter, subject to legislative appropriation to the superintendent of public instruction.

1. The mill levy reduction allocation rate for each qualifying school district is equal to the payments to the school district based on the per student payment rate as determined for the school year under chapter 15.1-27.
2. The grant to a qualifying school district may not exceed the smallest of:
 - a. The allocation determined under subsection 1;

- b. The taxable valuation of property in the school district in the previous taxable year times the number of mills determined by subtracting one hundred mills from the combined education mill rate of the school district for taxable year 2008; or
 - c. The taxable valuation of property in the school district in the previous taxable year times seventy-five mills.
3. The grant to a qualifying school district may not be less than the grant to that school district in the preceding school year.
 4. The grant to a qualifying school district may not exceed the grant to that school district in the preceding school year by a percentage that is more than the percentage increase in statewide taxable valuation which was determined for the previous taxable year.
 5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property, gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.
 - 4.6. The superintendent of public instruction shall report to each qualifying school district by July fifteenth of each year the mill levy reduction grant in dollars available to that school district during the upcoming school year.
 - 6.7. By December first, January first, February first, and March first of each school year, the superintendent of public instruction shall forward to each qualifying school district installments equal to twenty-five percent of the total mill levy reduction grant the district is eligible to receive during that school year.
 - 6.8. Allocations to a school district under this chapter are not considered per student payments or state aid for purposes of chapter 15.1-27.
 - 7.9. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter.

SECTION 10. AMENDMENT. Section 57-64-03 of the North Dakota Century Code is amended and reenacted as follows:

57-64-03. School district levy compliance.

1. To be eligible to receive a grant under this chapter, a qualifying school district must establish a spending level that does not result in a general fund mill rate exceeding one hundred ten mills. The certificate of levy form filed with the county auditor by a qualifying school district must reflect the revenue to be received by the school district under this chapter and that the general fund mill rate for the school district will not exceed one hundred ten mills unless:
 - a. The district has approval of a majority of the electors of the school district for a higher levy;
 - b. The higher levy is the result of a school district reorganization in compliance with chapter 15.1-12; ~~or~~
 - c. The higher levy does not produce an amount in dollars exceeding the amount allowed under section 57-15-01.1 ~~for taxable year 2008~~ reduced by the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year; or
 - d. The district has authority for a higher levy under subdivision b of subsection 2.
2. The authority under subdivision a or b of subsection 1 for a school district to levy a general fund mill rate exceeding one hundred ten mills applies for not more than ten taxable years at a time after taxable year 2008 unless a majority of the electors of the school district approve an extension of that authority. Approval by electors of extension of levy authority under subdivision a or b of subsection 1 is effective for not more than ten taxable years at a time. A ballot measure for approval by electors of extension of levy authority under subdivision a or b of subsection 1 is subject to the following:
 - a. The ballot measure must specify the number of mills for the general fund mill rate for which approval is sought.
 - b. If a ballot measure for approval of extension of levy authority ~~to levy a specific number of mills under this section~~ is not approved by a majority of the electors of the school district voting on the question, the school district general fund levy limitation for subsequent years is subject to the limitations as determined for the school district's budget year under section 57-15-01.1 or 57-15-14, whichever produces the higher levy limitation.

SECTION 11. AMENDMENT. Section 57-64-04 of the North Dakota Century Code is amended and reenacted as follows:

57-64-04. Levy reduction priority.

In setting mill rates for qualified school districts, the county auditor shall apply funds allocated to a school district under this chapter for mill levy reduction first to reduce the number of mills levied for general fund purposes and, if allocation funds remain after the general fund mill rate is reduced to zero, the balance must be applied to reduce the high school tuition levy and, if allocation funds remain after the high school tuition levy mill rate is reduced to zero, then to reduce the high school transportation levy of the qualified school district.

SECTION 12. REPEAL. Chapter 57-16 of the North Dakota Century Code is repealed.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$341,790,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 14. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND - GENERAL FUND. The office of management and budget shall transfer the sum of \$295,000,000 from the property tax relief sustainability fund to the general fund on July 1, 2011.

SECTION 15. AMENDMENT. Section 13 of chapter 520 of the 2007 Session Laws is amended and reenacted as follows:

SECTION 13. LEGISLATIVE COUNCIL MANAGEMENT STUDY.

The legislative council management shall study in each interim through 2012 the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual property tax bill to an amount that is not more than one and one-half percent of the true and full value of property, and including examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts and examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The legislative management shall consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. The legislative council management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the legislative assembly subsequent to each interim.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS AND CORPORATE INCOME TAXATION. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The study under this section must include consideration of corporate income taxes, including corporate income apportionment factors and potential impact of federal legislation on state corporate income taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 17. EFFECTIVE DATE. Sections 1 through 7 of this Act are effective for taxable years beginning after December 31, 2010. The remainder of this Act is effective July 1, 2011."

Renumber accordingly

Engrossed HB 1289 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

HB 1289

Testimony #1



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1289
January 24, 2011

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this and all Workforce Safety hearings we are also representing five local chambers with over 5,000 members. As a group we stand in support of HB 1289 and urge a do pass from the committee on this bill

The tax relief package passed in the 2009 session was welcomed by the 20,000 North Dakota businesses that pay their business taxes through the personal income tax by way of pass through corporate entities and citizens of North Dakota. We support tax levels that are justified and appropriate and believe a balanced treatment of real estate, personal and corporate taxes is fair and equitable. The \$100 million in personal income tax proposed in this bill will be welcomed but we would hope the committee and legislature will consider raising that amount to a level that more accurately reflects the income projections from other tax sources.

Thank you for the opportunity to appear before you today in support of HB 1289. I would be happy to answer any questions.

