

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2032

That the House recede from its amendments as printed on pages 1160-1162 of the Senate Journal and pages 1074-1076 of the House Journal and that Engrossed Senate Bill No. 2032 be amended as follows:

Page 1, line 3, remove "and"

Page 1, line 5, remove "and"

Page 1, line 6, remove "and"

Page 1, line 11, remove "and"

Page 1, line 12, remove "and" and after "55-06-01" insert ", 57-38-29, 57-38-30.3, 57-38-54"

Page 1, line 16, after "commerce" insert ", income tax filing methods for individuals, and publication of statistics by the tax commissioner"

Page 1, line 17, after the first semicolon insert "to provide for correction of statutory references;"

Page 26, line 30, remove "**Director**" and overstrike "- **Appointment**" and insert immediately thereafter "**Director**"

Page 26, line 31, overstrike "The" and remove "commissioner of"

Page 27, line 1, remove "commerce" and overstrike "shall appoint as director a person who is qualified by training, knowledge, and"

Page 27, overstrike lines 2 and 3

Page 27, line 4, overstrike "of the", remove the first "commissioner", overstrike "and shall receive a salary set by the", and remove the second "commissioner"

Page 27, line 5, overstrike "within the limits of legislative appropriations."

Page 28, line 3, after the semicolon insert "and"

Page 28, line 4, overstrike "Report at least annually to an interim committee designated by the legislative"

Page 28, line 5, overstrike "council on performance of all divisions of the", remove "division", and overstrike "of economic"

Page 28, overstrike line 6

Page 28, line 7, overstrike "satisfaction the", remove "division", and overstrike "of economic development and finance has in"

Page 28, overstrike lines 8 through 11

Page 28, line 12, overstrike "9."

Page 30, line 17, overstrike "1."

Page 30, line 21, overstrike "2. The", remove "commissioner of commerce", overstrike "shall appoint a director of the", and remove "division of"

Page 30, line 22, overstrike "tourism", overstrike "who shall serve at the will of the", remove "commissioner", and overstrike the period

Page 33, replace lines 3 through 11 with:

"2. The commissioner shall appoint the director of any division created by the commissioner under subsection 1. Effective August 1, 2003, the commissioner shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development. Effective August 1, 2005, the commissioner shall appoint the director of the division of tourism. Each director appointed by the commissioner serves at the pleasure of the commissioner and is entitled to receive a salary set by the commissioner within the limits of legislative appropriation. Until August 1, 2003, the governor shall appoint the directors of the division of community services, division of economic development and finance, and division of workforce development and until August 1, 2005, the governor shall appoint the director of the division of tourism. The individuals appointed by the governor shall serve at the pleasure of the governor and are entitled to receive a salary set by the governor within the limits of legislative appropriations."

Page 34, line 7, replace "on" with ":

a. On"

Page 34, line 8, replace ", on" with ":

b. On"

Page 34, line 9, replace ", on" with ":

c. On"

Page 34, line 10, replace ", and summarizing" with ":

d. On"

Page 34, line 11, after the underscored semicolon insert "and

e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;"

Page 34, line 29, replace "executive committee" with "foundation"

Page 35, line 1, replace ", including counsel in the" with ";

- c. Develop a strategic plan for economic development in the state and set accountability standards, measurements, and benchmarks to evaluate the effectiveness of the department in implementing the strategic plan;
- d. Develop a strategic plan for the development of value-added agriculture in the state; and"

Page 35, remove line 2

Page 35, line 3, replace "c" with "e"

Page 35, line 4, replace "; and" with an underscored period

Page 35, remove line 5

Page 35, line 29, remove "commerce division of" and overstrike "economic"

Page 35, line 30, overstrike "development and finance" and insert immediately thereafter "commerce"

Page 38, line 5, overstrike "hereby"

Page 38, line 6, overstrike "which" and insert immediately thereafter "that"

Page 38, line 8, overstrike "and it" and insert immediately thereafter ". The council" and overstrike the second "shall"

Page 38, line 9, overstrike "consist" and insert immediately thereafter "consists" and after "of" insert "a traffic counsel selected by the members of the council, a representative of the railways serving the state who is selected by the council, and"

Page 38, line 14, overstrike "livestock industry council" and insert immediately thereafter "North Dakota stockmen's association"

Page 38, line 15, after "Dakota" insert "state"

Page 38, line 18, overstrike "farmers"

Page 38, line 19, overstrike "The North Dakota railway lines."

Page 38, line 20, overstrike "10."

Page 38, line 21, overstrike "11." and insert immediately thereafter "10."

Page 38, overstrike lines 22 and 23

Page 40, after line 3, insert:

"SECTION 52. AMENDMENT. Section 57-38-29 of the North Dakota Century Code is amended and reenacted as follows:

~~57-38-29. Rate of tax on individuals~~ Optional method of computing tax.

~~Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:~~

1. ~~On taxable income not in excess of three thousand dollars, a tax of two and sixty-seven hundredths percent.~~
2. ~~On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of four percent.~~
3. ~~On taxable income in excess of five thousand dollars and not in excess of eight thousand dollars, a tax of five and thirty-three hundredths percent.~~
4. ~~On taxable income in excess of eight thousand dollars and not in excess of fifteen thousand dollars, a tax of six and sixty-seven hundredths percent.~~
5. ~~On taxable income in excess of fifteen thousand dollars and not in excess of twenty-five thousand dollars, a tax of eight percent.~~
6. ~~On taxable income in excess of twenty-five thousand dollars and not in excess of thirty-five thousand dollars, a tax of nine and thirty-three hundredths percent.~~
7. ~~On taxable income in excess of thirty-five thousand dollars and not in excess of fifty thousand dollars, a tax of ten and sixty-seven hundredths percent.~~
8. ~~On taxable income in excess of fifty thousand dollars, a tax of twelve percent.~~

SECTION 53. AMENDMENT. Section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30.3. Simplified ~~optional~~ method of computing tax.

