

2013 SENATE FINANCE AND TAXATION


SB 2156

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2156
1/21/2013
Job Number 17409

Conference Committee

Committee Clerk Signature	
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Explanation or reason for introduction of bill/resolution:

A BILL 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.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on SB 2156 and turned the gavel over to Vice Chairman Campbell.

Senator Cook introduced SB 2156.

Scott Rising, ND Soybean Growers Association - We are in favor of this beauty, period.

Jon Godfreed, Greater ND Chamber of Commerce - See attached testimony 1 opposed to SB 2156.

Senator Burckhard - There is a lot of talk about what we should do and what taxes we should affect, but I don't hear anyone asking me to reduce income taxes. I hear everybody and their brother asking to do something about property taxes so why should we reduce income taxes?

Jon Godfreed - The Greater ND Chamber has always been for measured relief. I think if we look at all three buckets of tax income that the state receives, while one, the state doesn't receive any property tax income, that is a local tax, but, you are right, we have heard most of the chatter has been about property taxes. We have a property tax proposal that's going to call for \$540 million in property tax reductions. The mechanism we are still working on. That is kind of the inherent problem, is any time the state gets involved with regulating property taxes you are regulating you trying to affect the local tax. Through personal and corporate income, we are assuring a tax reduction, we are assuring taxes go back into the pockets of the tax paying citizens of North Dakota. That is why we feel you should address all three personal, corporate, and property taxes as well.

Senator Cook - Do you think a lot of the reason that property tax seems to be such a sensitive tax right now versus income tax, has to do with the way the tax payer pays the

bill? We all know how once a year we have to write a check for the entire amount of our property tax, where income tax seems to be slowly removed every paycheck and it's less noticeable and therefore less painful to the taxpayer?

Jon Godfreed - I certainly think that's part of it. I also think that there is a whole host of uncertainty or misunderstanding of how your property taxes are calculated and where the money goes and who's doing what. I think there is also a lot of other factors that go into it is whether what subdivision is doing what and there is a misunderstanding of where the money is actually going. I think we saw in our measure 2 debate that the locals blame the legislature and the legislature pointing back to the locals. There needs to be some more understanding and clarity brought to the system, but I would agree that is part of the problem.

Vice Chairman Campbell - Two part question, would you ever propose or what is your opinion on doing income tax all together like South Dakota, Florida, and I believe there is 3 or 4 other states, and then the second question is, I agree with you, I just got 2 phone calls yesterday, we aren't getting credit as a state for property tax relief. I had a frustrated guy that just opened up his land tax statement and they were up \$300 a quarter, and he's got 10-12 quarters and as I explained to him we had the maximum 75 mill levy buy down and he was even more irate because he said 'what would happen if the oil industry ever went away? Your telling me my land tax could go up to \$600-\$700 a quarter'? So it's kind of a situation right now that gives the local people a little bit of a green light to increase spending and as I'm learning more and more about that, and I'd welcome Cory Fong's comments on this as well, it's a can of worms that we are giving \$342 million away, or \$5 million or whatever it may be in this next biennium, and not only are we not getting credit for it, but it's working backwards, they are getting tax increases and they are irate. This fellow said if he doesn't see any tax relief, which he's getting a lot and not even aware of it, he's going to be very aggressive in that initiated measure in 2 years for the property tax. How would you reply to those 2 questions?

Jon Godfreed - I'll answer the second question first. I think that is part of the problem. In 2009 the mill levy reduction grant program was started and since then it's been 3 years, so the 3 year look back that is on your property taxes has fallen off. No longer can you really see where the state stepped into the game. As far as some of the problems with property tax, you hit the nail on the head with the mill levy reduction program and things like that and somewhat tying our oil revenue to this reduction program. I think there are some other proposals that are out there that look at fixing it to a fixed dollar amount, which is something we support more. In order to have the legislature come every session and can look and say 'okay can we increase this 3% or decrease it based on our revenue, based on what we've got going on'. There isn't going to be that necessarily big removal from the program where the property taxpayers will feel a 20%-30% increase given the state pulls out of the property tax game. As far as eliminating income tax or corporate income tax, we are for measured relief. Taking little bites of the apple every session we think is a good plan in stepping it down. However I'm not sure where we would oppose an elimination of something like that. Our stance right now is that we are happy to see measured relief, we are happy to see it step down addressing all 3 main areas of taxation and revenue to the state.

Senator Dotzenrod - There has been some discussion here this morning about how the mechanics influence the taxpayers. They get their property tax bill delivered all at one time and their income or the sales tax just sort of dribbles along all year long. One of the things about the way the property tax has worked and the way the legislature has given that property tax relief is that if the state at some point in the future doesn't have the money, or is short, we will probably not be able to put as much money into property tax buy down as we have then. What we still have in place at that point is a property tax system that hasn't been dismantled, that is all of the structure, all of the collection mechanism; all of the mills are in place at this time. The legislature doesn't have to meet and implement a new extra authority for subdivisions to find more revenues because if we don't fund it those mills will apply, where if we do these income tax reductions, corporate and personal, they are permanent reductions and the only way we will ever be able to get those revenues back is for the legislature to have to meet and the House and the Senate members will have to cast a majority vote in favor of adding taxes. We have seen in the past that when you have to get the legislature to act affirmatively to add taxes it has a very hard time doing that. Is it wise for us to do this knowing there will be day in the future when the revenues we have today will not be there?

Jon Godfread - I can see your point. I think our organization was instrumental in setting up the legacy fund and we can have policy discussions on what the money should be done with the legacy fund, but it's our stance and our understanding that the earning off the legacy fund at some point in the future, whether it's 2017, 2019, 2021, whenever the oil play start to dip and our revenue starts to decrease will then be supplemented by that legacy fund income to then assure those tax reductions and tax cuts remain in place and simply fund general government off of legacy fund earnings. That is what our stance has been and that is one of the main reasons for pushing the legacy fund as hard as we did.

Sandy Clark, ND Taxpayers Association - We too are going to stand opposed to SB 2156. We obviously support reduction of corporate and income tax rates but we don't think that this bill goes far enough. As you heard earlier it's \$125 million package, we believe the state can do better for its citizens and we think this is the time to do it. Income taxes have contributed to the budget surplus and we believe the government should not collect more taxes than it needs to operate the business of government. In 2002 if you look in your red book individual income taxes generated \$199 million and in 2013 projected to raise \$453 million so there has been quite an increase. We believe that should be returned to the taxpayers who paid it and that is the reason for supporting income tax reductions. I will say ND Taxpayers Association does support the elimination of both the corporate and individual income taxes. There are some bills out there talking about that and maybe a step down process in ability to move toward that would be a vision and a goal for this legislature. I know obviously you have been reducing income taxes in the past and we think it's time to enhance that effort and continue with these income tax reductions so in summary we would hope a do not pass because we too believe there are other bills out there that are more workable and provide additional income tax relief for personal citizens. One thing I would say about income tax reductions or any reductions, we've had such a huge growth and a budget surplus and that is tremendous, but it's really easy to spend and over spend when you have such a surplus, so by reducing these taxes, you can't spend what you don't have. We think the solution is to not collect it.

Senator Oehlke - You mentioned 2002 versus 2013, it mirrors a lot of differences between 2002 and 2013, just thinking about purchasing a vehicle and the same vehicle would probably be 4 times more maybe even more. Were you thinking that we ought to go back to only collecting \$199 million in sales taxes? Is that kind of your idea or is there a number you would like to see?

Sandy Clark - I guess to be frank we are going to go along with the Greater ND Chamber, we liked HB 1250 better. I guess to comment on your earlier statement, yes, we recognize that things have changed, but I think that if you looked at income tax, there have been obviously changes, there are changes in the price of things, but there is also a change in the income level, if you go from 2002 to current, the oil industry itself has generated a lot of this additional income. There is no denying also that the Ag community has been very healthy and good commodity prices, and so I think that is a reflection also of this increase. Will that be there forever? Maybe not.

Senator Oehlke - You mentioned killing this bill, so there is no fix for this one?

Senator Oehlke then briefly talked about how there is no way to know what will happen with HB 1250 or what it will look like by the time it gets to the Senate and if it is worth the risk to kill SB 2156 and wait and see what HB 1250 ends up being.

Sandy Clark - We can certainly understand if you see a need to pass this if this is the only bill that you have before you. Will HB 1250 change, maybe. Can you make some amendments to this to increase and pass it that is certainly among your options. I am testifying as the bill stands today.

Senator Cook - Do you by chance remember the last time the state of North Dakota increased income tax rates?

Sandy Clark was unsure. Someone from the tax department who attended the hearing said it was 1987.

Senator Cook - Certainty is the most important thing we can offer. I would guess that we have done a very good job of being fiscally prudent, and offering the world to see certainty here in North Dakota. We have offered certainty by not increasing taxes, that the taxes not only aren't going to be increased but they are going down, and I think that certainty that we offer has a lot to do with the number of people that are now working in ND, the fact that our income is one of the fastest rising incomes in the nation, and that it's a very good thing. I'm nervous about eliminating income tax because I think we create the uncertainty that we can't sustain it. I'm worried about decreasing income tax too much because we create the uncertainty that we can't sustain it. That just alone is something that could upset our economic engine that is driving this state. I guess the question I have for you is, if you agree with that, that certainty is important, where do we put this bill to continue to assure the certainty that we are going to be able to sustain it and not have to at some point raise taxes?

Sandy Clark - I'm not sure either exactly where that point is. There are 7 states out there that don't have income tax, South Dakota and Wyoming are our neighboring states and

they seem to be getting along just fine. But as I say, maybe any elimination has to come over a period of time, it maybe can't be all at one time, sometimes it's okay to have long term goals as well, but I don't know where that, I would concur with you that there is a need for certainty, but when you reduce income taxes, individual and corporate, that money often times comes back to the state in the form of sales tax because when people have money in their pocket they are going to spend it.

