

FISCAL NOTE
Requested by Legislative Council
01/07/2019

Bill/Resolution No.: HB 1319

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(962,600,000)			
Expenditures						
Appropriations						

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

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

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

HB 1319 removes income tax brackets and imposes a flat rate of zero percent.

- 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 2 of HB 1319 imposes a flat tax rate of zero percent on corporations. Section 3 of the bill imposes a flat tax rate of zero percent on individuals.

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, HB 1319 is expected to reduce state general fund revenues by and estimated \$962.6 million in the 2019-21 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/16/2019

2019 HOUSE FINANCE AND TAXATION

HB 1319

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1319
1/30/2019
31792

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the suspension of income tax return filing requirements; relating to replacing the corporate, individual, estate, and trust income tax rate schedule with a flat income tax rate of zero percent.

Minutes:

No attachments

Vice Chairman Grueneich: Opened hearing on HB 1319.

Representative Rick Becker: Introduced bill. This takes flat income tax rates to zero percent. You have the fiscal note in front of you. This bill might get a funny look because one might ask what possibility is there of passing a bill which would decrease our revenues by \$900 million. We need to have a discussion. I want this committee to take a serious look at it. We don't have a revenue problem; we have a spending problem. I asked Legislative Council to prepare a memorandum and do the calculations. Back in 2008 we were spending our state revenues, other funds but not federal funds. We were spending easily within one percent of what South Dakota was spending. They had a bigger population at that time but both our populations increased. They still have about 15% more people than we do. We were both spending about the same. In the intervening 10 years North Dakota got a ridiculous amount of revenue from oil and gas production and extraction taxes. After all our decreases and all the spending that was necessary, we are spending a dramatic amount more than South Dakota. Without that revenue we would have been on the same trajectory as South Dakota. If we would have increased our budget by the same percentage to go along the same trajectory as South Dakota we would be spending about \$3.8 to \$4 billion less per biennium right now. From 2008 to 2018 the oil taxes have brought us \$18 billion. Over \$16 billion of that is the difference in the trajectory of South Dakota and North Dakota. When are we going to be legendary because that's what North Dakota is supposed to be? We are legendary for spending. There is \$900 million and more. We'll see if anyone has the gumption to take a serious crack at this.

Vice Chairman Grueneich: We've seen different bills come through like this and it looks like you left all the original language in here. Did you mean to do this? Normally when we're getting rid of things we strike everything.

Representative Becker: That was intentional. Last session Representative Louser had a bill that would have put a temporary hold on income tax and left a mechanism in place to put it to zero but that didn't pass. I think we could do away with it especially if we kept property taxes in place. An argument could be made that what do we do if suddenly we have zero percent oil and gas revenues? My answer would be to spend even less but I wanted to leave that in place. If anyone has an interest in bringing our income tax down but still have concern of what could happen in the future that would be there. If we were on that trajectory with South Dakota we could abolish corporate and personal income tax and property tax while still having somewhere between half billion and \$1 billion extra money beyond what South Dakota's trajectory would have put us at.

Representative Fisher: We compare to South Dakota many times but there's also Montana. Of the taxes that we have, if you reduce this one then how do we answer the question about high property taxes or sales tax? Which is the best or which one can we lower?

Representative Becker: If I were king of the world I would abolish property tax, it's an immoral tax. Secondly I would get rid of income tax. Montana was known for their lack of infrastructure. South Dakota doesn't have an income tax despite the fact that their property taxes are not substantially higher than ours. We are number one for tax revenue per capita. If you take away all corporate and personal income tax, we are still number one. Somehow we have to spend it.

Vice Chairman Grueneich: Further testimony in support?

Dustin Gawverlow, North Dakota Watchdog Network: If I were king of the world I would have passed this in 2011 and we probably would've avoided the problems we had in the last six years. This session we have a lot more bills than before asking to increase taxes. The number one purpose for bills like this is to look at our overall tax policy. We are ranked 28th in the country for tax policy as far as business friendliness is concerned. We've been stagnant in how we handle tax policy. Preferably we would look at a lot of those exemptions as a way to offset reductions. This session HB 1535 is probably the more practical approach while this bill is more principled approach. We need to start the conversations. I would not advocate increasing other taxes. Tax shifts are not good tax policy.

