

2011 HOUSE FINANCE AND TAXATION

HB 1409

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1409  
January 24, 2011  
#13266

Conference Committee

Committee Clerk Signature

*Mary Brucher*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to elimination of individual and corporate income taxes and financial institutions taxes; relating to elimination of individual and corporate income taxes and financial institutions taxes; and to provide an effective date.

## Minutes:

*See attached testimony #1*

**Representative Dave Weiler:** Sponsor. Support. I just received the fiscal note this morning. The bill has been in for a week and upon receiving the fiscal note I thought it would be revenue neutral but apparently it has a rather large fiscal note. But that's not going to change any of my testimony. Across the nation for individual income tax North Dakota ranks 30<sup>th</sup> and in corporate income tax we rank 28<sup>th</sup>. State tax collections per capita North Dakota ranks fourth highest in the nation. If people believe we are not over taxed in this state we rank fourth highest. Taxes in North Dakota as a percentage of our income ranks fourth highest in the nation. This bill is about making North Dakota a much more business friendly and a more competitive state among our neighbors and the entire United States. The Tax Foundation ranks the best states to do business in and the top five include: South Dakota, Alaska, Wyoming, Nevada, and Florida. All five of those states have no income tax. Number six is Montana; they do not have sales tax. Number 11 and 13 are Washington and Texas and they do not have any income tax. It's clear to see that when it comes to the best states of the 50 if you have no income tax then you're a great state to do business in. North Dakota ranks 20<sup>th</sup> in that study. When are the North Dakota taxpayers going to receive a bigger piece of this pie that we have grown so much to love over the last six years? We spend millions and millions and millions of dollars on funding higher ed and funding K-12. We fund things like Centers of Excellence and when we ask them to measure their performance the answer we get is it's hard to measure that and yet we continue to spend millions and millions and millions of dollars funding something that we can't measure. If we eliminate or phase out personal and corporate income tax in North Dakota I will guarantee you that the positive results will be measured. Lowering taxes is good for business. There were two things that I read that I thought I would share. Taxes matter to business. Business taxes affect business decisions. They affect job creation and retention. They affect plant location, competitiveness, and transparency of the tax system and the long-term health of the state's economy. Most importantly taxes diminish profits. If taxes take a larger portion of profits than cost it is passed along to either the consumer through higher prices or the workers through lower pay and fewer jobs. A 2008 report by

Economists at the Organization for Economic Cooperation and Development who measured the relationship between different taxes and economic growth have determined that the corporate tax is the most harmful tax for long-term economic growth. Personal income taxes were found to be the second most harmful tax for long term growth. One of the questions I'm sure people are going to ask is "How do we pay for this?" This is \$700-800 million. Obviously it's not going to be that high because as Representative stood in front of this committee on a bill that was going to cost \$70 or 80 million and talked about how money gets turned over and it gets turned over seven times. That's true. It's really not going to cost the state that much money but of course those results can't be measured, right? I'll tell you how we pay for this. We have increased state spending 62% over the last two years. It is proposed this year about a 24% increase. That's the Governor's proposal. I've been here five sessions and we have not once spent less money than the Governor proposed. So if that holds true again our spending increase will be somewhere between 25 and 30% which means over the last six years we will have increased spending nearly 90% over the previous six years. That's how we pay for this. Now there are infrastructure needs no question about it. Do we need to spend money on education, infrastructure, and many worthwhile causes? Absolutely. I'm not saying that we don't have any spending at all but the amount of increase in spending is at some point going to catch up with this state. The property tax plan that we currently have of \$300 million last biennium is bad policy. It's a bad road to go down because its already supposed to be increased by \$50 million this biennium due to the rise in property values to stay at that 70% level. If we keep on down that road we're going to be at \$500 or 600 million for that program before the end of this biennium and maybe a lot sooner. At some point when the golden goose slows down a little bit we're not going to be able to do that. One other point I would like to make is that the property tax plan that is spun we're going to spend \$350 million on property tax relief this biennium. There's another plan to cut taxes by \$150 million. Those numbers are very misleading. We are only increasing the property tax plan by \$50 million and we're only increasing the income tax cut by another \$50 million. It's not \$500 million in tax cuts; it's only \$100 million. If we were to take that same philosophy and spread it over the spending of higher education of K-12 state employees salaries if they get \$300 million increase in spending this biennium, they got \$300 million last time. We're not saying that we're increasing them by \$600 million they're saying that we're increasing them by \$300 million. We need to use that same philosophy on tax cuts. The \$300 million last biennium is already there and already spent so we're only increasing it by \$50 million. Lastly, I would really like to give credit where credit is due. North Dakota government has not built this economy. It is a very good economy today and maybe the government has done some very good things along the way but the government should not accept any accolades for the economy that we have. We have a lot of very hardworking farmers that are taking risk every day. We have small business men and women who are taking risk every day. We have a coal industry that is working hard every day. I don't want to leave out the oil industry. These are the types of people that deserve credit for our economy not the government of North Dakota. A 90% increase in spending over six years; we better be careful.