Senator Cook - You mentioned South Dakota and it wasn't that long ago, I think 2003 that we had a bill to eliminate personal and corporate income tax just like South Dakota and along with that was a bill to greatly expand our sales tax to match the sales tax base of South Dakota which included sales tax on services. Do you think that is a better program than what we've got here? Would you be willing to give up corporate and personal income tax in exchange for an expanded sales tax base that taxes more of the tangible things that are untaxed and tax services? Do you think that would be a wise idea?

Sandy Clark - No I don't think we can emulate that entire route.

Senator Cook - It kind of shows the dilemma that we are at.

Senator Dotzenrod - Just to respond to something said Sandy, the idea that we would collect more on other types of taxes if we could reduce these taxes here, well then, the people will have more money to spend and it kind of isn't really that big of a loss. In these corporate taxes that we are going to reduce in this bill, that would apply to Wal-Mart and Target and the C corps that do business, when those corporations get a reduction in state income tax what is our payback here? How do we see them responding to that in a way that puts more money back to us?

Sandy Clark - I think it does come back because it leaves this whole image that we have in the country about our business climate and our environment and so when you reduce any corporate tax it really leaves a good image out there that entices other corporations to come in and other businesses to come in whether it's small business or large business.

Senator Dotzenrod - From everything I've seen comparing us to other states, we are considered probably today one of the most business friendly. We are getting recognized nationally for having a great environment for business to be in. So I think that as far as creating this environment which I think is important, I don't want to dismiss that, I think that is part of our job here. That is what we should be thinking about. We want to have the welcome mat rolled out and we want to let the nation know this is the place to come to. I think given the stage we are at, we have something of a balanced system here. We don't lean heavily on property owners or sales tax payers, or income tax payers. I recognize the argument you are making, but I think we may have reached a point where we can say we've done that. We can probably say we can go further, we can make it even better, but we are in a pretty good spot right now.

Vice Chairman Campbell asked for more testimony opposed, then neutral.

Vice Chairman Campbell closed the hearing on SB 2156.

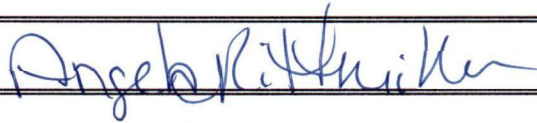
2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2156
2/12/2013
Job Number 18804

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL 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.

Minutes:

Committee Work

Chairman Cook opened discussion in SB 2156.

Chairman Cook - These are the amendments that Senator Grindberg asked to put on SB 2273. Does someone want to move them for SB 2156? (attachment 2)

Senator Miller - So moved.

Seconded by **Senator Burckhard**.

Verbal Vote on Amendment 7-0-0

Senator Dotzenrod - I do have an amendment. The amendment basically takes the corporate tax out of the bill. This is the individual income and corporate tax. This amendment if approved would take the corporate out of it (attachment 3).

Chairman Cook - Why would you want to do this?

Senator Dotzenrod - We had a corporate income tax reduction in the last session and I opposed that one. We anticipated \$25 million and I think it turned out to be about \$58 million. I don't see why we need to do this. We've got a corporate rate that's not among the highest; we are probably below the 50%, I don't know how we stack up to the rest of the states, but most of the companies that are going to use this are C Corporations. I think last session we determined that 25 companies would take half the tax and they aren't North Dakota companies.

Chairman Cook - If they are not a North Dakota company they won't get charged North Dakota tax. They have to be making money in North Dakota.

Senator Dotzenrod - Doesn't Wal-Mart and Target, don't they pay North Dakota corporate tax?

Chairman Cook - Yes

Senator Dotzenrod - They have a presence in North Dakota but to me to give a corporate income tax break to Wal-Mart, it's going to go to Arkansas or show up as a dividend to a stock shareholder somewhere. This to me, the corporate tax break we are giving here is of no benefit to the people who live in North Dakota.

Chairman Cook - Does Wal-Mart share their profit with their employees?

Senator Dotzenrod - I don't know.

Chairman Cook - I figure with our economy, somewhere along the line we've got to give some of this money back to the people. Why should we exclude corporate America? I would argue that corporate America to do with driving this economy right along with everyone that gets up every morning and goes to work.

Senator Dotzenrod - If you could demonstrate to me that we have a problem in our state, that there is something wrong with the way we are taxing that is creating a problem for corporations I would say let's fix it, let's make it a more hospitable place and make it more friendly to them, but I don't see we have a problem.

Senator Miller - I'm looking at the red book here and seeing drastic increases in corporate tax collections over the last several years. From 2002 we had \$41 million in corporate taxing collections; in 2012 we had \$198 million. Corporate America is coming to this state and doing business. We don't necessarily need to reward them, but putting money in the hands of businesses to do business when they are conducting business in our state is a good thing.

Senator Triplett - I'd like to compare this bill to what we did this morning in approving the reduction in the sales tax bill. We argued that it was time to do something with sales tax and that it benefits everyone. It doesn't necessarily benefit everyone equally though because there are some people who spend a whole lot more on sales tax than others do and I think that Ron Ness from the Petroleum Council has been quoted a couple of times as saying that there is \$300,000 worth of sales tax in every well out there that is being drilled because there is so much steel and stuff going in to the wells and so the sales tax reduction that we did this morning is actually a huge corporate tax reduction. I'm with Senator Dotzenrod here I think in the corporate tax reduction we've done in the past plus the sales tax reduction we are proposing and that came out of this committee favorably this morning I think we've done a lot to say that we value the corporations and what they are doing here. My concern is that at some point we are going to get our tax structure just too far out of balance and I think for those of us who went to the presentation this morning, they were showing that the rate of increase is starting to slow down which I think is reflective of the fact that we've kind of finished the phase 1 drilling and that the estimates that they had made just 2 months ago for increases into 2015 their pulling back just a hair from that and starting to see the curve evening out and I think that's a reflection of the fact that we are

moving in to a different phase of drilling and things are starting to level out with the oil and I think trying to get to some sort of level playing field with all of our taxes is also a good thing but not to reduce them to the point that we destroy our tax structure.

Senator Miller - If you think about what it takes to do business and why a company might locate in a state, you take in to consideration sales taxes for example, the cost of doing business, whether you're in the retail, supplying to the oil companies, let's just say you sell bobcats. You're selling bobcats to a person who is in the oil field. You might want to locate your business in North Dakota because your corporate tax rates are lower and more manageable than some other states, some states have no corporate tax rate and that is something we need to think about. Our sales tax rate has gone down now a little bit so now it's all of the sudden a half percent cheaper to do business. Corporate income taxes are going down, personal income taxes are going down, the state is putting property taxes all part of one big package and if we are seeing a leveling off in our economic growth in the state then now is the perfect time to continue cutting taxes.

Senator Triplett - If that is what you heard me say that is not what I intended to say. I think the leveling off is a very positive thing because we've been in a state of frantic, almost uncontrolled growth while the oil companies were racing to get their leases held to the point that our folks in western North Dakota have been overwhelmed by the dramatic infrastructure catch up that they have had to do just to keep up with what's going on. I think everyone in the western third of the state would welcome a leveling off and an evening out. The rush to secure those leases was truly almost to the point of overwhelming for many people and getting to sort of a steady stage of ongoing development that might hold for the next 15 or 20 years is a positive thing. I disagree wholeheartedly with your notion that we need to cut taxes to get them back to a frenzy. We don't want them back to a frenzy. We want continued sustained growth.

Senator Miller - We aren't talking a frenzy we are talking about the sustainment of growth. I'm not talking about the oil fields per say. I'm talking about people all across the state. People in Walhalla, and Langdon, and Park River that are trying to start businesses and maybe they are related to the oil fields, maybe they are related to agriculture, but we are now entering a phase of holding on. We need to do things that continue to sustain that.

Senator Dotzenrod - I will move the amendments 13.8182.01001.

Seconded by **Senator Triplett**.

Roll Call Vote on Amendment 2-5-0

Chairman Cook closed the discussion on SB 2156.

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2156
2/13/2013
Job Number 18860

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL 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.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2156.

Chairman Cook - We have amendments on this bill already. The amendments I just handed out I see include those amendments and then creates section 2. I would say that the only amendments that we need to offer here is sections 2-4 but maybe what we ought to do to be safe is just reconsider our actions in which we passed amendments 8182.01002 or maybe just have a motion that we replace those with .01003. (attachment 4)

Senator Miller - I will move that we reconsider our actions in which we amended SB 2156.

Seconded by **Vice Chairman Campbell**.

Verbal Vote to Reconsider 7-0-0

Senator Miller - I move amendments 13.8182.01003.

Seconded by **Senator Oehlke**.

Senator Burckhard - Earlier we talked about HB 1250. Did that survive or did that get thrown out?

Chairman Cook - That bill is still in their committee.

Senator Dotzenrod - I'm trying to remember the discussion when we had the bill in here earlier. It seems to me what they did in reducing the rate is they took an even amount off of each rate. They didn't take a percentage and apply a percentage reduction. They took like three tenths of a point, is that what we are doing on these amendments as well?

Chairman Cook - This is a straight percentage. The bill as I introduced it originally had the same basic points for every bracket. What I did here is just say give me a bill that does \$200 million, find out what the percentage is, reduce each bracket by that.

Senator Dotzenrod - My vote isn't going to be consequential here but I liked it the first way.

Chairman Cook - I think that is an issue that merits a very thorough discussion.

Roll Call Vote on Amendment 5-2-0

Senator Miller - I'll move a **Do Pass as Amended and re-refer to Appropriations.**

Seconded by **Senator Burckhard.**

Roll Call Vote 5-2-0

Carried by **Chairman Cook.**

FISCAL NOTE
Requested by Legislative Council
01/14/2013

Bill/Resolution No.: SB 2156

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(125,000,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 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).*

SB 2156 reduces corporation and individual 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 SB 2156 reduces corporate income tax rates by approximately 6.2% in each bracket. Section 2 of SB 2156 reduces individual income tax rates by 25 basis points (.25) in each bracket.