Vice Chairman Grueneich: Is there further support? Is there opposition? Are there any questions for the tax department? Seeing none we will close the hearing on HB 1319.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1319
1/30/2019
31822

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the suspension of income tax return filing requirements; relating to replacing the corporate, individual, estate, and trust income tax rate schedule with a flat income tax rate of zero percent.

Minutes:

No attachments

Vice Chairman Grueneich: I would like to discuss.

Representative B. Koppelman: I think this bill has the potential for a vehicle to lower the rate and pair it with the policy of HB 1535. The concept of a flat tax and what that flat tax rate should be or the thresholds on the low end of that flat tax be in terms of helping those on the lower end of the scale or helping all North Dakotans with a rate are discussions for this bill. We don't know what is coming next week as a committee. I'd like the opportunity to work on amendments for this bill.

Vice Chairman Grueneich: You bring up valid points. We just wanted to have a discussion. If there are amendments you feel would make this a better piece then we would hear them.

Representative Steiner: I have concerns with this bill. I'd like to see us go with no income tax. There is some disparity that can't be explained with the rate. I think we should be looking at doing away with income tax. I don't think we should be looking at this right now due to the fiscal note. This doesn't have any policy piece. This doesn't have any chance right now today. Do we spend taxpayer money debating it over long periods of time if there's no actual reality of it coming to be?

Vice Chairman Grueneich: That's a great point. Anytime you look at something that has \$962 million attached to it we all know what would happen. We have options out there without a fiscal note attached. Do you feel that through amendments you could get this down to revenue neutral? If that's the case would it mirror two bills before us that are currently doing that in their original state? I think everybody here needs to ask themselves where this money is going to come from.

Representative B. Koppelman: The bill we're hearing next week is not revenue neutral, it has a \$150 million cost. The funding source is the legacy fund earnings.

Vice Chairman Grueneich: The two I'm talking about are the two we discussed this morning that are revenue neutral.

Representative B. Koppelman: Sorry for the misunderstanding. The one we are hearing next week does have some cost and the money has to come from somewhere. I don't think this bill has much of a chance to pass in its current state either. I think the concept of using legacy fund earnings, if they do a certain thing in the market, is a wonderful concept for tax elimination but may not be the best way for what happens this year or next year to get the money back to people due to the uncertainty of how the bill is working. This bill could be something we could do right now. If we could turn this bill into a \$100 million price tag rather than \$1 billion that would be the form I would like to bring back to the committee.

Vice Chairman Grueneich: I think if we sent \$100 million fiscal note to appropriations we all know where that would probably go.

Representative Hatlestad: Until we put every bill on the table we need to take a look at all of them. There are good ideas in a lot of things we could possibly put together in one bill.

Representative Ertelt: I'm a little concerned going in the direction without hearing all the bills relating to the topic. I'd like to remind the committee of the testimony regarding the comparison to South Dakota and if we had followed the same trajectory. I don't believe even \$1 billion isn't unrealistic. If we needed to cut, then I would say to look at South Dakota. They have a model with a very similar state.

Vice Chairman Grueneich: We'll close for now. Representative B. Koppelman will be working on some amendments.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1319
2/6/2019
32311

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the suspension of income tax return filing requirements; relating to replacing the corporate, individual, estate, and trust income tax rate schedule with a flat income tax rate of zero percent.

Minutes:

Attachments 1-3

Representative B. Koppelman: Distributed proposed amendments, 19.0661.01001, and a Christmas tree version, see attachments 1-2. These amendments almost hog house this bill into the format of HB 1535 which was the flat tax at 2.5 percent. In year two they reduce the rate down to 2% which would offer tax savings to all of our citizens. The sponsor was satisfied with this amendment. The fiscal cost for year two is around \$70 million.

Chairman Headland: Is there a way we can confirm what Representative B. Koppelman is saying with the new federal tax law that we don't have data on? He said in this amendment nobody would have a tax increase.

Joe Becker, Tax Department: I worked with Kathy Strombeck on the 2.5% flat tax. I don't know where her analysis went with the two percent. I understand what Representative B. Koppelman was referring to. We're not sure where the 2018 numbers are going to go because we don't know the full impact of the Trump tax reform bill.