THE VOICE OF NORTH DAKOTA BUSINESS

PO BOX 2639 BISMARCK, ND 58502 Toll-Free: 800-582-1405 Local: 701-222-0929 Fax: 701-222-1611
WWW.NDCHAMBER.COM NDCHAMBER@NDCHAMBER.COM



*Testimony
#2*

STATE OF NORTH DAKOTA

OFFICE OF STATE TAX COMMISSIONER

Cory Fong, Commissioner

Memorandum

To: Representative Shirley J. Meyer
House Finance and Taxation Committee

From: Mary Loftsgard
Associate Director, Tax Administration

Date: January 24, 2011

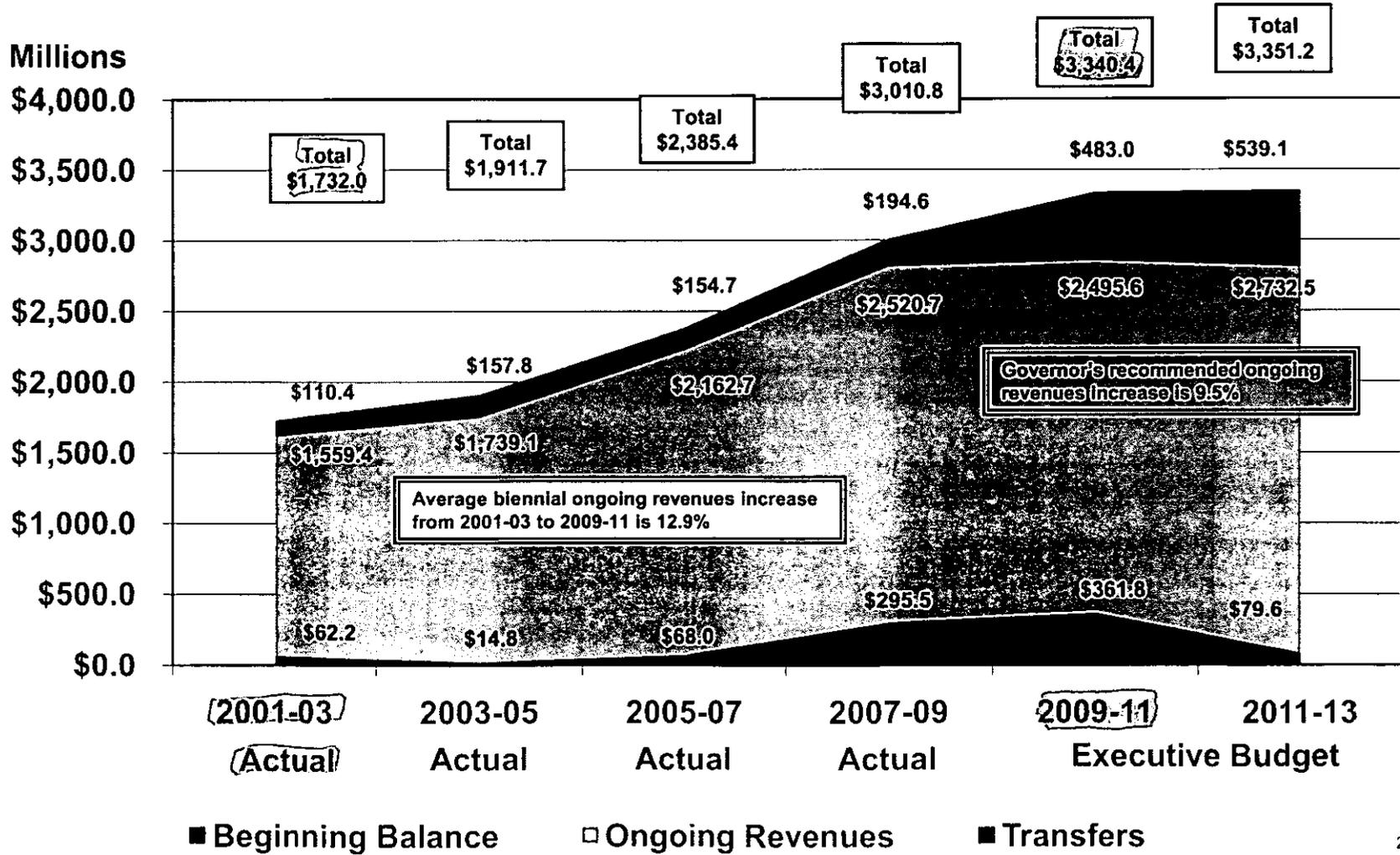
Subject: House Bill 1289

This morning during testimony on HB 1289, I indicated to the House Finance and Taxation Committee that there were in excess of 371,000 North Dakota individual income tax returns filed for tax year 2009. This memorandum is to respond to your question as to how many returns reported a tax liability, versus how many reported zero tax liability.

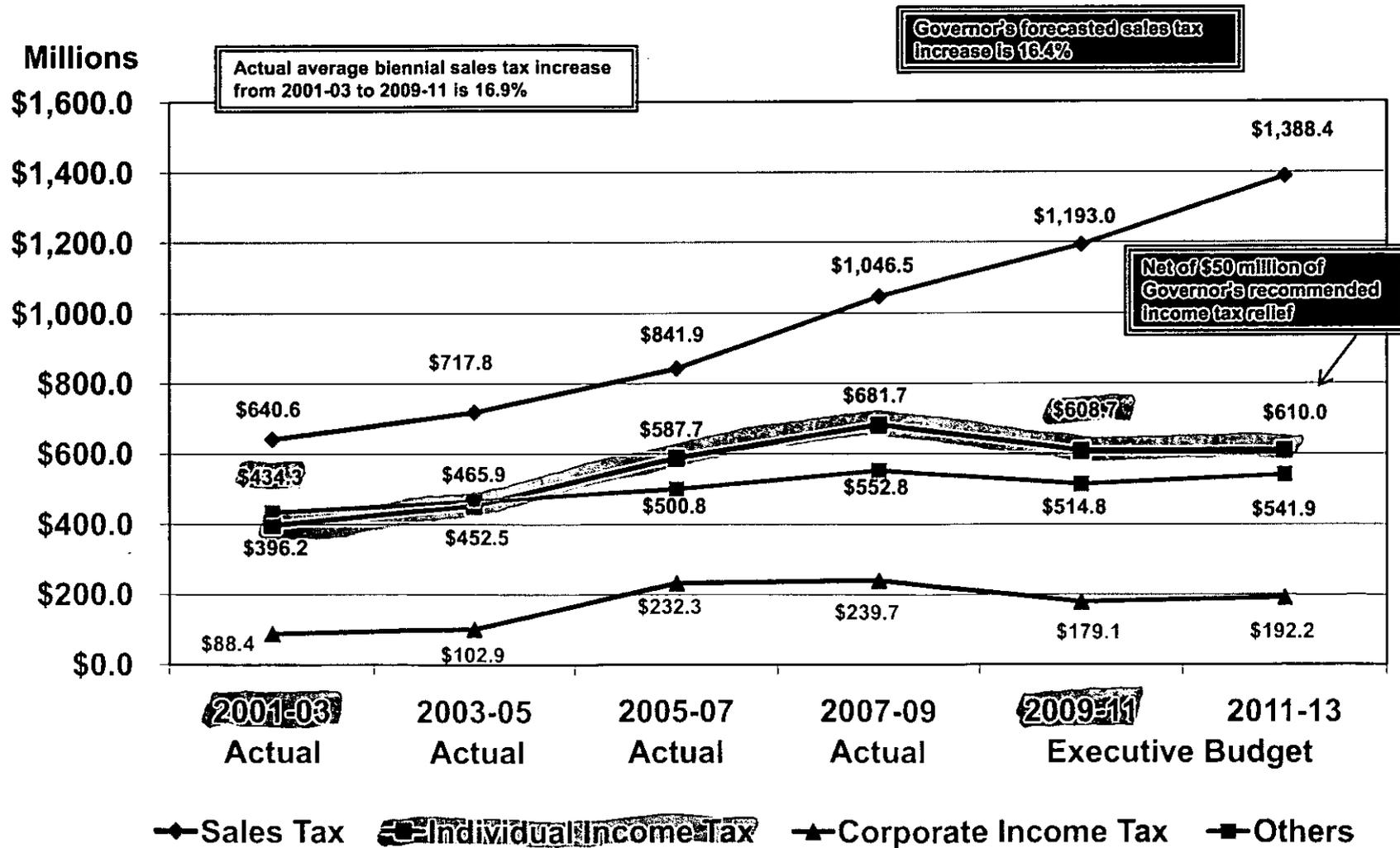
In researching your question, I learned that the 371,000 number I offered was slightly overstated. That was the total number of returns filed in 2009, including amended returns and returns for prior tax years. The actual number of original returns filed for tax year 2009 is 356,473. Of these, 76,992 reported a zero net tax liability, i.e. tax liability after deductions and credits, but before withholding and estimated payments. 279,481 returns did report a net tax liability.