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, Section 1 of SB 2156 is expected to reduce corporate income tax revenues by approximately \$25 million in the 2013-15 biennium. The individual income tax rate reductions contained in Section 2 is expected to reduce individual income tax revenues by approximately \$100 million in the 2013-15 biennium. These provisions are 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

Telephone: 328-3402

Date Prepared: 01/17/2013

February 12, 2013

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2-13-13
10F5

PROPOSED AMENDMENTS TO SENATE BILL NO. 2156

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 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes 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. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that

includes investor members must make decisions as a group on which enterprises are worthy of investments.

- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 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.

SECTION 3. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~forty-eight hundredths percent.
- 2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~seventy-three hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~fivefour~~ and ~~fifteenfifty-three~~ hundredths percent.

SECTION 4. 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 \$34,500 <u>\$36,250</u>	4.51% <u>1.22%</u>
Over \$34,500 <u>\$36,250</u>	\$520.95 <u>\$441.20</u> plus 2.82% <u>2.27%</u>
but not over \$83,600 <u>\$87,850</u>	of amount over \$34,500 <u>\$36,250</u>
Over \$83,600 <u>\$87,850</u>	\$1,905.57 <u>\$1,614.06</u> plus 3.13% <u>2.52%</u>
but not over \$174,400 <u>\$183,250</u>	of amount over \$83,600 <u>\$87,850</u>
Over \$174,400 <u>\$183,250</u>	\$4,747.61 <u>\$4,020.85</u> plus 3.63% <u>2.93%</u>
but not over \$379,150 <u>\$398,350</u>	of amount over \$174,400 <u>\$183,250</u>
Over \$379,150 <u>\$398,350</u>	\$12,180.04 <u>\$10,314.36</u> plus 3.99% <u>3.22%</u>
	of amount over \$379,150 <u>\$398,350</u>

- b. Married filing jointly and surviving spouse.

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

Not over \$57,700 <u>\$60,650</u>	4.51% <u>1.22%</u>
Over \$57,700 <u>\$60,650</u>	\$871.27 <u>\$738.17</u> plus 2.82% <u>2.27%</u>
but not over \$139,350 <u>\$146,400</u>	of amount over \$57,700 <u>\$60,650</u>
Over \$139,350 <u>\$146,400</u>	\$3,173.80 <u>\$2,687.25</u> plus 3.13% <u>2.52%</u>
but not over \$212,300 <u>\$223,050</u>	of amount over \$139,350 <u>\$146,400</u>
Over \$212,300 <u>\$223,050</u>	\$5,457.14 <u>\$4,621.01</u> plus 3.63% <u>2.93%</u>

4 of 5

but not over ~~\$379,150~~\$398,350 of amount over ~~\$212,300~~\$223,050
 Over ~~\$379,150~~\$398,350 ~~\$11,513.79~~\$9,750.03 plus ~~3.99%~~3.22%
 of amount over ~~\$379,150~~\$398,350

c. Married filing separately.

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

Not over ~~\$28,850~~\$30,325 1.51%1.22%
 Over ~~\$28,850~~\$30,325 ~~\$435.64~~\$369.08 plus ~~2.82%~~2.27%
 but not over ~~\$69,675~~\$73,200 of amount over ~~\$28,850~~\$30,325
 Over ~~\$69,675~~\$73,200 ~~\$1,586.90~~\$1,343.62 plus ~~3.13%~~2.52%
 but not over ~~\$106,150~~\$111,525 of amount over ~~\$69,675~~\$73,200
 Over ~~\$106,150~~\$111,525 ~~\$2,728.57~~\$2,310.50 plus ~~3.63%~~2.93%
 but not over ~~\$189,575~~\$199,175 of amount over ~~\$106,150~~\$111,525
 Over ~~\$189,575~~\$199,175 ~~\$5,756.90~~\$4,875.01 plus ~~3.99%~~3.22%
 of amount over ~~\$189,575~~\$199,175

d. Head of household.

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

Not over ~~\$46,250~~\$48,600 1.51%1.22%
 Over ~~\$46,250~~\$48,600 ~~\$698.38~~\$591.51 plus ~~2.82%~~2.27%
 but not over ~~\$119,400~~\$125,450 of amount over ~~\$46,250~~\$48,600
 Over ~~\$119,400~~\$125,450 ~~\$2,761.21~~\$2,338.29 plus ~~3.13%~~2.52%
 but not over ~~\$193,350~~\$203,150 of amount over ~~\$119,400~~\$125,450
 Over ~~\$193,350~~\$203,150 ~~\$5,075.84~~\$4,298.54 plus ~~3.63%~~2.93%
 but not over ~~\$379,150~~\$398,350 of amount over ~~\$193,350~~\$203,150
 Over ~~\$379,150~~\$398,350 ~~\$11,820.38~~\$10,009.80 plus ~~3.99%~~3.22%
 of amount over ~~\$379,150~~\$398,350

e. Estates and trusts.

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

Not over ~~\$2,300~~\$2,450 1.51%1.22%
 Over ~~\$2,300~~\$2,450 ~~\$34.73~~\$29.82 plus ~~2.82%~~2.27%
 but not over ~~\$5,450~~\$5,700 of amount over ~~\$2,300~~\$2,450
 Over ~~\$5,450~~\$5,700 ~~\$123.56~~\$103.69 plus ~~3.13%~~2.52%
 but not over ~~\$8,300~~\$8,750 of amount over ~~\$5,450~~\$5,700

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Over ~~\$8,300~~\$8,750 ~~\$212.77~~\$180.64 plus ~~3.63%~~2.93%

but not over ~~\$11,350~~\$11,950 of amount over ~~\$8,300~~\$8,750

Over ~~\$11,350~~\$11,950 ~~\$323.48~~\$274.27 plus ~~3.99%~~3.22%

of amount over ~~\$11,350~~\$11,950

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. 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 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Date: 2-12-13
Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2156**

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8182.01002

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

Motion Made By Senator Miller Seconded By Senator Burckhard

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 2-12-13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166**

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8182.01001

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	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

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

Verbal Vote

Date: 2-13-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2156

Senate Finance & 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 Campbell

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 2-13-13
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2156

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8182.01003

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

Motion Made By Senator Miller Seconded By Senator Oehlke

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 2-13-13
Roll Call Vote #: 5

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2156**

Senate Finance & 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 Burckhard

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett		X
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2156: 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). SB 2156 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 create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes 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. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~ Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
 - g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
 - h. Be in compliance with the securities laws of this state.

- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 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.

SECTION 3. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~forty-eight hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~seventy-three hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~fifty-three hundredths percent.

SECTION 4. 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 ~~\$34,500~~\$36,250 1.51%1.22%

Over ~~\$34,500~~\$36,250 ~~\$520.95~~\$441.20 plus ~~2.82%~~2.27%

but not over ~~\$83,600~~\$87,850 of amount over ~~\$34,500~~\$36,250

Over ~~\$83,600~~\$87,850 ~~\$1,905.57~~\$1,614.06 plus ~~3.13%~~2.52%

but not over ~~\$174,400~~\$183,250 of amount over ~~\$83,600~~\$87,850

Over ~~\$174,400~~\$183,250 ~~\$4,747.61~~\$4,020.85 plus ~~3.63%~~2.93%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$174,400~~\$183,250

Over ~~\$379,150~~\$398,350 ~~\$12,180.04~~\$10,314.36 plus ~~3.99%~~3.22%

of amount over ~~\$379,150~~\$398,350

b. Married filing jointly and surviving spouse.

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

Not over ~~\$57,700~~\$60,650 1.51%1.22%

Over ~~\$57,700~~\$60,650 ~~\$871.27~~\$738.17 plus ~~2.82%~~2.27%

but not over ~~\$139,350~~\$146,400 of amount over ~~\$57,700~~\$60,650

Over ~~\$139,350~~\$146,400 ~~\$3,173.80~~\$2,687.25 plus ~~3.13%~~2.52%

but not over ~~\$212,300~~\$223,050 of amount over ~~\$139,350~~\$146,400

Over ~~\$212,300~~\$223,050 ~~\$5,457.14~~\$4,621.01 plus ~~3.63%~~2.93%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$212,300~~\$223,050

Over ~~\$379,150~~\$398,350 ~~\$11,513.79~~\$9,750.03 plus ~~3.99%~~3.22%

of amount over ~~\$379,150~~\$398,350

c. Married filing separately.

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

Not over ~~\$28,850~~\$30,325 1.51%1.22%

Over ~~\$28,850~~\$30,325 ~~\$435.64~~\$369.08 plus ~~2.82%~~2.27%

but not over ~~\$69,675~~\$73,200 of amount over ~~\$28,850~~\$30,325

Over ~~\$69,675~~\$73,200 ~~\$1,586.90~~\$1,343.62 plus ~~3.43%~~2.52%

but not over ~~\$106,450~~\$111,525 of amount over ~~\$69,675~~\$73,200

Over ~~\$106,450~~\$111,525 ~~\$2,728.57~~\$2,310.50 plus ~~3.63%~~2.93%

but not over ~~\$189,575~~\$199,175 of amount over ~~\$106,450~~\$111,525

Over ~~\$189,575~~\$199,175 ~~\$5,756.90~~\$4,875.01 plus ~~3.99%~~3.22%

of amount over ~~\$189,575~~\$199,175

d. Head of household.

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

Not over ~~\$46,250~~\$48,600 ~~1.51%~~1.22%

Over ~~\$46,250~~\$48,600 ~~\$698.38~~\$591.51 plus ~~2.82%~~2.27%

but not over ~~\$119,400~~\$125,450 of amount over ~~\$46,250~~\$48,600

Over ~~\$119,400~~\$125,450 ~~\$2,761.21~~\$2,338.29 plus ~~3.43%~~2.52%

but not over ~~\$193,350~~\$203,150 of amount over ~~\$119,400~~\$125,450

Over ~~\$193,350~~\$203,150 ~~\$5,075.84~~\$4,298.54 plus ~~3.63%~~2.93%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$193,350~~\$203,150

Over ~~\$379,150~~\$398,350 ~~\$11,820.38~~\$10,009.80 plus ~~3.99%~~3.22%

of amount over ~~\$379,150~~\$398,350

e. Estates and trusts.