**Representative Shirley Meyer:** I know that South Dakota doesn't have personal property taxes. Of those top six, do the rest of them have personal property taxes too?

**Representative Dave Weiler:** I do not know that answer but I can get it for you and it is measurable.

**Representative Lonny B. Winrich:** You quoted a statistic that in terms of taxes as a percentage of personal income we rank fourth. Is that correct?

**Representative Dave Weiler:** Yes, that's correct.

**Representative Lonny B. Winrich:** Is that only state taxes or does that include state and local taxes?

**Representative Dave Weiler:** I believe that includes state and local taxes.

**Representative Lonny B. Winrich:** Do you have any notion of what proportion is attributable to income taxes as opposed to other taxes that are imposed at the state and local level?

**Representative Dave Weiler:** I did not go into that detail where it says we ranked fourth highest. That's all taxes included. We rank 28<sup>th</sup> or 30<sup>th</sup> and we have for the last five years in income and corporate income tax in North Dakota. That's below the half line. That's the purpose of this bill. I do believe that our personal and corporate income taxes are too high in this state.

**Representative Lonny B. Winrich:** My point is that if we rank that low in terms of income taxes that reducing the income taxes won't make as much of an impact on that ranking among other states as reducing some other tax that is a greater proportion of it.

**Representative Dave Weiler:** The personal and corporate income tax is over \$800 million of revenue to the state. That's a big chunk of money.

**Representative Scot Kelsh:** I would think that some of the growth has been attributed in state government has also been reflective of the growth of the state's economy. You mentioned that the private sector is mostly responsible for the growth and revenues and in the economy in the state of North Dakota. I would tend to agree with that but there are also services that state government helps to provide. There are hardworking contractors everyday who are building the roads, hardworking firefighters and law enforcement who are also responsible for maintaining order in the high growth areas. I think that we have achieved the balance that we need between the public and the private that has enabled our state to grow as it has. I think that by cutting or eliminating these taxes are going to stifle that growth because you're eliminating that public share of what's enabled that growth. I think those infrastructure needs are very real and have enabled farmers to get their crops to market but that takes roads enables the regulatory the PSC to regulate the elevators, takes the public dollars to be able to fund the law enforcement in some of those growth areas.

**Representative Dave Weiler:** I do not mean to leave out certain sectors of this economy. I know that there are a lot of people that work in not so much the private sector industry who are hard workers. I certainly don't mean to leave them out of the mix but it gets a little

frustrating for me when I hear people talk about how great the government is and how much the government has done over the last ten years. They have done some good things but I don't want to see them take credit for what the rest of the North Dakota citizens have created. If it's the committee's wishes to phase out over the next six years the personal and corporate income tax we talk about the three-legged stool. If the committee wants to phase it out over the next six years there is a third leg that will replace these called the legacy fund which we will start to see benefits from in 2017. If things keep going the way they are going over the next six or ten years the third legged stool is going to be the legacy fund. I would hope that we could use that fund to cut taxes instead of increase spending like we've been doing.