Chairman Headland: Distributed testimony, see attachment 3. Under the prior federal law where we do have data, according to this sheet that was done by Kathy, it's clear for a single filer that the flat tax only provides a little relief at the very bottom of income and a lot of relief likely at the top of the income levels. Everybody in the middle would see an increase.

Joe Becker: We're using the new standard deductions under the new federal law and taking into account the standard deductions in the bill itself. What you're saying is correct. Numbers are showing that anywhere from about \$50,000 to \$500,000 there's an increase and seems to be concentrating more in the range of \$50,000-125,000. Those dollars have to go somewhere.

Chairman Headland: I just want to make sure everybody on the committee understands. It appears we're going to go on the floor with an increase of 80% to the taxpayers which I don't think we want to do.

Representative B. Koppelman: Kathy indicated to me that when you look at the number of taxpayers the 2.5% was the closest thing to revenue neutral. Statistically speaking there wouldn't be anybody that was paying more within a couple percent. The chairman is referring to if your suggesting the assumptions from the new tax plan are in this proposal then it's quite a bit different than what I thought yesterday. I don't think anyone wants to raise taxes on people 10-15% in areas. You'll have to tell me if what she was indicating to me was correct or not because that is a big part of our decision here.

Joe Becker: I had a discussion with her also along those lines. Generally, you have neutrality but there is some shifting. The chart compares the AGI levels, it's not considering what's in the AGI numbers and the effects of the Trump Act. We have considered a new standard deduction in these numbers as well as the loss of personal exemption. It seems to be running a little higher than a couple percent. I will have to discuss this with her today.

Representative B. Koppelman: The adjusted gross income as compared to the last full tax year you have; on average how much was the adjusted gross income adjusted with the new rules?

Joe Becker: No. The standard deduction and the personal exemptions are the two items that are going to be more pervasive changes for most individuals and occur after that. The chart is indicating we've taken the new standard deduction into account in recalculating the federal taxable income which is our base. The other things we are uncertain about are things like depreciation and the new business deduction for pass through folks. We don't know where that's going to settle. This is taking into consideration the average wage earner with the standard deductions.

Representative B. Koppelman: This is different information than what I thought I was hearing last night. There were four cost runs done which was 2.5%, 2.7%, 2.2%, and 2.3% based on this same \$31,000 standard deduction for a married couple. The problem with the lower number runs would probably solve some of the concerns you have about the middle brackets. The downside is it's not going to be in a bill that's revenue neutral; there would be a cost to making it a flat tax at that point. If the committee felt like we wanted any tax relief this session, I don't know what the vehicle is to do that if we dispose of these two bills.

Chairman Headland: I don't know that we're in a position to provide tax relief with our budget. I don't think we can lose any revenue because we're still short and we're still looking to reduce budgets. We've cut taxes in this committee when we've had excess revenue and I think that's the appropriate time to look at tax reductions. I don't know how the public would view it if we went with a tax cut. I know tax cuts help the economy. I would prefer us to vote on this bill in its original form. Is there a need for us to vote on two flat tax bills that are essentially the same bill with one just reducing the tax by ½ percent? I don't know what your wishes are here. I'm going to resist the amendment.

Representative B. Koppelman: I'm not even going to offer this amendment based on the information right now. We managed to find \$100 million and recommended we spend that just a few days ago. I also recognize the deadline for fiscal bills due today.

Chairman Headland: We have the bill before us.

Representative Dockter: MADE A MOTION FOR A DO NOT PASS.

Representative Steiner: SECONDED

Chairman Headland: Discussion.

ROLL CALL VOTE: 10 YES 4 NO 0 ABSENT
MOTION CARRIED

Vice Chairman Grueneich will carry this bill.