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

Not over ~~\$2,300~~\$2,450 ~~1.51%~~1.22%

Over ~~\$2,300~~\$2,450 ~~\$34.73~~\$29.82 plus ~~2.82%~~2.27%

but not over ~~\$5,450~~\$5,700 of amount over ~~\$2,300~~\$2,450

Over ~~\$5,450~~\$5,700 ~~\$123.56~~\$103.69 plus ~~3.43%~~2.52%

but not over ~~\$8,300~~\$8,750 of amount over ~~\$5,450~~\$5,700

Over ~~\$8,300~~\$8,750 ~~\$212.77~~\$180.64 plus ~~3.63%~~2.93%

but not over ~~\$11,350~~\$11,950 of amount over ~~\$8,300~~\$8,750

Over ~~\$11,350~~\$11,950 ~~\$323.48~~\$274.27 plus ~~3.99%~~3.22%

of amount over ~~\$11,350~~\$11,950

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. 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 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

2013 SENATE APPROPRIATIONS

SB 2156

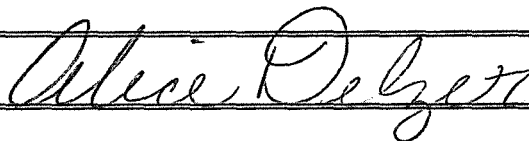
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2156
02-20-2013
Job # 19254

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to reduction in income tax- corporations, individual, estates & trusts (Do Pass.)

Minutes:



Chairman Holmberg called the committee to order on Wednesday, February 20, 2013 in regards to SB 2156. All committee members were present. Brady Larson, Legislative Council and Joe Morrissette, OMB was also present.

Senator Cook introduced the bill and asked for a do pass recommendation.

Chairman Holmberg - How does this bill interface with SB 2237 that we heard yesterday?

Senator Cook - The only difference is the corporate part of it. This has a \$50 million corporate income tax reduction. We keep all of the current brackets we just reduce each bracket by 12%. SB 2037 has a \$25 million tax reduction amount but it creates a single flat tax rate. (2:39)

Senator Robinson - Last session I think our corporate reduction was \$25 million. Wasn't, at the end of the day, our collections reduction actually ended being something like \$58 million? How did that happen?

Senator Cook - I don't know what the actual reduction was but I can tell you the actual increase in corporate collections was considerable. We have established some trends here in North Dakota the last 2 sessions we have cut corporate income tax and as a result we have seen an increase in corporate income tax collections. (4:18)

Senator Warner - I am really concerned we are setting ourselves up for a train wreck if our economy takes a sudden turn and we end up in a recession and that we are faced with the object of trying to raise taxes again during a recession so I'm asking if there is a sunset clause on this?

Senator Cook - No there is not a sunset clause. I don't know if we are setting ourselves up for a course that we don't want to face in the future where we have to raise taxes. I would

hope this would make us stronger. We just had the folks from CSG here and I reached out and asked what other states are doing right now regarding income tax, I serve on a couple national tax committees. I have always had to kind of keep my mouth quiet because they are no longer envious of us, they are rather jealous of us. I don't talk too much about cutting income taxes and seeing the income tax collections go up. I am surprised when I find that 13 states right now enacted decreases in personal income tax, 2 state enacted corporate income tax increases, 9 states enacted decreases in corporate income tax. These are states that aren't enjoying the flush financial time that the state of North Dakota is. We have got 5 states having proposed the repeal of state income taxes and 9 states are proposing significant income tax cuts. (6:44)

Senator Warner - I think we are able to give income tax decreases because of a thriving economy, not the other way around.

Bill Shalhoob, ND Chamber of Commerce - We are here in support this bill. This is a very good starting point.

Senator O'Connell - Some of the people out west, in the crew camps, they don't buy gas, everything is furnished for them. Any idea how much money the state is losing by not having, basically all they pay is a small income tax. They aren't helping the economy at all they are taking everything back home with them. What kind of response can you give me?

Bill Shalhoob - I don't have any idea.

Chairman Holmberg we will close the hearing.

Senator Wanzek moved a Do Pass on SB 2156.

Seconded by **Senator Carlisle**.

Senator Mathern - I hope we resist that motion. It's interesting to receive Senator Cook's information. It reminds me of a few decades ago when we started giving money to companies to come to our states and then we were finding out that we were actually just bidding against each other as states all putting money out and we eventually figured out wait, this isn't helping, so even this information about these states giving weight to the corporate income tax, us still having it, but we have the stronger economy just points out the economy goes and is flourishing based on other factors than income tax for corporations and I would resist the motion for that reason.

Vice Chairman Grindberg - I will support the motion. We all have been involved in tax discussions. I find it interesting and an opportunity that we can continue to reduce taxes in the state and invest in the services and the priorities as a balanced package. Someone who spoke to us said the taxes in North Dakota are low now. So what do you do with this robust time, invest in education, invest in infrastructure, and reduce taxes. One compelling message that stuck with me is don't eliminate income taxes. Everybody should have to pay a little. So look at that perspective and then you go to the debate in Washington where they are having debate that not everybody's paying. Let's continue to lower them, but as long as

I sit in a chair in the Senate I'm not going to vote to eliminate them because I think it creates different societal impacts down the road.

Senator O'Connell - I will vote for the bill. I think this is the best option we have at this time.

Chairman Holmberg - Right after this particular bill is voted on, we will look at SB 2237.

Senator Robinson - I am not going to support the package. I have not in the last number of years ever had anyone ask to reduce income taxes. I hear just the other way around. Our business climate is very attractive right now. This is one of our base revenue sources as the sales tax is. I think it's the wrong move. If at the end of the session we can have, we talk about a balanced package, I don't see that this is balanced. It's far more than the governor proposed. I think it's the wrong time. Put your money in property tax reduction; that is what I'm hearing over and over again.

Chairman Holmberg - Anyone else?

A Roll Call vote was taken. Yea: 10; Nay: 3; Absent: 0. Motion carried.

Senator Cook from Finance and Tax will carry the bill. The hearing was closed on 2156.

FISCAL NOTE
Requested by Legislative Council
02/14/2013

Amendment to: SB 2156

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(250,000,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 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 SB 2156 reduces corporation and individual 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 3 of engrossed SB 2156 reduces corporate income tax rates across-the board, keeping the existing brackets. Section 4 of engrossed SB 2156 reduces individual income tax rates across-the-board, keeping all existing brackets.

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 SB 2156 is expected to reduce corporate income tax revenues by approximately \$50 million in the 2013-15 biennium. The individual income tax rate reductions are expected to reduce individual income tax revenues by approximately \$200 million in the 2013-15 biennium. The executive budget includes income tax rate relief totaling \$125 million.

- 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

Telephone: 328-3402

Date Prepared: 02/19/2013

FISCAL NOTE
Requested by Legislative Council
01/14/2013

Bill/Resolution No.: SB 2156

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(125,000,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 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).*

SB 2156 reduces corporation and individual 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 SB 2156 reduces corporate income tax rates by approximately 6.2% in each bracket. Section 2 of SB 2156 reduces individual income tax rates by 25 basis points (.25) in each bracket.

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, Section 1 of SB 2156 is expected to reduce corporate income tax revenues by approximately \$25 million in the 2013-15 biennium. The individual income tax rate reductions contained in Section 2 is expected to reduce individual income tax revenues by approximately \$100 million in the 2013-15 biennium. These provisions are 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

Telephone: 328-3402

Date Prepared: 01/17/2013

Date: 2-20-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2156

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Wanzek Seconded By Carlisle

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern		✓
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson		✓
Senator Ralph Kilzer	✓		Senator John Warner		✓
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 10 No 3

Absent _____

Floor Assignment F & T Cook

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

REPORT OF STANDING COMMITTEE

SB 2156, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2156 was placed on the Eleventh order on the calendar.

2013 HOUSE FINANCE AND TAXATION


SB 2156

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2156
March 18, 2013
Job # 20059

Conference Committee



Explanation or reason for introduction of bill/resolution:

A Bill relating to a corporate income tax credit for contributions to rural leadership North Dakota; relating to authorized investments of an angel fund for income tax credit purposes and a reduction in income tax rates for corporations, individuals, estates, and trusts.

Minutes:

Proposed amendment #1, testimony #2, 3, 4, 5

Chairman Belter: Opened hearing on SB 2156.

00:27 Senator Cook, District 34, Mandan: Introduced bill. This is a bill we passed over with income tax reductions in it. Talked about the angel fund.

03:01 Chairman Belter: Is the corporate 12 ½%?

Senator Cook: Yes.

03:09 Representative Drovdal: On the angel fund portion in section 1 of the bill can you explain why holding companies are not eligible for certification of angel funds?

Senator Cook: We dealt with the financial institutions tax bill. Investments in angel funds can't be used for real estate ventures.

04:05 Representative Drovdal: Can you share why they feel angel funds should not invest in real estate?

Senator Cook: Angel funds are at high risk ventures which are different than real estate.

Representative Drovdal: Could you tell me who the sponsor is?

Senator Cook: Senator Grindberg.

05:07 Chairman Belter: Further testimony in support of 2156?

Joel Gilbertson, Bioscience Association of North Dakota and the International BIO: Distributed proposed amendments #1 and testimony #2. This would eliminate the lifetime cap. Due to Bioscience research we will find a cure for cancer and a way to feed the world.

11:15 Representative Drovdal: Why is it necessary now that we completely eliminate the angel fund from real estate investments?

Joel Gilbertson: With the present angel fund setup it was questionable whether that those real estate would qualify at all. They were getting feedback that it was a risk investment.