If there are additional questions, please contact me by phone at 328-2045 or email at mloftsgard@nd.gov.

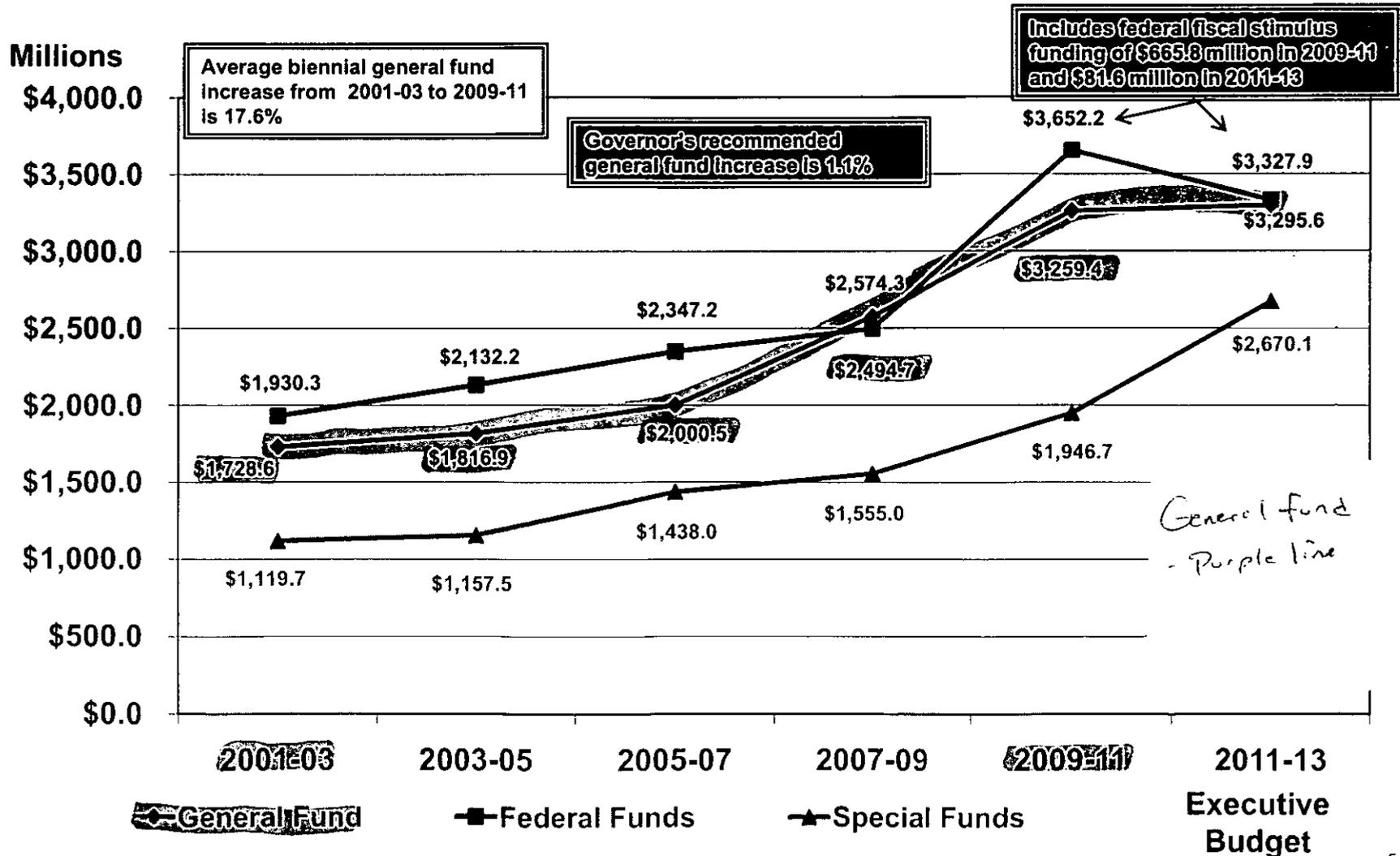
General Fund Revenues - Beginning Balance, Ongoing Revenues, and Transfers



General Fund Revenues – Major Revenue Types



Appropriations - General Fund, Federal Funds, and Special Funds Appropriations





Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1289
March 9, 2011

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors' bureaus and public sector organizations. For purposes of this hearing we are also representing five local chambers with over 5,000 members. As a group we stand in support of HB 1289 and urge a do pass from the committee on this bill.