****On February 8, 2019 Chairman Headland requested to change the bill carrier from Vice Chairman Grueneich to Representative Blum.**

Date: 2-6-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1319

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Dockter Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt		✓			
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading		✓			
Representative Koppelman		✓			
Representative Steiner	✓				
Representative Toman		✓			
Representative Trottier	✓				

Total (Yes) 10 No 4

Absent 0 2-8-19

Floor Assignment Rep. Grueneich - Rep. Blum

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

is now
Floor Assignment
per Chairman

REPORT OF STANDING COMMITTEE

HB 1319: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1319 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1319

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-38-30.3 of the North Dakota Century Code, relating to replacement of the individual, estate, and trust income tax rate schedule with a flat-rate income tax; to repeal section 57-38-01.28 of the North Dakota Century Code, relating to the marriage penalty tax credit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30.3. Individual, estate, and trust income tax.

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, estates, and trusts is equal to two and one-half percent of 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. North Dakota taxable income must be reduced by the amounts under subdivisions a through e, based on a taxpayer's filing status used for federal income tax purposes.

- a. Single, other than head of household or surviving spouse, \$15,650.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$37,450	1.10%	\$0
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500

- b. Married filing jointly and surviving spouse, \$31,300.

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If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
\$411,500		\$9,074.74 + 2.90%	\$411,500

c. Married filing separately, \$15,650.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$31,300	1.10%	\$0
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
\$205,750		\$4,537.37 + 2.90%	\$205,750

d. Head of household, \$25,100.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$50,200	1.10%	\$0
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200
\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
\$411,500		\$9,317.20 + 2.90%	\$411,500

e. Estates and trusts, \$1,250.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$2,500	1.10%	\$0
\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
\$12,300		\$254.17 + 2.90%	\$12,300

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.

2. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, or trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows:

- a. Reduced by interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
- b. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
- c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under section 57-38-01.35.
- d. Reduced by forty percent of:

- (1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.
 - (2) Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.
- e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
 - f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under section 57-38-01.35.
 - g. Reduced by the amount received by the taxpayer as payment for services performed when mobilized under title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, or professional military education.
 - h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.
 - i. ~~Reduced by interest and income from bonds issued under chapter 11-37.~~
 - j. Reduced by up to ten thousand dollars of qualified expenses that are related to a donation by a taxpayer or a taxpayer's dependent, while living, of one or more human organs to another human being for human organ transplantation. A taxpayer may claim the reduction in this subdivision only once for each instance of organ donation during the taxable year in which the human organ donation and the human organ transplantation occurs but if qualified expenses are incurred in more than one taxable year, the reduction for those expenses must be claimed in the year in which the expenses are incurred. For purposes of this subdivision:

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- (1) "Human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person.
- (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.
- (3) "Qualified expenses" means lost wages not compensated by sick pay and unreimbursed medical expenses as defined for federal income tax purposes, to the extent not deducted in computing federal taxable income, whether or not the taxpayer itemizes federal income tax deductions.

~~k.j.~~ Increased by the amount of the contribution upon which the credit under section 57-38-01.21 is computed, but only to the extent that the contribution reduced federal taxable income.

~~l.k.~~ Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 37-28-03 or 37-28-04.

~~m.l.~~ Reduced by the amount received by a taxpayer that was paid by an employer under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the extent the amount received by the taxpayer is included in federal taxable income. The reduction applies only if the employer is entitled to the credit under section 57-38-01.25. The taxpayer must attach a statement from the employer in which the employer certifies that the employer is entitled to the credit under section 57-38-01.25 and which specifically identified the type of payment and the amount of the exemption under this section.

~~n.m.~~ Reduced by the amount up to a maximum of five thousand dollars, or ten thousand dollars if a joint return is filed, for contributions made under a higher education savings plan administered by the Bank of North Dakota, pursuant to section 6-09-38.

~~o.n.~~ Reduced by the amount of income of a taxpayer, who resides anywhere within the exterior boundaries of a reservation situated in this state or situated both in this state and in an adjoining state and who is an enrolled member of a federally recognized Indian tribe, from activities or sources anywhere within the exterior boundaries of a reservation situated in this state or both situated in this state and in an adjoining state.