12:22 Representative Froseth: Does that cap pertain to all the angel fund investments?

Joel Gilbertson: It refers to all angel fund investments under this title.

13:04 Brenda Weiland, Interim Executive Director, NDSU Research and Technology Park: Amendment #3. Our role is in regards to supporting the angel tax credit and the amendment to remove the lifetime cap. Focus on high wage, high skill jobs. We work directly with entrepreneurs and investors. Removing the cap will help these investors to be able to continue investing in these companies.

16:05 Representative Zaiser: Do you know the reason why Senator Grindberg chose to exclude the real estate investments? Is it because they aren't primary sector jobs?

Brenda Weiland: Yes. At this point of time the stage they are investing in they can't afford real estate.

17:04 Representative Drovdal: To me real estate is part of the package to include in the funding process. This group doesn't feel that it's a necessary item including the funding package to get investors to fund upcoming projects?

Brenda Weiland: A lot of times these entrepreneurs are located in incubators across the state. They are looking at leasing property at first.

Chairman Belter: Further testimony in support of SB 2156?

18:55 Dan Hoginson, founded Southern Valley Angel fund: I seek investors in ND and companies that come from ND or to ND to invest in. The technology companies that are coming to ND and the commerce department gets contacted by people who are interested, I'm who they call. We are creating an industry and you are incenting it in the early going to attract capital.

26:25 Representative Owens: Loopholes would make them more stable in ND?

Dan Hoginson: That is correct. We only invest in primary sector companies and only in the early stage.

28:11 Chairman Belter: Further testimony in support of 2156?

28:17 Jon Godfread, Greater North Dakota Chamber: See attached testimony #4. Spoke in reference to the income tax reduction side of the bill. Support the concept of SB 2156.

29:12 Chairman Belter: Further testimony in support of 2156?

29:22 Sandy Clark, North Dakota Taxpayers Association: We support the reductions in individual and corporate income taxes. We hope you can increase the level of reduction.

30:25 Chairman Belter: Any other testimony in support? Can the tax department answer some questions?

30:45 Vice Chairman Headland: As far as the angel fund tax credit, can you give us an idea of how open it is to risk investment? How would they currently qualify?

31:31 Matt Peyerl, Office of State Tax Commissioner: That is capital that is going to fund the development of new ideas. As far as agriculture processing facilities there are other programs that attract investment for larger projects. There are some restrictions.

32:31 Vice Chairman Headland: A couple projects were referenced including a big fertilizer project at Spiritwood. Is that the type of project that could be utilized with both the ag processing tax credit and the angel funds?

Matt Peyerl: As far as the amount of credit, it's similar percentage. The net benefit should be similar.

34:18 Vice Chairman Headland: Is it possible to take advantage of both credits at the same time?

Matt Peyerl: You can't take advantage of both at the same time.

34:42 Chairman Belter: On the \$150,000 limit, that has to be North Dakota derived income correct?

Matt Peyerl: Yes, that is correct.

35:20 Chairman Belter: Any other testimony on SB 2156?

35:44 Chairman Belter: Re-opened hearing.

John Olson, Attorney: Introduced Ellen Joseph.

36:59 Ellen Joseph, Tax Project Manager, NextEra Energy Resources: See attached testimony #5. Talked about her company has invested in the state to build wind farms throughout ND. Explained the amendments they are seeking.

46:20 Chairman Belter: Was this amendment proposed on the senate side?

Ellen Joseph: Yes.

46:30 Vice Chairman Headland: Can you give us an idea of how much revenue would be lost in North Dakota and how many years looking back that you would be amending your tax return?

46:47 Ellen Joseph: I don't believe there would be any revenue lost to North Dakota.

47:24 Vice Chairman Headland: The purpose of this amendment is to help your federal tax liability?

Ellen Joseph: No sir. This will improve our utilization of the ND credits already earned for existing projects.

49:25 Representative Hatlestad: On page 2, number 3, what is an intangible drilling and completion process?

Ellen Joseph: It relates to when an oil and gas well is drilled there are a lot of costs that can't be seen and touched during or after the drilling process (labor, supplies, etc.). The vast majority of drilling costs to produce a well are intangible drilling costs.

50:20 Representative Zaiser: Why should we change our philosophy and subsidize renewable energy?

Ellen Joseph: We wouldn't be the only taxpayer that would take advantage of the elections that we're requesting. These elections increase their ND taxable incomes.

51:42 Representative Zaiser: Perhaps I misunderstood. You would be the only company that would utilize these changes you are proposing?

Ellen Joseph: They wanted to minimize the audience of applicable electors out because it's administratively challenging for the division.

52:32 Representative Zaiser: There aren't any other companies that would be able to use these depreciation credits?

Ellen Joseph: It really isn't a depreciation credit. It's a substitution of a deduction for your taxable income.

53:29 Representative Hatlestad: If you're not a drilling/oil company how can you qualify for intangible drilling and completion costs?

Ellen Joseph: There are affiliates of NextEra Energy Resources that do invest in gas exploration upstream projects.

54:27 Chairman Belter: We have a question for the tax department.

54:36 Vice Chairman Headland: Can you give us any indication of what this bill is going to do as far as affecting revenues or will it cost the state of ND in revenue?

Matt Peyerl, Office of State Tax Commissioner: I believe the net impact of dollars going out of the state treasury might be zero. Some credits aren't being used, some have a carryover provision.

56:16 Vice Chairman Headland: You must have some anticipation that you're going to be able to utilize something in the future.

Matt Peyerl: I think taxpayers that invest in wind development have had this challenge a long time. Depreciation is a large expense.

58:26 Representative Klein: These are North Dakota tax credits and not federal?

Matt Peyerl: That's correct.

58:37 Representative Klein: They want to trade these off for depreciation?

Matt Peyerl: It deterred them off as far as the timing of the depreciation.

59:16 Representative Klein: You're saying the state would not be losing any tax dollars?

Matt Peyerl: They are credits that are going to expire unused.

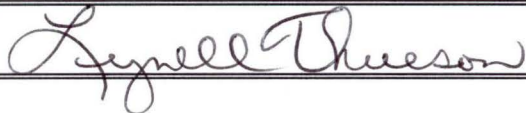
Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2156
April 16, 2013
Job #21174

Conference Committee



Minutes:

Chairman Belter: Is there a motion for Do Pass on SB 2156?

Representative Headland: I move a **Do Pass** on SB 2156. Seconded by Representative Owens.

A Do Pass Roll Call vote: Yes = 12, No = 1, Absent = 1. Carrier: Representative Headland.

Chairman Belter thanked the committee members and adjourned the meeting.

FISCAL NOTE
Requested by Legislative Council
02/14/2013

Amendment to: SB 2156

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Expenditures						
Appropriations						

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- 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

Telephone: 328-3402

Date Prepared: 02/19/2013

FISCAL NOTE
Requested by Legislative Council
01/14/2013

Bill/Resolution No.: SB 2156

- 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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
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Revenues			\$(125,000,000)			
Expenditures						
Appropriations						

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Cities			
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Townships			

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- 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

Telephone: 328-3402

Date Prepared: 01/17/2013

Date: 4-16-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2156**

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 Belter	✓		Rep. Scot Kelsh	AB	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE

SB 2156, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2156 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2156

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
SB 2156
January 21, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in opposition to SB 2156.

The Greater North Dakota Chamber has been among the principle advocates for tax reductions in past sessions and that role will continue in this session. In seeking those reductions our goal is that any reductions given will be measured, fairly distributed among all classes of taxpayers and above all else sustainable for the long term. Our overarching goal is drive North Dakota to a position where it is considered the best state to do business. As you know, taxes play an important role in those rankings, we have made some good strides over the last two bienniums and we feel we can take another step this biennium. You will remember the reductions offered in the last two bienniums have not reduced revenue as they were projected to. Due to all the activity and growth we are experiencing revenue increases well above and reduction due to a lowering of rates.

Given the current economic explosion and budget surpluses in our state we believe this body can go further with tax reductions and would advocate for greater reductions in both personal income and corporate income taxes. The vehicle we are supporting is HB 1250 which has been introduced in the other chamber. While we certainly agree in principle to SB 2156, we are advocating for a larger reduction of revenue for the state and to leave more money in the hands of the taxpayers.

Thank you for the opportunity to appear before you today in opposition to SB 2156. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2156

Page 1, line 1, after "reenact" insert "subsection 3 of section 57-38-01.26,"

Page 1, line 1, after "57-38-30" insert a comma

Page 1, line 2, after "to" insert "authorized investments of an angel fund for income tax credit purposes and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

- 3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early stage and mid stage entities do not include those that have more than twenty five percent of their revenue from income producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
 - g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

13.8182.01001
Title.

Prepared by the Legislative Council staff for
Senator Dotzenrod
February 11, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2156

Page 1, line 1, remove "section 57-38-30 and"

Page 1, line 3, remove "corporations,"

Page 1, remove lines 5 through 16

Renumber accordingly

February 12, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2156

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 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes 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. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that

includes investor members must make decisions as a group on which enterprises are worthy of investments.

- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 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.

SECTION 3. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~forty-eight hundredths percent.
- 2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~seventy-three hundredths percent.

- 3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~fivefour~~ and ~~fifteenfifty-three~~ hundredths percent.

SECTION 4. 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 \$34,500 <u>\$36,250</u>	1.51% <u>1.22%</u>
Over \$34,500 <u>\$36,250</u>	\$520.95 <u>\$441.20</u> plus 2.82% <u>2.27%</u>
but not over \$83,600 <u>\$87,850</u>	of amount over \$34,500 <u>\$36,250</u>
Over \$83,600 <u>\$87,850</u>	\$1,905.57 <u>\$1,614.06</u> plus 3.13% <u>2.52%</u>
but not over \$174,400 <u>\$183,250</u>	of amount over \$83,600 <u>\$87,850</u>
Over \$174,400 <u>\$183,250</u>	\$4,747.61 <u>\$4,020.85</u> plus 3.63% <u>2.93%</u>
but not over \$379,150 <u>\$398,350</u>	of amount over \$174,400 <u>\$183,250</u>
Over \$379,150 <u>\$398,350</u>	\$12,180.04 <u>\$10,314.36</u> plus 3.99% <u>3.22%</u>
	of amount over \$379,150 <u>\$398,350</u>

- b. Married filing jointly and surviving spouse.