**Representative Kasper:** Support. I think we all know that we're not going to have 100% reduction in our personal and corporate income taxes. But you know what; it would be great if we did. A great American's birthday is coming up shortly, President Reagan, once said, "Government is not the solution government is the problem." In North Dakota I think our government spending is the problem. In the last nine or ten years that I've been a legislator we've doubled our spending. If we continue on the frenzy we've been on we're going to double that again in the next four or five years. Sooner or later we're going to be like the federal government trying to figure out what the heck have we done to our state. The theory behind bills like this is giving the money back to the people, let the people grow the economy, and we'll have more revenues in others ways and we all win including government. I obviously support the government services we provide but I do want to make a statement that is very necessary. The government does not create one single iota of wealth or one single iota of taxes or one single iota or revenue. The government, this legislative body, sets the rules and the guidelines and the laws by which the people of North Dakota function but we create nothing of value. We can help value work by helping our businesses thrive and grow but we create nothing as a government. We take money and we spend it to provide the services that our people demand. In my opinion we're at the point where we are providing more services than we need, spending more money than we need to provide the basic necessities for the people of our state. I think the people of North Dakota are saying the same thing. The people that I talk to say slow the spending. I talked with former Majority Leader, Earl Strinden, a couple weeks ago and he said, "Cut taxes cut spending." I think all of you remember the dynamic influence Representative Strinden had when he was a Majority Leader in the North Dakota House. I would encourage you to give serious consideration to 1409, maybe it needs a little phasing as Representative Weiler said but let's give the people back some of their money.

**Representative Thoreson:** Support. We talk about government budgets, state budgets, the money we're going to be spending here, and as a person on the appropriations committee this is something that I deal with everyday. I think its incumbent upon us to look at family budgets before government budgets. This is one bold way we can do so. By giving money back to the people of our state we will empower them to use that to create business and to grow our economy. I believe tax cuts are dynamic and by doing so we're going to have more to deal with in the next years instead of less. Second of all I had the opportunity about a year ago to speak with Dr. Arthur Laffer, the noted economist, who has looked at economic policy throughout all the 50 states. He spoke at a conference where he told about where he moved his own business from the state of California to Tennessee because they do not have income tax there. Afterwards he came over and saw that I was

from North Dakota and said "Your state is growing by leaps and bounds. I've been watching North Dakota. But South Dakota, your neighboring state, is in a very similar position as you are. They don't have the energy that you do but they have a huge difference, they removed the taxation on their people and because of that their population has grown by a wide margin." We were essentially the same population base about 20 years ago and he said if you were to do something similar and to at least get rid of it on the corporate level but also on the personal level you could turn your state into hyper drive. I think by doing this move of eliminating it, either immediately or phasing it in, we could even become a bigger shining star on the national stage. Just for the people of our state I think it's the right thing to do.

**Senator Margaret Sitte:** Support. Please refer to attached testimony #1.

**Marty Riske, Entrepreneur Private Business Owner in Fargo, ND:** Support. I've had involvement in 15 different businesses in my career. I started with waterbeds in Grand Forks and ended up with businesses all across the state. I got my start as an entrepreneur with my early models, my grandpa who was a farmer in Walsh County. When I was 11 years old he had two drowned out and he planted flax. In July he asked me if I would take \$50 for the two acres or if I wanted to take my chances on earning more. I told him that I would take my chances and after that every cloud that came around I wondered if it was going to be too much rain. I ended up with \$72. Maybe that was the urge to continue. One of the things that is a constraint for people like myself in business, is like my first business, we had to sell 10% of our business to meet tax. A lot of times we had to borrow money to pay tax which really puts a constraint on business. My current business is a cloud based web application for buy sell trade software on the internet. I can go to my store and wherever I am in the world that has internet access I can see what my stores are doing. That's the big wave of the future, everybody is moving to the cloud. I'm the chief cook and bottle washer. I do the vacuuming and the selling until I get big enough to hire people. I currently employ over 100 people. My biggest business in terms of an employer is a five store hair salon chain. I encourage you to consider people like me who left the state and came back and started a business and would like to start a lot more businesses with as few constraints as possible.

**Lynn Bergman, Bismarck:** Support. I'm a retired Civil Engineer and lifelong resident of North Dakota. I worked for 15 years in the public sector in five different cities; Colorado, California, Arizona, and North Dakota. I also worked for 15 years at the Falkirk Mining Company which was a much more lucrative employment. What I know from the experiences from those employers and from government employees who are friends during that time and since then about one out of four government employees actually work. I'm not talking about the military, police, fire, the people who are hired to protect us and carry our garbage to do the dirty little things to ask our local and state and federal government to do. When we see Minnesota cutting 15% of their public work force because they have a \$5 ½ billion deficit we are looking at our future. If we continue to spend the way we are. South Dakota is cutting all their agencies by 10%. What's the difference between Minnesota, South Dakota and North Dakota? It's oil and it's the farm subsidy farm program. \$2 billion in oil revenues to our state in the next biennium. \$2 billion in farm subsidy program payments to the private citizens, good hardworking farmers of our state. How dependable are these resources? I personally think the oil resource is going to be