~~p.o.~~ For married individuals filing jointly, reduced by an amount equal to the excess of the recomputed itemized deductions or standard deduction over the amount of the itemized deductions or standard deduction deducted in computing federal taxable income. For purposes of this subdivision, "itemized deductions or standard deduction" means the amount under section 63 of the Internal Revenue Code that the married individuals deducted in computing their federal taxable income and "recomputed itemized deductions or standard deduction" means an amount determined by computing the itemized deductions or standard deduction in a manner that replaces the basic standard deduction under section 63(c)(2) of the Internal Revenue Code for married individuals filing jointly with an amount

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equal to double the amount of the basic standard deduction under section 63(c)(2) of the Internal Revenue Code for a single individual other than a head of household and surviving spouse. If the married individuals elected under section 63(e) of the Internal Revenue Code to deduct itemized deductions in computing their federal taxable income even though the amount of the allowable standard deduction is greater, the reduction under this subdivision is not allowed. Married individuals filing jointly shall compute the available reduction under this subdivision in a manner prescribed by the tax commissioner.

- ~~q.p.~~ Reduced by an amount equal to the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For purposes of this subdivision, the exemption may only be claimed in the taxable year in which the stillbirth occurred.
3. The same filing status used when filing federal income tax returns must be used when filing state income tax returns.
 4.
 - a. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this section for the amount of income tax paid by the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section.
 - b. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subsection may not exceed an amount equal to the tax imposed under this section multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by federal adjusted gross income less the amounts under subdivisions a and b of subsection 2.
 - c. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subsection may not exceed the lesser of the following:
 - (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivisions a and b of subsection 2.
 - (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
 - d. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner.

5. Individuals, estates, or trusts that file an amended federal income tax return changing their federal taxable income figure for a year for which an election to file state income tax returns has been made under this section shall file an amended state income tax return to reflect the changes on the federal income tax return.
6. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.
7. A taxpayer filing a return under this section is entitled to the following tax credits:
 - a. Family care tax credit under section 57-38-01.20.
 - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - c. Agricultural business investment tax credit under section 57-38.6-03.
 - d. Seed capital investment tax credit under section 57-38.5-03.
 - e. Planned gift tax credit under section 57-38-01.21.
 - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
 - g. Internship employment tax credit under section 57-38-01.24.
 - h. Workforce recruitment credit under section 57-38-01.25.
 - i. ~~Angel fund investment tax credit under section 57-38-01.26 (effective for the first taxable year beginning after December 31, 2016).~~
 - j. ~~Marriage penalty credit under section 57-38-01.28.~~
 - k. Research and experimental expenditures under section 57-38-30.5.
 - ~~l.~~ l. Geothermal energy device installation credit under section 57-38-01.8.
 - ~~m.~~ k. Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
 - ~~n.~~ l. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
 - ~~o.~~ l. ~~Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).~~
 - ~~p.~~ m. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.
 - ~~q.~~ n. Angel investor tax credit under section 57-38-01.26.

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8. A taxpayer filing a return under this section is entitled to ~~the~~ any exemption ~~provided for which the taxpayer qualifies~~ under section 40-63-04.
9. a. If an individual taxpayer engaged in a farming business elects to average farm income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the taxpayer may elect to compute tax under this subsection. If an election to compute tax under this subsection is made, the tax imposed by subsection 1 for the taxable year must be equal to the sum of the following:
 - (1) The tax computed under subsection 1 on North Dakota taxable income reduced by elected farm income.
 - (2) The increase in tax imposed by subsection 1 which would result if North Dakota taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. However, if other provisions of this chapter other than this section were used to compute the tax for any of the three prior years, the same provisions in effect for that prior tax year must be used to compute the increase in tax under this paragraph. For purposes of applying this paragraph to taxable years beginning before January 1, 2001, the increase in tax must be determined by recomputing the tax in the manner prescribed by the tax commissioner.
- b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion claimed under subdivision d of subsection 2 that is attributable to a net long-term capital gain included in elected farm income.
- c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.
- d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.
10. ~~The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 1, if the amounts of the tax tables are based on the tax rates set forth in subsection 1. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.~~

SECTION 2. 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

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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, estates, and trusts is equal to two ~~and one half~~ percent North Dakota taxable income. North Dakota taxable income must be reduced by the amounts under subdivisions a through e, based on a taxpayer's filing status used for federal income tax purposes.