The tax relief package passed in the 2009 session was welcomed by the 22,000 North Dakota businesses that pay their business taxes through the personal income tax by way of pass through entities and S-corps and the citizens of North Dakota. We support tax levels that are justified and appropriate and believe in a balanced treatment of real estate, personal, and corporate taxes that is fair and equitable. We believe the \$100 million in relief proposed in this bill is a more accurate reflection of projected income for the next biennium than the amount contained in SB 2178 and would hope this committee and the legislature will seriously consider an increase above even this number.

Thank you for the opportunity to appear before you today in support of HB 1289. I would be happy to answer any questions.

THE VOICE OF NORTH DAKOTA BUSINESS

PO Box 2639 Bismarck, ND 58502 Toll-Free: 800-382-1405 Local: 701-222-0929 Fax: 701-222-1611
www.ndchamber.com ndchamber@ndchamber.com

Kasper, Jim M.

From: Strombeck, Kathy L.
Sent: Thursday, March 31, 2011 8:36 AM
To: Kasper, Jim M.
Cc: Becker, Joe J.
Subject: FW: HB 1289 proposed amendments

Importance: High

Good morning Rep. Kasper;

Here is an explanation of the current version of HB 1289. I hope this helps! I will be out at a meeting until 3:00. Please contact my colleague Joe Becker for any additional information you may need. Joe's phone is 328.3451 and his email appears above. Thanks.

Kathy

Kathryn L. Strombeck
Director of Research and Communications
Office of Tax Commissioner
701.328.3402

-----Original Message-----

From: Strombeck, Kathy L.
Sent: Monday, March 28, 2011 12:22 PM
To: Hogue, David J.
Cc: Wald, Dee A.
Subject: HB 1289 proposed amendments

Good afternoon Sen. Hogue;

Dee Wald provided me a copy of a proposed amendment to HB 1289 (LC# 11.0408.02002) and asked that I provide you with a new fiscal impact analysis. Section 1 of the proposed amendment reduces corporate income tax rates by 10%, keeping the existing brackets contained in current law. Previously we had estimated the fiscal impact to be -\$20 million for the biennium. Because of recent Congressional action broadening depreciation allowance (increasing allowable "expensing") and a corresponding reduction in the corporate income tax forecast, we now estimate Section 1 of your proposed amendment would reduce biennial state general fund revenues by -\$15.3 million.

Section 2 of the amendment reduces individual income tax rates by 20% from current law. The individual income tax forecast was not changed so the estimated fiscal impact of this section remains at -\$130 million for the 2011-13 biennium.

If your amendment gets attached to the bill, we will provide an "official" fiscal note through the legislative council system. Until then, please contact Dee or me if you have any questions or comments.

Kathy

Kathryn L. Strombeck
Director of Research and Communications
Office of Tax Commissioner
701.328.3402

Hogue, David J.

From: Strombeck, Kathy L.
Sent: Thursday, March 31, 2011 8:18 AM
To: Hogue, David J.
Subject: RE: HB 1289 proposed amendments

Good morning Senator Hogue;

The five individual brackets were each reduced by 20% in your amendment, costing approx. \$130 million for the biennium. Here is the cost broken down by bracket:

\$56,648,084.83 (lowest bracket)
32,925,745.27 (next lowest)
9,677,987.93
10,205,917.96
20,542,264.01 (highest bracket)

130,000,000.00

I know this looks odd, but as you know our individual income tax system is completely progressive, and across the board rate cuts do not change that progressivity. What you are seeing in the rate relief distribution - especially in the third bracket - is a function of the differing size of the brackets and the numbers of taxpayers within the bracket. The system IS progressive throughout all five brackets.

3

HB 1289

Number of Business Tax Returns by Business Type

	<u>Corporations</u>	<u>Small Business Corps & LLC's</u>	<u>Partnerships & LLP's</u>
Tax Year 2009	9,141	12,181	13,057
Tax Year 2008	10,122	11,953	12,608
Tax Year 2007	10,867	11,419	11,886
Tax Year 2006	11,058	10,897	11,240
Tax Year 2005	10,192	10,253	10,618
Tax Year 2004	10,313	9,515	10,036

Cook, Dwight C.

From: Strombeck, Kathy L.
Sent: Friday, April 15, 2011 12:37 PM
To: Belter, Wesley R; Cook, Dwight C.
Subject: Possible amendment to HB 1289

Good afternoon Rep. Belter and Sen. Cook;

Sen. Cook asked for rate reduction scenarios that would keep the overall fiscal impact as close as possible to the "morning version" of **-\$148.826 million**, but change the package so the percentage revenue reduction was equal among both individual and corporate taxpayers. To accomplish this within the fiscal target, the reduction for both individual and corporate taxpayers should be approximately **-17.9%**.

Further, within the -17.9% target, Sen. Cook asked for two options for corporate taxpayers: **(1)** a version that restores the existing three brackets reducing all associated rates an approximately equal amount and **(2)** a version that continues the House bracket reduction to 2 brackets. Sen. Cook raised the issue that eliminating corporate brackets would allow some taxpayers to realize much greater tax relief than other corporate taxpayers, or other businesses that file as individuals. The 3-bracket alternative he wished to consider would prevent that from happening.

The individual income tax rates that would result in a 17.9% revenue reduction are: **1.51% / 2.82% / 3.13% / 3.63% / 3.99%**. The estimated biennial fiscal impact of rates reduced in this manner is **-\$119.393 million**.

The corporate tax rates that would result in 17.9% revenue reduction - while retaining the current three brackets are: **1.65% / 4.15% / 5.05%**. The estimated biennial fiscal impact of rates reduced in this manner is **-\$26.982 million**, after taking into account the expanded federal depreciation effect.

Alternatively, the corporate tax rates that would result in a 17.9% revenue reduction – while also reducing the number of brackets to two are: **2.00% / 5.20%**. The estimated biennial fiscal impact of rates reduced in this manner is **-\$27.189 million**, after taking into account the expanded federal depreciation effect.

Bringing in the FIT rate reduction discussed this morning, the total fiscal impact of the two current options presented here can be summarized as follows:

Option 1: Retain 3 corporate brackets
Individual: -\$119.393 million
Corporate: -26.982 million
FIT: -2.125 million
Total: **-\$148.500 million** (how's that for a nice round number ☺)

Option 2: Reduce corporate brackets to two
Individual: -\$119.393 million
Corporate: -27.189 million
FIT: -2.125 million
Total: **-\$148.707 million**

If you wish to have other members of the HB 1289 Conference Committee receive this email, please advise and I will send it to them.

