

FISCAL NOTE
Requested by Legislative Council
01/17/2019

Amendment to: HB 1111

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(700,000)			
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Engrossed HB 1111 changes the income tax law governing the research expense income tax credit to provide for an alternative method of calculating the credit allowed for qualified research expenses incurred in North Dakota.

- 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 the bill will change North Dakota income tax law governing the existing research expense tax credit. Current state law provides an income tax credit for qualified research spending in the state, which is based on the regular method of calculating the research expense tax credit under federal income tax law. Under the regular calculation method, the credit is calculated on the amount by which qualified expenses incurred during the tax year exceed a base amount. In general, the purpose of the base amount is to allow the credit only if there is an increase in qualified research spending (over the base amount). The regular calculation method is complex, under which the determination of the base amount is based on historical data on qualified research expenses and gross receipts (often as far back as 34 years) as well as the average gross receipts for the four years preceding the tax year for which the credit is being calculated.

Under federal tax law, an alternative simplified method of calculating the federal research tax credit was created in 2006. Under the alternative simplified method, the determination of the base amount is greatly simplified by basing it on an average of the qualified research expenses incurred in the three tax years preceding the tax year for which the credit is being calculated. Because qualified research expenses on which the credit is calculated generally are higher than under the regular method, the applicable federal credit rates are set at 70% of the regular rates (or 30% of the regular rates if qualified research expenses for any of the three base years is zero). Use of this alternative simplified method is optional; a taxpayer may elect to use it on a year by year basis.

North Dakota tax law does not conform to the federal alternative simplified method, nor does North Dakota tax law provide for a similar method. Engrossed HB 1111 will provide for an alternative simplified method for state purposes that is similar to the one under federal law. A taxpayer may use the alternative simplified method for state purposes regardless of the method chosen for federal tax purposes. Under the alternative simplified method, the applicable state credit rates are set at 70% of the regular rates (or 30% of the regular rates if qualified research expenses for any base year is zero).

If a taxpayer elects to use the alternative simplified method on the original return filed for a tax year, the election is binding for that tax year. If a taxpayer calculated the research expense credit using the regular method on an original return filed for a tax year beginning before January 1, 2019, the taxpayer may not file an amended return for that year for the purpose of changing to the alternative simplified method.

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

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

If enacted, Engrossed HB 1111 is estimated to reduce state general fund revenues between \$400,000 and \$1,000,000 for the 2019-21 biennium. The midpoint of this range is -\$700,000, as shown above in 1A.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

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