there a long time this time. I think that any blips are going to be small blips. The legacy fund is the greatest thing this state has ever done for its people in our entire state history because it will enable for all our descendants to live as prosperously as we do. We have a bill here that has been downplayed a bit as to what it can do. I read last August from a person in the farm program that they are not going to be able to continue this farm subsidy business. New Zealand got rid of it in 1985. I believe in the next 2-4 years our farm program subsidies will be cut by 75% at least and that the subsidies to the smallest farmers will be about the same. The subsidies are given to the larger farmers to buy up the small farmers and make it hard for the beginning farmer. We have to count on the fact that \$1.5 billion in farm subsidy program per biennium is going to go away some day. What are we going to replace it with? Are we going to replace it with 32% increases in government employees? Or are we going to do something to get the rest of the private sector rolling in this state? Are we going to depend on oil and farm forever? We have an opportunity we can afford this. It's a big thing for people to digest, getting rid of the income tax department in the state of North Dakota. In my opinion it's the second most important thing to do behind the legacy fund to get the state rolling in areas other than agriculture and oil. I really urge you to strongly consider eliminating the private income and corporate income tax because then you will see the private sector come in and revitalize the other areas of North Dakota's economy so that our children don't have to leave the state and they can stay here as long as they want and make a good wage. It isn't government who is going to do that it's going to be cutting taxes that are going to do that.

**Chairman Wesley R. Belter:** No further testimony. Closed hearing on HB 1409.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1409  
February 7, 2011  
#14097

Conference Committee

Committee Clerk Signature *Mary Brucher*

## Explanation or reason for introduction of bill/resolution:

A bill relating to elimination of individual and corporate income taxes and financial institutions taxes; relating to elimination of individual and corporate income taxes and financial institutions taxes; and to provide an effective date.

## Minutes:

*No attachments.*

**Chairman Wesley R. Belter:** What are your wishes on HB 1409?

**Representative Glen Froseth:** Made a motion for DO NOT PASS.

**Representative Lonny B. Winrich:** Seconded.

A roll call vote was taken: YES 8 NO 6 ABSENT 0  
MOTION CARRIED---DO NOT PASS.

**Representative Glen Froseth will carry HB 1409.**

# FISCAL NOTE

Requested by Legislative Council  
01/19/2011

Bill/Resolution No.: HB 1409

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			(\$860,800,000)			
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
			(\$21,300,000)					

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 1409 eliminates the individual and corporate income taxes and financial institutions taxes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1409 is expected to reduce state general fund revenues by an estimated \$860.8 million in the 2011-13 biennium. Additionally, county revenue from the Financial Institutions Tax is expected to be reduced by an estimated \$21.3 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:	01/21/2011

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

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1409

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. Froseth Seconded By Rep. Winrich

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) 8 No 6

Absent 0

Floor Assignment Rep. Froseth

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

MOTION CARRIED

**REPORT OF STANDING COMMITTEE**

**HB 1409: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1409 was placed on the Eleventh order on the calendar.**

2011 TESTIMONY

HB 1409

Testimony #1

Testimony on HB 1409

January 24, 2011

Mr. Chairman and members of the committee, I am Senator Margaret Sitte from District 35 in Bismarck.

Many of us ran for office on a platform of jobs creation. We didn't mean more government jobs. We meant more private sector jobs and a stronger economy. We meant more opportunity for people to invest in their dreams and create businesses that hire people.

So what is the best way to fulfill that campaign promise? Pass this bill to eliminate individual and corporate income taxes. Both history and economics teach us that lower taxes allow for more personal and corporate investment, creating economic prosperity. Eliminating the income tax will be the best economic development tool this state has ever created.

But can we afford it? Of course we can. We may have to cut some of the growth in government spending, but do we want to continue to see government growth outpace the economy the way it has in the past six years? If we have the money, this state legislative assembly and those that follow will tend to spend it.

Nine states have no income tax: Alaska, Florida, Nevada, New Hampshire, South Dakota, Texas, Tennessee, Washington and Wyoming. Let's follow their lead and provide the best incentive possible for living and doing business in North Dakota. I urge your support of HB 1409.