If you wish to have either of these options drafted in an amendment to HB 1289, please let me know and I will get the rate information to John Walstad.

As always, if you have any questions or comments, or need information on any other alternatives, please contact me.

Corporation Income Tax Statistics from 2008 Returns
Share of Net Tax Liability and North Dakota Payroll by Apportionment Factor

	2008 Return Count	Net Tax Liability (NTL)	Share of Total NTL	ND Payroll /2	Share of Total Reported Payroll
Apportionment Factor (AF) = 1.000	1850	\$ 13,350,817	13.8%	N/A	
AF greater than .750, less than 1.000	214	4,682,906	4.8%	\$ 318,892,708	13%
AF greater than .500, less than .750	<u>62</u>	<u>3,058,842</u>	<u>3.2%</u>	<u>109,916,987</u>	<u>5%</u>
ND corporations /1	2126	21,092,565	21.7%	428,809,695	18%
Multi-state / Multi-national corporations	2194	75,919,595	78.3%	1,968,038,987	82%
Total	4320	97,012,160	100.0%	2,396,848,682	100%

/1 One measure of a "North Dakota corporation" is an apportionment factor greater than .500 (50%)

/2 Non apportioning 100% ND corporations do not have to list their North Dakota payroll. All payroll shown here is the ND payroll reported on the return.

Prepared By: Kathryn L. Strombeck
Office of Tax Commissioner
April 12, 2011



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER

Cory Fong, Commissioner

Memorandum

TO: Chairmen Cook and Belter
Members of Conference Committee for HB 1289

FROM: Kathryn L. Strombeck
Research Analyst, Office of Tax Commissioner

DATE: April 15, 2011

SUBJECT: Fiscal Impact of Possible Amendment to HB 1289

An amendment to HB 1289 that combines tax relief for individuals, corporations, and financial institutions can be expected to reduce state general fund revenues by an estimated **\$148.826 million** in the 2011-13 biennium. The details for each tax type are:

Financial Institutions Tax:

- Reduce the tax rate for the state portion only, from 2% to 1.5%
- Represents a 7% reduction overall, or a 25% reduction in the state portion of the tax
- Biennial Fiscal Impact: **-\$2.125 million**

Corporation Income Tax:

- Reduce the number of brackets to two: (1) \$0 to \$75,000 and (2) Over \$75,000
- Reduce the tax rates to: (1) 2% and (2) 4.9%
- Represents an average reduction of 21%
- Biennial Fiscal Impact: **-\$32.711 million** (after adjustment for federal depreciation expansion)

Individual Income Tax:

- Reduce tax rates across-the-board in each bracket to: 1.53% / 2.86% / 3.16% / 3.67% / 4.00%
- Represents a 17% reduction
- Biennial Fiscal Impact: **-\$113.990 million**

Comparison of State Corporation Income Tax Rates For Tax Year 2011 - As of January 1, 2011

A comparison of tax obligations would also need to consider complex variables such as different state definitions of taxable income and circumstances of each corporation:

State	Tax Rate (percent) Corporation		Tax Brackets		Tax Rate ⁽¹⁾ (percent) Financial Institution		Federal Income Tax Deductible
	Lowest	Highest	Lowest	Highest	Lowest	Highest	
Alabama		6.5		Flat Rate		6.5	Yes
Alaska	1.0		\$10,000	\$90,000	1.0		No
Arizona		6.968		Flat Rate		6.968	No
Arkansas	1.0		\$3,000	\$100,000	1.0		No
California		8.84		Flat Rate		10.84	No
Colorado		4.63		Flat Rate		4.63	No
Connecticut		7.5		Flat Rate		7.5	No
Delaware		8.7		Flat Rate	8.7	1.7	No
Florida		5.5		Flat Rate		5.5	No
Georgia		6.0		Flat Rate		6.0	No
Hawaii	4.4		\$25,000	\$100,000		7.92	No
Idaho		7.6		Flat Rate		7.6	No
Illinois		9.5		Flat Rate		9.5	No
Indiana		8.5		Flat Rate		8.5	No
Iowa	6.0		\$25,000	\$250,000		5.0	Yes
Kansas		4.0		Flat Rate		2.25	No
Kentucky	4.0		\$50,000	\$100,000		(1)	No
Louisiana	4.0		\$25,000	\$200,000	4.0		8.0
Maine	3.5		\$25,000	\$250,000		1.0	No
Maryland		8.25		Flat Rate		8.25	No
Massachusetts		8.25		Flat Rate		9.5	No
Michigan		4.95		Flat Rate		(1)	No
Minnesota		9.8		Flat Rate		9.8	No
Mississippi	3.0		\$5,000	\$10,000	3.0		5.0
Missouri		6.25		Flat Rate		7.0	Yes
Montana		6.75		Flat Rate		6.75	No
Nebraska	5.58			\$100,000		(1)	No
Nevada		no tax					No
New Hampshire		8.5		Flat Rate		8.5	No
New Jersey		9.0		Flat Rate		9.0	No
New Mexico	4.8		\$500,000	\$1,000,000	4.8		7.6
New York		7.1		Flat Rate		7.1	No
North Carolina		6.9		Flat Rate		6.9	No
NORTH DAKOTA	2			\$75,000		6.5	No
Ohio							No
Oklahoma		6.0		Flat Rate		6.0	No
Oregon	6.6			\$250,000		7.6	No
Pennsylvania		9.99		Flat Rate		(1)	No
Rhode Island		9.0		Flat Rate		9.0	No
South Carolina		5.0		Flat Rate		4.5	No
South Dakota		no tax			6.0		0.25
Tennessee		6.5		Flat Rate		6.5	No
Texas							No
Utah		5.0		Flat Rate		5.0	No
Vermont	6.0		\$10,000	\$250,000		(1)	No
Virginia		6.0		Flat Rate		6.0	No
Washington		no tax					No
West Virginia		8.5		Flat Rate		8.5	No
Wisconsin		7.9		Flat Rate		7.9	No
Wyoming		no tax					No
District of Columbia		9.975		Flat Rate		9.975	No

Nevada, South Dakota, Washington, and Wyoming do not have state corporate income taxes.

