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Y. Hernandez

Date

10-16-03

2003 SENATE FINANCE AND TAXATION

SB 2091

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2091

Senate Finance and Taxation Committee

Conference Committee

Hearing Date Jan. 8, 2003

Tape Number	Side A	Side B	Meter #
#1	X		43

Committee Clerk Signature *Michelle Kaug-Walden*

Minutes:

Senator Urlacher-opened the hearing on bill SB2091 relating to obsolete corporate income tax provisions.

Donnita Wald from the Office of State Tax Commissioner testified in support of SB2091.

Written testimony is attached. Recommends "do-pass".

Senator Seymour-Is this bill revenue neutral?

Donnita Wald- That is correct. There is no fiscal effect.

Senator Urlacher- Is there any other testimony?

Appears to be a simplification.

COMMITTEE ACTION:

Motion made by Senator Tollefson for a "do-pass", Seconded by Senator Syverson.

Vote 6 yeas, 0 nays, 0 absent or not voting. Bill carrier is Senator Wardner.

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Yvonne A. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
January 8, 2003 11:20 a.m.

Module No: SR-02-0355
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2091: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2091 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-02-0355

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10-16-03
Date

2003 HOUSE FINANCE AND TAXATION
SB 2091

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Operator's Signature

10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2091

House Finance and Taxation Committee

Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1	X		1

Committee Clerk Signature

Jamie Stein

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

MARY LOFTSGARD, SUPERVISOR OF THE CORPORATE INCOME TAX SECTION,

OFFICE OF THE STATE TAX COMMISSIONER Testified in support of the bill. See

attached written testimony.

With no further testimony, the hearing was closed.

COMMITTEE ACTION

REP. WINRICH Made a motion for a **do pass**.

REP. KLEIN Second the motion. **MOTION CARRIED**

13 YES 0 NO 1 ABSENT

REP. IVERSON Was given the floor assignment.

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Yuberca d. Lee

Date

10-16-03

Date: 2-26-03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2091

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Winrich Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Iverson

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

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Yuberca d. Lee 10-16-03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 26, 2003 11:44 a.m.

Module No: HR-34-3500
Carrier: Iverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2091: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO
PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2091 was placed on
the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-34-3500

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10-16-03
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2003 TESTIMONY

SB 2091

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10-16-03
Date

TESTIMONY BEFORE THE SENATE
FINANCE AND TAXATION COMMITTEE

SB 2091

DONNITA WALD
JANUARY 8, 2003

*Same as
given on
2-26-2003
by Mary Loftsgaard*

Introduction

Chairman Urlacher, members of the committee, my name is Donnita Wald. I am Special Assistant Attorney General for the Office of State Tax Commissioner, and I am here to testify in support of SB 2091. This bill proposes the repeal of N.D.C.C. §§ 57-38-12 and 57-38-13 which address allocation of corporation income tax. The bill also amends N.D.C.C. §§ 57-38-11, 57-38-14 and 57-38-30 to reflect the repeal of the referenced statutory sections.

Purpose of bill

The sections of law affected by this bill were adopted or revised by the 1923 Legislative Session, and applied to corporations conducting all their business in North Dakota, as well as corporations who conducted business both within and without North Dakota. The code sections set forth the manner in which income was to be assigned to North Dakota.

Subsequently, in 1965, the Uniform Division of Income Tax Act (UDITPA) was adopted (found in Chapter 57-38.1, N.D.C.C.). The adoption of UDITPA superceded N.D.C.C. §§ 57-38-12 and 57-38-13 for corporations that do business both within and without North Dakota.

We have found that, based on a reading of the statutes alone, many corporations doing business within and without North Dakota are not aware that they should apportion and allocate income according to N.D.C.C. Chapter 57-38.1. SB 2091 clarifies this by repealing and amending sections of the corporate income tax law that no longer apply to corporations apportioning their income between states.

Bill's provisions

Sections 1 and 3 of the Bill contain technical changes to sections 57-38-11 and 57-38-30 to reflect the repeal of N.D.C.C. §§ 57-38-12 and 13.

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Section 2 of the Bill makes technical changes N.D.C.C. § 57-38-14 to reflect the repeal of the obsolete provisions. The amendment to subsection 1 (*see page 1, lines 16-19 of the bill*), states that corporations conducting all their business in North Dakota are to be taxed on their entire income. This maintains the intent of the N.D.C.C. § 57-38-12(2)(one of the repealed sections), which currently states that: "If the trade or business of the corporation is carried on entirely within this state, the tax must be imposed on the entire business income...."

N.D.C.C. § 57-38-14(2) is amended (*see page 1, lines 20-23, and page 2, lines 1-2*) to direct corporations doing business within and without North Dakota to the Uniform Division of Income Tax Act (N.D.C.C. Ch.57-38.1) to determine the amount of income to be apportioned to North Dakota. Subsections (9) and (10) of § 57-38-14, N.D.C.C. (*see page 3, lines 21-30, and page 4, lines 1-4*) are being removed because these provisions also apply to apportioning companies and are addressed in the uniform act.

Closing

Because the proposed amendments will not change the method of apportionment or allocation of income to North Dakota, SB 2091 carries no fiscal note. The intent of SB 2091 is to remove language that is no longer applicable and simplify for taxpayers the statutory requirements for allocating and apportioning income to North Dakota.

The Tax Commissioner recommends a "do-pass" on SB 2091. If there are any questions, Mr. Chairman, I will be happy to respond to them at this time.

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