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

Not over \$57,700 <u>\$60,650</u>	1.51% <u>1.22%</u>
Over \$57,700 <u>\$60,650</u>	\$871.27 <u>\$738.17</u> plus 2.82% <u>2.27%</u>
but not over \$139,350 <u>\$146,400</u>	of amount over \$57,700 <u>\$60,650</u>
Over \$139,350 <u>\$146,400</u>	\$3,173.80 <u>\$2,687.25</u> plus 3.13% <u>2.52%</u>
but not over \$212,300 <u>\$223,050</u>	of amount over \$139,350 <u>\$146,400</u>
Over \$212,300 <u>\$223,050</u>	\$5,457.14 <u>\$4,621.01</u> plus 3.63% <u>2.93%</u>

but not over \$379,150\$398,350 of amount over \$242,300\$223,050
 Over \$379,150\$398,350 \$11,513.79\$9,750.03 plus 3.99%3.22%

of amount over \$379,150\$398,350

c. Married filing separately.

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

Not over \$28,850\$30,325 1.51%1.22%

Over \$28,850\$30,325 \$435.64\$369.08 plus 2.82%2.27%

but not over \$69,675\$73,200 of amount over \$28,850\$30,325

Over \$69,675\$73,200 \$1,586.90\$1,343.62 plus 3.13%2.52%

but not over \$106,150\$111,525 of amount over \$69,675\$73,200

Over \$106,150\$111,525 \$2,728.57\$2,310.50 plus 3.63%2.93%

but not over \$189,575\$199,175 of amount over \$106,150\$111,525

Over \$189,575\$199,175 \$5,756.90\$4,875.01 plus 3.99%3.22%

of amount over \$189,575\$199,175

d. Head of household.

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

Not over \$46,250\$48,600 1.51%1.22%

Over \$46,250\$48,600 \$698.38\$591.51 plus 2.82%2.27%

but not over \$119,400\$125,450 of amount over \$46,250\$48,600

Over \$119,400\$125,450 \$2,761.21\$2,338.29 plus 3.13%2.52%

but not over \$193,350\$203,150 of amount over \$119,400\$125,450

Over \$193,350\$203,150 \$5,075.84\$4,298.54 plus 3.63%2.93%

but not over \$379,150\$398,350 of amount over \$193,350\$203,150

Over \$379,150\$398,350 \$11,820.38\$10,009.80 plus 3.99%3.22%

of amount over \$379,150\$398,350

e. Estates and trusts.

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

Not over \$2,300\$2,450 1.51%1.22%

Over \$2,300\$2,450 \$34.73\$29.82 plus 2.82%2.27%

but not over \$5,450\$5,700 of amount over \$2,300\$2,450

Over \$5,450\$5,700 \$123.56\$103.69 plus 3.13%2.52%

but not over \$8,300\$8,750 of amount over \$5,450\$5,700

Over ~~\$8,300~~\$8,750 ~~\$212.77~~\$180.64 plus ~~3.63%~~2.93%
but not over ~~\$11,350~~\$11,950 of amount over ~~\$8,300~~\$8,750

Over ~~\$11,350~~\$11,950 ~~\$323.48~~\$274.27 plus ~~3.99%~~3.22%
of amount over ~~\$11,350~~\$11,950

- 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. 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 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Cook, Dwight C.

From: Laura Tomaka <ltomaka@csg.org>
Sent: Tuesday, February 19, 2013 3:01 PM
To: Cook, Dwight C.
Subject: Revisions to state income taxes
Attachments: NASBO Tax revisions.pdf; CBPP tax changes.pdf

Dear Senator Cook,

Below and attached is information on states that have recently raised or lowered income taxes, as well as those states with such proposals pending in this legislation session.

I hope you find this helpful. Be sure to let me know if you need further information or if I can be of assistance on any other matter.

Best regards,
Laura

In Fiscal Year 2013 (see attached table from NASBO):

--5 states enacted personal income tax increases

- Arizona
- California
- Maryland
- New York
- Virginia

--13 states enacted decreases in personal income

- Georgia
- Hawaii
- Idaho
- Kansas
- Maine
- Michigan
- Nebraska
- North Dakota
- Ohio
- South Carolina
- Vermont
- West Virginia
- Wisconsin

--2 states enacted corporate income tax increases

- Maryland
- Tennessee

--9 states enacted decreases in corporate income taxes

- Arizona

- Florida
- Idaho
- Maine
- North Dakota
- Pennsylvania
- Washington
- West Virginia
- Wisconsin

This legislative session (see highlighted sections of CBPP report)

- Five states have proposed repeal of state income tax: Kansas, Louisiana, Nebraska, North Carolina, South Carolina
- 9 states are proposing significant income tax cuts: Indiana, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Wisconsin

Here are specifics on three of the states proposing elimination of the income tax:

Louisiana

Gov. Bobby Jindal and his advisors are looking at a plan to eliminate the corporate and personal income tax in favor of expanding the sales tax rate to services and raising the rate to 7 percent. The current rate is 4 percent.

Nebraska

Gov. Dave Heineman wants to eliminate the corporate and personal income tax in favor of reducing business exemptions to the sales tax. Nebraska's income tax rate of 6.84 percent is higher than every one of its neighbors (Iowa, Kansas, Missouri, Colorado and Wyoming).

North Carolina

Gov. Pat McCrory's administration has floated before the legislature eliminating personal and corporate income taxes while broadening the sales tax base to more services. The state's corporate income tax rate is 6.9 percent and the highest personal income tax rate is 7.75 percent.

Laura A. Tomaka | Senior Program Manager
 The Council of State Governments Midwest
 701 East 22nd Street, Suite 110 | Lombard, Illinois 60148 | ph 630.925.1922



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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2156

Page 1, line 3, replace “subsection” with “subsections 1 and”

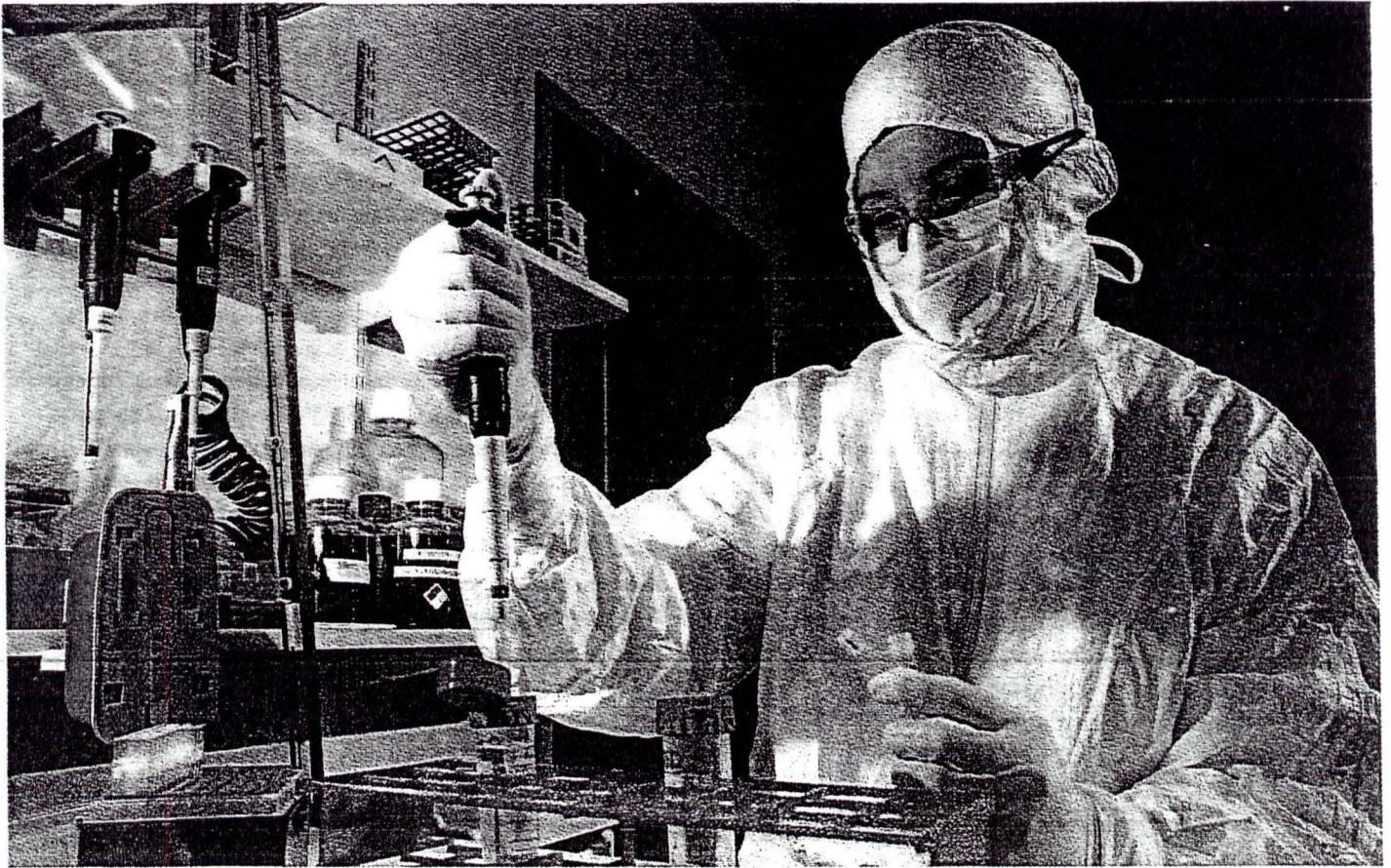
Page 1, line 9, replace “Subsection” with “Subsections 1 and”

Page 1, line 10, replace “is” with “are”

Page 1, after line 10 insert:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. ~~The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is one hundred fifty thousand dollars.~~ The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

Renumber accordingly



Building a Biomed Hub

Collaboration leads to expansion in the region's biomed sector

BY KRIS BEVILL

Drive along Interstate 29 from the North Dakota border to Sioux Falls, S.D., and the nearly continuous view of fields and pastureland make it easy to see why agriculture science would have an important role in the region's biotechnology sector. But there are also a diverse number of biotechnology laboratories in the area where scientists and researchers are valiantly working to develop medical treatments and methodologies that could contribute to curing diabetes, preventing the risk for some forms of cancer and stopping the spread of dangerous diseases. The number of biomed companies in the region is growing quickly as more companies realize the benefits of basing their research activities in a region with a strong business climate and plenty of nearby collaborators.