⁽¹⁾ Rates listed include the corporate tax rate applied to financial institutions or excise taxes based on income. Some states have other taxes based upon the value of deposits or shares.

SOURCE: Compiled by FTA from various sources

H 289
15/11

Corporation Income Tax Statistics from 2008 Returns
Share of Net Tax Liability and North Dakota Payroll by Apportionment Factor

	2008 Return <u>Count</u>	Net Tax <u>Liability (NTL)</u>	Share of Total <u>NTL</u>	ND <u>Payroll /2</u>	Share of Total <u>Reported Payroll</u>
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ND corporations /1	2126	21,092,565	21.7%	428,809,695	18%
Multi-state / Multi-national corporations	2194	75,919,595	78.3%	1,968,038,987	82%
Total	4320	97,012,160	100.0%	2,396,848,682	100%

/1 One measure of a "North Dakota corporation" is an apportionment factor greater than .500 (50%)

/2 Non apportioning 100% ND corporations do not have to list their North Dakota payroll. All payroll shown here is the ND payroll reported on the return.

Prepared By: Kathryn L. Strombeck
Office of Tax Commissioner
April 12, 2011

HB 1289
4/15/11

**Alternative Corporation Rate and Bracket Reduction Scenarios
Possible Amendments to HB 1289**

HB 1289 / Bracket and Rate Reduction; Equals -21% or -\$32.711 million (Estimated Using 2008 Returns):

Proposed	Proposed Rates	Return Count	Current 2008 Liability		Proposed Liability		Diff Current V. Proposed		
			Total NTL	Av. NTL	Total NTL	Av. NTL	Total NTL	Av. NTL	
Taxable Income Bracket									
Under	\$75,000	2.00%	3199	\$ 3,258,663	\$ 1,019	\$ 1,297,566	\$ 406	\$ (1,961,097)	\$ (613)
Over	\$75,000	4.90%	1122	93,751,428	83,557	70,530,959	62,861.82	(23,220,469)	(20,696)
Totals			4321	\$ 97,010,091	\$ 22,451	\$ 71,828,525	\$ 16,623.13	\$ (25,181,566)	\$ (5,828)
Model Adjustment to make 2008 Returns Taxed like 2009 /1								(3,940,000)	(912)
Net Fiscal Impact of Proposed Changes to HB 1289 on One Tax Year								\$ (21,241,566)	\$ (4,916)
Adjusted for 3/23/11 baseline forecast revision (23% reduction)								\$ (16,356,006)	\$ (3,785)
Estimated biennial impact								\$ (32,712,012)	

/1 Tax year 2009 is incomplete so 2008 returns were utilized in this estimate. The expected revenue loss needs to be adjusted by the amount needed to reduce 2008 liabilities to reflect the tax reductions enacted by the 2009 Legislative Assembly for tax years beginning with 2009

Proposed Change to HB 1289 / Current Brackets / Equal Reduction in All Rates to reach 17.9% revenue reduction (Estimated Using 2008 Returns):

Proposed	Proposed Rates	Return Count	Current 2008 Liability		Proposed Liability		Diff Current V. Proposed		
			Total NTL	Av. NTL	Total NTL	Av. NTL	Total NTL	Av. NTL	
Taxable Income Bracket									
Under	\$25,000	1.65%	2256	\$ 630,706	\$ 280	\$ 269,886	\$ 120	\$ (360,820)	\$ (160)
\$ 25,000	\$50,000	4.15%	556	1,170,557	2,105	538,528	968.58	(632,029)	(1,137)
Over	\$50,000	5.05%	1509	95,208,828	63,094	74,740,592	49,529.88	(20,468,236)	(13,564)
Totals			4321	\$ 97,010,091	\$ 22,451	\$ 75,549,006	\$ 17,484.15	\$ (21,461,085)	\$ (4,967)
Model Adjustment to make 2008 Returns Taxed like 2009 /1								(3,940,000)	(912)
Net Fiscal Impact of Proposed Changes to HB 1289 on One Tax Year								\$ (17,521,085)	\$ (4,055)
Adjusted for 3/23/11 baseline forecast revision (23% reduction)								\$ (13,491,235)	\$ (3,122)
Estimated biennial impact								\$ (26,982,471)	

/1 Tax year 2009 is incomplete so 2008 returns were utilized in this estimate. The expected revenue loss needs to be adjusted by the amount needed to reduce 2008 liabilities to reflect the tax reductions enacted by the 2009 Legislative Assembly for tax years beginning with 2009

Proposed Change to HB 1289 / Bracket and Rate Reduction to Equal 17.9% Revenue Reduction (Estimated Using 2008 Returns):

Proposed	Proposed Rates	Return Count	Current 2008 Liability		Proposed Liability		Diff Current V. Proposed		
			Total NTL	Av. NTL	Total NTL	Av. NTL	Total NTL	Av. NTL	
Taxable Income Bracket									
Under	\$75,000	2.00%	3199	\$ 3,258,663	\$ 1,019	\$ 1,299,630	\$ 406	\$ (1,959,033)	\$ (612)
Over	\$75,000	5.20%	1122	93,751,428	83,557	74,115,528	66,056.62	(19,635,900)	(17,501)
Totals			4321	\$ 97,010,091	\$ 22,451	\$ 75,415,158	\$ 17,453.17	\$ (21,594,933)	\$ (4,998)
Model Adjustment to make 2008 Returns Taxed like 2009 /1								(3,940,000)	(912)
Net Fiscal Impact of Proposed Changes to HB 1289 on One Tax Year								\$ (17,654,933)	\$ (4,086)
Adjusted for 3/23/11 baseline forecast revision (23% reduction)								\$ (13,594,298)	\$ (3,146)
Estimated biennial impact								\$ (27,188,597)	

/1 Tax year 2009 is incomplete so 2008 returns were utilized in this estimate. The expected revenue loss needs to be adjusted by the amount needed to reduce 2008 liabilities to reflect the tax reductions enacted by the 2009 Legislative Assembly for tax years beginning with 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

In lieu of the amendments adopted by the Senate as printed on pages 913-917 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "reenact" insert "section 57-38-30 and"

Page 1, line 2, after "for" insert "corporations and"

Page 1, line 2, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two one~~ and ~~one tenth~~ ninety-three hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~ four and ~~twenty-five~~ eighty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~ five and ~~four tenth~~ eighty-nine hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years."