1. ~~Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. Any taxpayer electing to determine the taxpayer's income tax liability pursuant to this section is only eligible for those adjustments or credits which are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return pursuant to the provisions of this chapter, but who has not computed a federal taxable income or federal income tax liability figure shall compute such a federal taxable income figure using a pro forma return pursuant to the provisions of this section in order to determine a federal income tax liability figure to be used as a starting point in computing state income tax.~~
2. 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. This tax is fourteen percent of the individual's, estate's, or trust's adjusted federal income tax liability for the taxable year. 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 income tax liability figure, shall compute a federal income tax liability figure using a pro forma return in order to determine a federal income tax liability figure to be used as a starting point in computing state income tax under this section.

- ~~3-~~ 2. The adjusted federal income tax liability for a resident individual, estate, and trust must be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income taxable to this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be excluded from the numerator:
- a. Interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
 - b. The portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
 - c. An amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~4-~~ 3. The adjusted federal income tax liability of a nonresident individual, estate, and trust must be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income derived from sources within this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be excluded from the numerator:
- a. Interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
 - b. The portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
 - c. An amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- ~~5-~~ 4. For purposes of this section, "federal income tax liability" means the individual's, estate's, or trust's federal income tax computed for the taxable year under Internal Revenue Code sections 1 and 3, relating to the computation of the regular federal income tax before credits, including

calculation and tax rate modifications prescribed under other provisions of the Internal Revenue Code, adjusted as follows:

- a. Add the alternative minimum tax computed under Internal Revenue Code section 55;
- b. Add the tax on a lump sum distribution computed under Internal Revenue Code section 402; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law;
- c. Add the tax on an accumulation distribution of a trust computed under Internal Revenue Code section 667;
- d. Add the tax computed under Internal Revenue Code section 72(m)(5) on excess benefits received from a qualified plan under Internal Revenue Code section 401(a) or a qualified annuity under Internal Revenue Code section 403(a);
- e. Add the tax computed under Internal Revenue Code section 72(q)(1) on an early distribution from an annuity contract;
- f. Add the tax computed under Internal Revenue Code section 72(t)(1) on an early distribution from a qualified retirement plan;
- g. Add the tax computed under Internal Revenue Code section 4973(a) on excess contributions to an individual retirement account, medical savings account, and certain Internal Revenue Code section 403(b) and annuity contracts; however, this adjustment does not apply if the individual, estate, or trust is a nonresident of this state;
- h. Add the tax computed under Internal Revenue Code section 4974(a) on excess accumulations in a qualified retirement plan; however, this adjustment does not apply if the individual, estate, or trust is a nonresident of this state;
- i. Add the tax computed under Internal Revenue Code section 4980A on excess distributions from a qualified retirement plan; and
- j. Subtract the credit for prior year minimum tax computed under Internal Revenue Code section 53.

Unless specifically provided for in this subsection, no federal income tax credit may be subtracted in determining the federal income tax liability for purposes of this section.

- ~~6-~~ 5. A husband and wife filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.
- ~~7-~~ 6. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

- b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's entire adjusted gross income as reported on the taxpayer's federal income tax return.
- ~~8-~~ 7.
 - a. Individuals, estates, or trusts receiving a refund of federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns reducing the federal income tax liability for the year for which the federal income tax refund is granted and may not report the federal income tax refund in the year received.
 - b. Individuals, estates, or trusts assessed additional federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns increasing the federal income tax liability for the year for which the additional federal income tax is assessed and may not report increased federal income tax liability in the year in which the additional federal income tax is paid.
- ~~9-~~ 8. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.
- ~~40-~~ 9. A taxpayer filing a return under this section is entitled to the credit provided under section 57-38-01.20.
- ~~44-~~ 10. A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 40-63-04, 40-63-06, and 40-63-07.

SECTION 54. AMENDMENT. Section 57-38-54 of the North Dakota Century Code is amended and reenacted as follows:

57-38-54. Publication of statistics. The tax commissioner shall prepare and publish biennially statistics reasonably available with respect to the operation of this chapter, including amounts collected, classification of taxpayers, and such other facts as are deemed pertinent and valuable. The commissioner shall publish the tax rate imposed under section 57-38-30.3 as a percentage of adjusted federal tax liability and as the corresponding range of marginal tax rates as if the tax were imposed on taxable income.

Page 40, after line 21, insert:

"SECTION 59. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY REFERENCES. The legislative council may replace references to the "department of economic development and finance", "division of community services", "tourism department", and "department of economic development and finance division of finance" with references to the "department of commerce division of economic development and finance", department of commerce division of community services", "department of commerce division of tourism", "department of commerce division of economic development and finance finance office", "department of commerce", and "commissioner of commerce", or any variation of these terms as appropriate, in any measure enacted by the fifty-seventh legislative assembly."

Page 40, line 27, replace "This" with "Sections 52 through 54 of this Act are effective for taxable years beginning after December 31, 2000, and the remainder of this"

Renumber accordingly