Fargo, N.D.-based DNA manufacturer Aldevron was one of the earliest of these kinds of biotech companies to set up shop in the area, opening its facility in 1998. Company co-founders Michael Chambers, a North Dakota native, and John Ballantyne, originally from New Zealand, met while attending North Dakota State University. While he was still in college, Chambers developed a method to manufacture DNA and together with Ballantyne and Ron Robson, founded Aldevron as a small lab. Since then, the company has grown steadily, using its proprietary technology to make DNA for a variety of applications, including new medicines and DNA-based vaccines, for companies small and large. Aldevron currently employs nearly 60 people in Fargo and will soon expand to a larger space with room for hundreds of employees. The company has also expanded its footprint internationally with the addition of an antibody manufacturing division in Germany in 2004 and a recombinant protein production lab in Madison, Wis., in 2009.

Because the complexities in medical biotechnology are so great, collaboration is common among those involved, even between competing companies — a scenario which Chambers refers to as “co-opetition.” Oftentimes collaboration in the biotechnology sector leads to pockets of expansion in communities where companies are located. Such is the case for Fargo, thanks in part to Aldevron's presence. Early this year, Boston-based CureLab

Fargo, N.D.-based Aldevron manufactures DNA for a variety of applications. Here, an employee begins the process of manufacturing an invitro diagnostic product. PHOTO: ALDEVRON

Oncology announced plans to open an office in North Dakota where it will continue to develop anti-cancer vaccines for breast and lung cancers. The decision to open a North Dakota location was the result of a combination of Aldevron's ability to manufacture the plasmids CureLab Oncology needs as well as the general positive business climate of the state, according to CureLab founder and CEO Alex Shneider. "We have conducted a worldwide search looking for the best plasmid manufacturing and found no company better than Aldevron," he says.

Shneider says he knew nothing about North Dakota before he met Aldevron CEO Chambers, but after visiting Aldevron's Fargo location, he decided to relocate CureLab's central office to North Dakota and will open an office in either Fargo or Grand Forks sometime this year. "Today, North Dakota is America which we are at risk of losing; America which established itself as the world's greatest country," he says.

Shneider plans to transfer a few key staff from Boston but will otherwise recruit local talent to meet his company's needs. "We are coming to complement and develop local talent, not to substitute it," he says. "We also believe that if the state government would be attentive to the needs and ideas of the biotech industry, each job [created] would translate into several jobs in industries other than biotech."

Chambers says the partnership between Aldevron and CureLab is just one example of the world-class science that is being conducted in the Red River Valley. "This is helping to strengthen, enhance and multiply biotech activity in our region," he says. "I believe we will see one to three new biotech companies come to our area every year for the next decade. The more activity we have, the more we will recruit. It is a very positive circle."

Further proving that collaboration leads to expansion, another Aldevron collaborator, California-based SEKRIS Biomedical Inc., also recently announced plans to open a Fargo location this year. The firm, founded in 2009, is focused on developing DNA platform technology useful in treating a variety of inflammatory disorders, including autoimmune disease and asthma. Pre-clinical studies have also shown that SEKRIS' technology, known as Apoptotic DNA Immunotherapy, is effective in treating Type 1 diabetes and the prevention of organ rejection.

Alan Escher, executive vice president of technology development, says the company's immediate goal is to test its product for the treatment of Type 1 diabetes in a clinical trial setting.

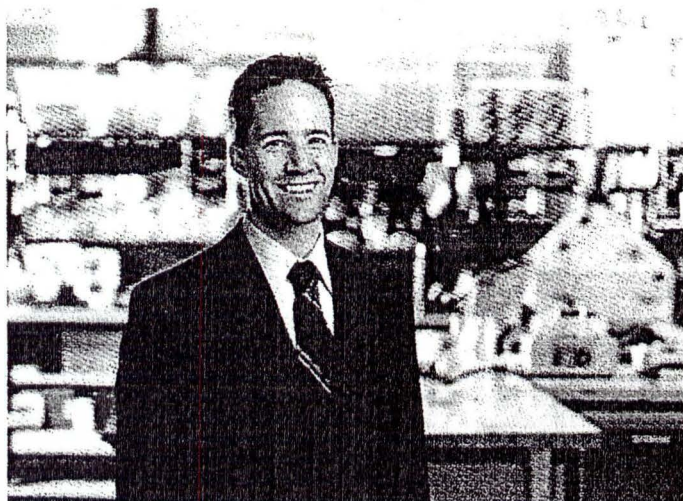
SEKRIS' Fargo facility will open by the summer and will initially employ about six researchers, Escher says.

Aside from the work his own company is doing to expand the area's biomed sector, Chambers credits regional giant Sanford Health for taking a leadership role in biomed research as well as Fargo-based PRACS Institute, which recently welcomed its founder, Jim Carlson, back to the company. Sanford has invested millions of dollars into various areas of research and continues to drive the region's biotechnology industry forward across multiple areas of focus, most recently announcing a deal to acquire Sioux Falls, S.D.-based Hematech Inc., a company initially formed to produce human antibodies in cattle for use in human medicine.

The South Dakota Technology Business Center in Sioux Falls is fostering another innovative biotech firm, this one backed by Sioux Falls-based health care provider Avera. Alumend (named to represent "A"vera, "lu"minescent technology and the mending of tissues) became a wholly owned subsidiary of Avera in December 2011. Avera had been an investor in the company (formerly known as Photobiomed) for several years and became owner of the company after purchasing its intellectual property.

Ron Utecht, Alumend's chief scientific officer, describes Alumend's novel photochemical technology as being "little light-powered molecular machines," useful in linking tissue together at the molecular level. The technology is expected to be effective in treating peripheral artery disease. Alumend has developed a set of molecules and assisted in the development of a catheter system and light-delivery system for that purpose. Alumend will market the technology through a company it developed called Tetherx after the final results of yearlong clinical trials become available in August. "We're impatiently waiting for the results," Utecht says. "So far, everything looks very promising."

Tetherx will also seek out a strategic partner to help bring the



Aldevron CEO Michael Chambers developed technology to manufacture DNA while attending North Dakota State University. PHOTO: ALDEVRON



Barb Haberer of Alumend displays a custom catheter used to administer Alumend's light-activated product in preclinical trials conducted to test the technology's effectiveness in treating peripheral artery disease. PHOTO: ALUMEND

technology to the market, but the company has no intention of releasing its technology through a license agreement without continued involvement in the development. "I think that's a mistake, especially with novel technologies," Utecht says. "We want to be a research and development company."

Tetherx is the first example of Alumend's strategy to develop initial proof of concept and then form a separate company to recruit investors and further develop each specific product. Using this strategy, if a product is brought to the market successfully all parties involved will benefit, including management, investors, and Alumend, Utecht says. Alumend is a small company currently consisting of five scientists and one business person, so Utecht believes the company could engage in the development and licensing of two products at a time. "Any more than that would be stretching the team too thin," he says.

Utecht says he agrees wholeheartedly that collaboration is vital to growth in the biotechnology industry and that as more collaborative opportunities become available in the region, more companies will join the mix. "It just all snowballs," he says.

Representatives of state associations affiliated with the national Biotechnology Industry Organization note that the region's biotechnology industry in general, including agricultural science and biofuels, continues to diversify and expand. The South Dakota Biotech Association currently boasts 55 members from companies within the medical science, life science, animal science, plant science and industrial biotechnology sectors, according to Joni Johnson, the group's executive director, who says she expects continued development across all areas of the industry. "Outside of the animal and plant sciences, the human health

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Fighting hantavirus with duck eggs and DNA

An outbreak of Sin Nombre Virus, commonly known as hantavirus, in Yosemite National Park last summer led to a collaborative effort among several companies, including Fargo, N.D.-based Aldevron and Grand Forks, N.D.-based Avianax LLC, to develop antibodies to combat the disease. According to John Ballantyne, chief scientific officer at Aldevron, this work is ongoing but vaccines and antibodies developed to fight Sin Nombre Virus and Andes Virus, a related disease, will be ready for pre-clinical and clinical trials at the end of the first quarter this year.

"There are no current preventative or therapeutic treatments against this virus, which has a fatality rate of over 40 percent," Ballantyne says. "The Andes in particular is person-to-person transmissible and this makes it a significant threat to family members and medical personnel. Towards those ends we have been using the Andes DNA vaccine to make antibodies capable of neutralizing the virus from sources including duck and geese eggs. The development of this technology, wherein it is an extension of the vaccines we develop, applies to other high-threat diseases and we are exploring many of them where it can be utilized."

care research and development will continue to grow in South Dakota," she says. "With three regional healthcare systems located in South Dakota, R&D will continue to be an integral part of the biotech growth."

Bruce Gjovig, president of the Bioscience Association of North

Dakota, notes that North Dakota is the newest member of BIO, but the state already has a diverse group of members representing agriculture, life sciences and biofuels. He expects high growth in all sectors of biotechnology in North Dakota as the innovative young industry works to solve the world's largest problems. "There is no shortage of problems to solve with bioscience and the opportunities are ever increasing," he says.