Page 4, line 24, after "for" insert "the first two"

Page 4, line 25, after "2010" insert ", and is thereafter ineffective"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal and pages 913-917 and pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of the rate of financial institutions tax and adjustment of the allocation of the tax and reduction of corporate and individual income tax rates; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is ~~sevensix and one-half~~ sevensix and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 2. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed

~~five and seven-tenths~~four and sixth-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
 - b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
 - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for

tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 3. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 4. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 5. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~twenty-five~~ seventy-five thousand dollars of taxable income, at the rate of ~~two and one-tenth~~ percent.
- b. On all taxable income exceeding ~~twenty-five~~ seventy-five thousand dollars ~~and not exceeding fifty thousand dollars~~, at the rate of ~~five~~ four and ~~twenty-five hundredths~~ nine-tenths percent.
- c. ~~On all taxable income exceeding fifty thousand dollars, at the rate of six and four-tenths percent.~~

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 6. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$33,950 ~~4.84%~~1.53%

Over \$33,950 ~~\$624.68~~\$527.85 plus ~~3.44%~~2.86%

but not over \$82,250 of amount over ~~\$33,950~~\$34,500

Over \$82,250 ~~\$2,286.20~~\$1,932.11 plus ~~3.81%~~3.16%

but not over \$171,550 of amount over ~~\$82,250~~\$83,600

Over \$171,550 ~~\$5,688.53~~\$4,801.39 plus ~~4.42%~~3.67%

but not over \$372,950 of amount over ~~\$171,550~~\$174,400

Over \$372,950 ~~\$14,590.41~~\$12,315.72 plus ~~4.86%~~4.00%

of amount over ~~\$372,950~~\$379,150

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$56,750 ~~4.84%~~1.53%

Over \$56,750 ~~\$1,044.20~~\$882.81 plus ~~3.44%~~2.86%

but not over \$137,050 of amount over ~~\$56,750~~\$57,700

Over \$137,050 ~~\$3,806.52~~\$3,218.00 plus ~~3.81%~~3.16%

but not over \$208,850 of amount over ~~\$137,050~~\$139,350

Over \$208,850 ~~\$6,542.10~~\$5,523.22 plus 4.42%3.67%
but not over \$372,950 of amount over ~~\$208,850~~\$212,300

Over \$372,950 ~~\$13,795.32~~\$11,646.62 plus 4.86%4.00%
of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over \$28,375 1.84%1.53%

Over \$28,375 ~~\$522.10~~\$441.41 plus 3.44%2.86%

but not over \$68,525 of amount over ~~\$28,375~~\$28,850

Over \$68,525 ~~\$1,993.26~~\$1,609.00 plus 3.81%3.16%

but not over \$104,425 of amount over ~~\$68,525~~\$69,675

Over \$104,425 ~~\$3,271.05~~\$2,761.61 plus 4.42%3.67%

but not over \$186,475 of amount over ~~\$104,425~~\$106,150

Over \$186,475 ~~\$6,897.66~~\$5,823.31 plus 4.86%4.00%

of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over \$45,500 1.84%1.53%

Over \$45,500 ~~\$837.20~~\$707.63 plus 3.44%2.86%

but not over \$117,450 of amount over ~~\$45,500~~\$46,250

Over \$117,450 ~~\$3,312.28~~\$2,799.72 plus 3.81%3.16%

but not over \$190,200 of amount over ~~\$117,450~~\$119,400

Over \$190,200 ~~\$6,084.06~~\$5,136.54 plus 4.42%3.67%

but not over \$372,950 of amount over ~~\$190,200~~\$193,350

Over \$372,950 ~~\$14,161.64~~\$11,955.40 plus 4.86%4.00%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 1.84%1.53%

Over \$2,300 ~~\$42.32~~\$35.19 plus 3.44%2.86%

but not over \$5,350 of amount over \$2,300

Over \$5,350 ~~\$147.24~~\$125.28 plus 3.81%3.16%

but not over \$8,200 of amount over ~~\$5,350~~\$5,450
 Over \$8,200 ~~\$255.83~~\$215.34 plus ~~4.42%~~3.67%
 but not over \$11,150 of amount over ~~\$8,200~~\$8,300
 Over \$11,150 ~~\$386.22~~\$327.28 plus ~~4.86%~~4.00%
 of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. For taxable years beginning after December 31, 2009, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS TAXATION. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

April 18, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal and pages 913-916 and pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax and a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is sevensix and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 2. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed five and seven-tenths ~~four and six-tenths~~ percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed

~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
 - b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
 - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for

tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 3. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 4. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 5. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two one and one-tenth~~eighty-nine hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~seventy-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~seventy-six hundredths percent.

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 6. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$33,950 <u>\$34,500</u>	1.84% <u>1.47%</u>
Over \$33,950 <u>\$34,500</u>	\$624.68 <u>\$507.15</u> plus 3.44% <u>2.75%</u>
but not over \$82,250 <u>\$83,600</u>	of amount over \$33,950 <u>\$34,500</u>
Over \$82,250 <u>\$83,600</u>	\$2,286.20 <u>\$1,857.40</u> plus 3.81% <u>3.05%</u>
but not over \$171,550 <u>\$174,400</u>	of amount over \$82,250 <u>\$83,600</u>
Over \$171,550 <u>\$174,400</u>	\$5,688.63 <u>\$4,626.80</u> plus 4.42% <u>3.54%</u>
but not over \$372,950 <u>\$379,150</u>	of amount over \$171,550 <u>\$174,400</u>
Over \$372,950 <u>\$379,150</u>	\$14,590.41 <u>\$11,874.95</u> plus 4.86% <u>3.89%</u>
	of amount over \$372,950 <u>\$379,150</u>

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$56,750 <u>\$57,700</u>	1.84% <u>1.47%</u>
Over \$56,750 <u>\$57,700</u>	\$1,044.20 <u>\$848.19</u> plus 3.44% <u>2.75%</u>
but not over \$137,050 <u>\$139,350</u>	of amount over \$56,750 <u>\$57,700</u>
Over \$137,050 <u>\$139,350</u>	\$3,806.62 <u>\$3,093.57</u> plus 3.81% <u>3.05%</u>
but not over \$208,850 <u>\$212,300</u>	of amount over \$137,050 <u>\$139,350</u>

Over ~~\$208,850~~\$212,300 ~~\$6,542.10~~\$5,318.54 plus 4.42%3.54%
but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300

Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,225.03 plus 4.86%3.89%
of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 1.84%1.47%

Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus 3.44%2.75%

but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850

Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,546.78 plus 3.81%3.05%

but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675

Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,659.27 plus 4.42%3.54%

but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$106,150

Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,612.52 plus 4.86%3.89%

of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 1.84%1.47%

Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$679.88 plus 3.44%2.75%

but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250

Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,691.50 plus 3.81%3.05%

but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400

Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$4,946.98 plus 4.42%3.54%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350

Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,524.30 plus 4.86%3.89%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 1.84%1.47%

Over \$2,300 ~~\$42.32~~\$33.81 plus 3.44%2.75%

but not over ~~\$5,350~~\$5,450 of amount over \$2,300

Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$120.44 plus 3.81%3.05%

but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450
Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$207.36 plus ~~4.42%~~3.54%

but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300
Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$315.33 plus ~~4.86%~~3.89%

of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

g. ~~For taxable years beginning after December 31, 2009, the~~The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of ~~1954~~1986, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 7. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

That the Senate recede from its amendments as printed on page 1576 of the House Journal and pages 913-917 and pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of the rate of financial institutions tax and adjustment of the allocation of the tax and reduction of corporate and individual income tax rates; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is ~~sevensix and one-half~~ six and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 2. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed

~~five and seven-tenths~~four and sixth-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
- b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
- (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
 - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for

tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 3. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 4. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 5. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~twenty-five~~ seventy-five thousand dollars of taxable income, at the rate of ~~two and one-tenth~~ percent.
- b. On all taxable income exceeding ~~twenty-five~~ seventy-five thousand dollars ~~and not exceeding fifty thousand dollars~~, at the rate of ~~five~~ four and ~~twenty-five hundredths~~ nine-tenths percent.
- c. ~~On all taxable income exceeding fifty thousand dollars, at the rate of six and four-tenths percent.~~

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 6. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$33,950 ~~1.84%~~1.53%

Over \$33,950 ~~\$624.68~~\$527.85 plus ~~3.44%~~2.86%

but not over \$82,250 of amount over ~~\$33,950~~\$34,500

Over \$82,250 ~~\$2,286.20~~\$1,932.11 plus ~~3.81%~~3.16%

but not over \$171,550 of amount over ~~\$82,250~~\$83,600

Over \$171,550 ~~\$5,688.53~~\$4,801.39 plus ~~4.42%~~3.67%

but not over \$372,950 of amount over ~~\$171,550~~\$174,400

Over \$372,950 ~~\$14,590.41~~\$12,315.72 plus ~~4.86%~~4.03%

of amount over ~~\$372,950~~\$379,150

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over \$56,750 ~~1.84%~~1.53%

Over \$56,750 ~~\$1,044.20~~\$882.81 plus ~~3.44%~~2.86%

but not over \$137,050 of amount over ~~\$56,750~~\$57,700

Over \$137,050 ~~\$3,806.52~~\$3,218.00 plus ~~3.81%~~3.16%

but not over \$208,850 of amount over ~~\$137,050~~\$139,350

Over \$208,850 ~~\$6,542.40~~\$5,523.22 plus 4.42%3.67%
but not over \$372,950 of amount over ~~\$208,850~~\$212,300

Over \$372,950 ~~\$13,796.32~~\$11,646.62 plus 4.86%4.03%
of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over \$28,375 4.84%1.53%

Over \$28,375 ~~\$622.10~~\$441.41 plus 3.44%2.86%

but not over \$68,525 of amount over ~~\$28,375~~\$28,850

Over \$68,525 ~~\$1,903.26~~\$1,609.00 plus 3.81%3.16%

but not over \$104,425 of amount over ~~\$68,525~~\$69,675

Over \$104,425 ~~\$3,271.05~~\$2,761.61 plus 4.42%3.67%

but not over \$186,475 of amount over ~~\$104,425~~\$106,150

Over \$186,475 ~~\$6,897.66~~\$5,823.31 plus 4.86%4.03%

of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over \$45,500 4.84%1.53%

Over \$45,500 ~~\$837.20~~\$707.63 plus 3.44%2.86%

but not over \$117,450 of amount over ~~\$45,500~~\$46,250

Over \$117,450 ~~\$3,312.28~~\$2,799.72 plus 3.81%3.16%

but not over \$190,200 of amount over ~~\$117,450~~\$119,400

Over \$190,200 ~~\$6,084.06~~\$5,136.54 plus 4.42%3.67%

but not over \$372,950 of amount over ~~\$190,200~~\$193,350

Over \$372,950 ~~\$14,161.64~~\$11,955.40 plus 4.86%4.03%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 4.84%1.53%

Over \$2,300 ~~\$42.32~~\$35.19 plus 3.44%2.86%

but not over \$5,350 of amount over \$2,300

Over \$5,350 ~~\$147.24~~\$125.28 plus 3.81%3.16%

but not over \$8,200 of amount over ~~\$5,350~~\$5,450
 Over \$8,200 ~~\$255.83~~\$215.34 plus ~~4.42%~~3.67%
 but not over \$11,150 of amount over ~~\$8,200~~\$8,300
 Over \$11,150 ~~\$386.22~~\$327.28 plus ~~4.86%~~4.03%
 of amount over ~~\$11,150~~\$11,350

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. For taxable years beginning after December 31, 2009, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS TAXATION. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010."

Renumber accordingly

April 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1289

In lieu of the amendments adopted by the Senate as printed on pages 1347 and 1348 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual income tax relief credit; to amend and reenact section 57-38-30 of the North Dakota Century Code, relating to a corporate income tax exemption; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~twenty-five~~seventy-five thousand dollars of taxable income, ~~at the rate of two and one-tenth percent~~no tax.
- b. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of five and twenty-five hundredths percent.~~
- e. ~~On all taxable income exceeding fifty~~seventy-five thousand dollars, at the rate of six and four-tenths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Individual income tax relief credit.

A credit is provided against individual income tax liability as determined under section 57-38-30.3 in the amount of one hundred forty dollars for an individual filing a single, married filing separately, or head of household return and two hundred eighty dollars for individuals filing a married filing jointly or surviving spouse return.

SECTION 3. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Individual income tax relief credit under section 2 of this Act.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective for the first two taxable years beginning after December 31, 2010, and is thereafter ineffective. Sections 2 and 3 of this Act are effective for the first taxable year beginning after December 31, 2010, and are thereafter ineffective."

Renumber accordingly