Gjovig and Johnson both say the pro-business attitude of their states is a significant factor in the growth of the region's biotechnology industries. Additionally, the proximity of research facilities, private and public, offers the opportunity to engage in collaboration and to recruit well-trained local talent. A willingness to adopt new technologies, both in agriculture and medicine, also makes the region attractive to potential new biotech community members, says Gjovig, who sums up the advantages of doing biotech business in the Dakotas simply. "Entrepreneurs like to locate and grow where they will be embraced." PB

Kris Beville

Editor, Prairie Business

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HEALTH CARE

continued from page 23

new location with no previously existing employees, so the organization needed to be aggressive in recruiting new staff. He doesn't anticipate the organization will offer similar incentives for nurses at its facilities currently under construction because most are replacement facilities, he says. Sanford's massive new hospital currently being built in Fargo and scheduled to open in 2016 will likely require additional nurses, but Burkett did not indicate whether the organization is anticipating difficulty in filling those positions.

Sanford also utilizes local colleges to recruit new nurses, Burkett says. "We engage and introduce ourselves to nursing students early on in their nursing education process and select a fair number of those nurses and provide them with scholarship assistance and tuition assistance," he says.

The recent addition of Bismarck, N.D.'s Medcenter One to Sanford's network has provided the organization with its own nursing school. Burkett says Sanford is currently evaluating how best to maximize the school's potential to assist the organization in a nursing shortage situation. The nursing school has averaged about 40 RN graduates each year since 2010. In January 2012, 65 students were enrolled at the college.

Aside from nurses, Sanford is also in short supply of physical therapists, according to Burkett. Additionally, as the organization builds out its presence in western North Dakota, it anticipates employee shortages in all areas of operations. "There's no doubt that that's putting more pressure on us in Bismarck on our entry-level positions," he says.

Generally, health care providers in the region believe they offer competitive salaries compared to other organizations, so attracting new nursing staff relies heavily on the organization's likeability. "We believe that if we continue to work to be a great employer, people are going to want to work for us," says Altru's Gessler, noting that the organization recently received an "Employer of Choice" designation from Employer of Choice Inc., a process which includes a survey taken by current employees to validate the organization's qualifications. Sanford Health designated 2012 as the "Year of the Nurse," and held events at facilities throughout its network meant to recognize and celebrate its nurses. "Those are the kinds of things that Sanford brings to the table that gets to the issue of: Why would somebody want to work for Sanford," Burkett says. "It's the way we treat and honor and recognize our people." Essentia's Vang says it's a series of "the little things" that can make the difference for prospective new hires, including simply providing a professional and respectful work environment. "We want people to be here because they want to, both professionally and personally," he says. "And that's what we work hard to do every day." ■

Kris Bevill

Editor, Prairie Business

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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2156

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

57-20-07.2. State-paid property tax relief credit.

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to twelve and one-half percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.
3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
4. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made.
5. Upon receipt of the payment from the state treasurer under subsection 4, the county treasurer shall apportion and distribute the payment to the

county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

6. After payments to counties under subsection 4 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
7. Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EFFECTIVE DATE. This Act becomes effective July 1, 2013."

Renumber accordingly

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
SB 2156
March 18, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of SB 2156.

The Greater North Dakota Chamber has been among the principle advocates for tax reductions in past sessions and that role will continue in this session. In seeking those reductions our goal is that any reductions given will be measured, fairly distributed among all classes of taxpayers and above all else sustainable for the long term. Our overarching goal is drive North Dakota to a position where it is considered the best state to do business. As you know, taxes play an important role in those rankings, we have made some good strides over the last two bienniums and we feel we can take another step this biennium. You will remember the reductions offered in the last two bienniums have not reduced revenue as they were projected to. Due to all the activity and growth we are experiencing revenue increases well above and reduction due to a lowering of rates.

Given the current economic explosion and budget surpluses in our state we believe this body can go further with tax reductions and would advocate for greater reductions in both personal income and corporate income taxes. While we support 2156 in concept we would ask this body to consider amending it to the level this chamber passed out in the first half HB 1250 which has been passed out by this chamber, and calls for a 35% reduction in both personal and corporate income taxes. While we certainly agree in principle to SB 2156, we are advocating for a larger reduction of revenue for the state and to leave more money in the hands of the taxpayers.

Thank you for the opportunity to appear before you today in support to SB 2156. I would be happy to answer any questions.

Testimony for Proposed Tax Legislation

NextEra Energy Resources Tax Representative: Ellen Joseph (Tax Project Manager, NextEra Energy Resources, LLC [NEER])

Background on why NEER is requesting these amendments: North Dakota adopts the currently enacted Internal Revenue Code as the basis to determine North Dakota taxable income. North Dakota tax law provides an investment tax credit for investment in wind energy in the state. To date, NextEra Energy Resources has invested \$1.45 billion dollars in the state to build 11 wind farms. NEER’s potential investment in North Dakota wind farms in 2013 and beyond is \$250 million. In part, NEER’s decision to invest was influenced by the availability of the tax credit. However, due in large part to the continued extension¹ of bonus depreciation² by the US Congress, and to a lesser degree the ability to expense intangible drilling and completion costs (IDC) related to oil and gas drilling operations, NEER has realized virtually no value from these credits, neither from a cash perspective, nor from a financial reporting perspective.

One of NEER’s affiliates is a major regulated utility in Florida which has a regulatory duty to keep customer bills as low as possible. This duty requires, in part, the utility affiliate to deduct bonus depreciation on the federal consolidated return. Thus, without an option to elect out of bonus depreciation at the state level, an unintended consequence is that the federal bonus depreciation deductions have limited our ability to utilize our investment tax credits providing the unitary group with virtually no value for the credits that were earned on our significant North Dakota capital investment.

NEER is proposing the amendments below in order to allow us to utilize a small fraction of the benefit that was originally intended by the legislature of ND in passing legislation to encourage the development of renewable energy generation assets in the state.

Section(s) of North Dakota Code to be amended – North Dakota Century Code Section 57-38-01.3(1); the election provisions would add new sections to Chapter 57-38.

Amendments:

1. “A new subsection is added to North Dakota Century Code Section 57-38-01.3(1) as follows:
 - (m) Reduced or increased as necessary to take into account elections made by the taxpayer in the current or prior years in accordance with section 57-38-___ (election out of bonus depreciation), section 57-38-___ (election to capitalize and amortize intangible drilling and completion costs), and section 57-38-___ (election to apply alternative depreciation system).”
2. “A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

¹ Bonus depreciation has applied to qualifying assets placed in service from 2008 through 2013 (six years).

² Bonus depreciation is the immediate expensing of either 50% or 100% of the capital costs of qualifying assets, depending upon the year in which the assets are placed in service.

Election out of “bonus” depreciation solely for North Dakota purposes

Each taxable year, a taxpayer who is eligible to claim a credit for geothermal, solar, wind or biomass energy devices under N.D. Cent. Code Section 57-38-01.8 may elect for purposes of that taxable year to apply the provisions of Internal Revenue Code Section 168(k)(2)(D)(iii), “Election out”, to the calculation of the taxpayer’s taxable income. This optional annual election may be made regardless of whether or not the taxpayer has applied these provisions of the Internal Revenue Code to the calculation of the taxpayer’s federal taxable income. The election out may be made for any taxable year for which an amended tax return may be filed in accordance with the statute of limitations or on an originally filed return.”

3. “A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Election to capitalize intangible drilling and completion costs (IDC) solely for North Dakota purposes

Each taxable year, a taxpayer who is not a major integrated oil company as defined by Internal Revenue Code Section 167(h)(5) may elect for purposes of that taxable year to apply the provisions of Internal Revenue Code Section 263(c), Internal Revenue Code Section 59(e) and Treasury Regulations Section 1.612-4 to capitalize intangible drilling and completion costs and amortize them over a 60 month period. This optional annual election may be made regardless of whether or not the taxpayer has elected to expense such intangible drilling costs for purposes of determining the taxpayer’s federal taxable income. The election to capitalize intangible drilling and completion costs may be made for any taxable year for which an amended tax return may be filed in accordance with the statute of limitations or on an originally filed return.”

4. “A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Election to apply alternative depreciation system solely for North Dakota purposes

Each taxable year, a taxpayer who is eligible to claim a credit for geothermal, solar, wind or biomass energy devices under N.D. Cent. Code Section 57-38-01.8 may elect for purposes of that taxable year to apply the provisions of Internal Revenue Code Section 168(g)(7) to use the alternative depreciation system to calculate the taxpayer’s taxable income. This optional annual election may be made regardless of whether or not the taxpayer has applied these provisions of the Internal Revenue Code to the calculation of the taxpayer’s federal taxable income. This election may be made for any taxable year for which an amended tax return may be filed in accordance with the statute of limitations or on an originally filed return.”

Why these changes would be beneficial to NextEra Energy Resources – The proposed elections result in an increase in NextEra Energy Resources’ (NEER) taxable income before credits, allowing it to utilize tax

credits that would otherwise expire; effectively substituting the utilization of tax credits for deductions of depreciation and intangible drilling and completion costs.

How would the amendments impact North Dakota? – The elections can only result in an increase in taxable income in a year in which such an election is made. It is unlikely that many taxpayers would make such elections. Therefore, we anticipate that these provisions would be revenue-neutral for North Dakota for the foreseeable future.

About NextEra Energy Resources, LLC - NEER is the largest generator of wind and solar power in North America and owns and operates approximately 850 MW of wind farms in North Dakota, representing a capital investment of approximately \$1.45 billion, \$6 million annual payroll, \$14 million annually spent on local operating expenses, \$2.5 million annually paid in property taxes, \$5 million annually in lease payments to local landowners. Potential wind farm investment in North Dakota in 2013 and beyond - \$250 million.