- a. Single, other than head of household or surviving spouse, \$15,650.
- b. Married filing jointly and surviving spouse, \$31,300.
- c. Married filing separately, \$15,650.
- d. Head of household, \$25,100.
- e. Estates and trusts, \$1,250.
- 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 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 3. REPEAL. Section 57-38-01.28 of the North Dakota Century Code is repealed.

SECTION 4. EFFECTIVE DATE. Sections 1 and 3 of this Act are effective for taxable years beginning after December 31, 2018. Section 2 of this Act is effective for taxable years beginning after December 31, 2019."

Renumber accordingly

Introduced by

Representatives Becker, Blum, Dockter, Hoverson, Johnston, Louser, Simons, Steiner

Senators Meyer, Unruh

1 A BILL ~~for an Act to create and enact a new section to chapter 57-38 of the North Dakota~~
 2 ~~Century Code, relating to the suspension of income tax return filing requirements; to amend and~~
 3 ~~reenact sections 57-38-01.28, 57-38-30, and 57-38-30.3 of the North Dakota Century Code,~~
 4 ~~relating to replacing the corporate, individual, estate, and trust income tax rate schedule with a~~
 5 ~~flat income tax rate of zero percent; and to provide an effective date.~~ for an Act to amend and
 6 reenact section 57-38-30.3 of the North Dakota Century Code, relating to replacement of the
 7 individual, estate, and trust income tax rate schedule with a flat-rate income tax; to repeal
 8 section 57-38-01.28 of the North Dakota Century Code, relating to the marriage penalty tax
 9 credit; and to provide an effective date.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **~~SECTION 1. AMENDMENT.~~** ~~Section 57-38-01.28 of the North Dakota Century Code is~~
 12 ~~amended and reenacted as follows:~~

13 ~~— 57-38-01.28. Marriage penalty credit.~~

14 ~~— 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not to~~
 15 ~~exceed three hundred dollars per couple as determined under this section. The tax~~
 16 ~~commissioner shall adjust the maximum amount of the credit under this subsection each~~
 17 ~~taxable year at the time and rate adjustments are made to rate schedules under subdivision g of~~
 18 ~~subsection 1 of in section 57-38-30.3.~~

19 ~~— 2. The credit under this section is the difference between the tax on the couple's joint~~
 20 ~~North Dakota taxable income under the rates and income levels in subdivision b of~~
 21 ~~subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income~~
 22 ~~levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of~~
 23 ~~the lesser earning spouse, and the tax under the rates and income levels of~~

subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota taxable income, minus the qualified income of the lesser earning spouse.

3. For a nonresident or part-year resident, the credit under this section must be adjusted based on the percentage calculated under subdivision f of subsection 1 of section 57-38-30.3.

4. For purposes of this section:

a. "Qualifying income" means the sum of the following, to the extent included in North Dakota taxable income:

(1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code;

(2) Income received from a retirement pension, profit sharing, stock bonus, or annuity plan; and

(3) Social security benefits as defined in section 86(d)(1) of the Internal Revenue Code.

b. "Qualifying income of the lesser earning spouse" means the qualifying income of the spouse with the lesser amount of qualifying income for the taxable year minus the sum of:

(1) The amount for one exemption under section 151(d) of the Internal Revenue Code; and

(2) One half of the amount of the standard deduction under section 63(c)(2)(A) (4) of the Internal Revenue Code.

SECTION 2. 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 at the rate of zero percent 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 forty one hundredths percent.

2. On all taxable income exceeding twenty five thousand dollars and not exceeding fifty thousand dollars, at the rate of three and fifty five hundredths percent.

1 ~~3. On all taxable income exceeding fifty thousand dollars, at the rate of four and~~
2 ~~thirty one hundredths percent.~~

3 ~~**SECTION 3. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is~~
4 ~~amended and reenacted as follows:~~

5 ~~**57-38-30.3. Individual, estate, and trust income tax.**~~

6 ~~1. A tax is hereby imposed for each taxable year upon income earned or received in that~~
7 ~~taxable year by every resident and nonresident individual, estate, and trust. A taxpayer~~
8 ~~computing the tax under this section is only eligible for those adjustments or credits~~
9 ~~that are specifically provided for in this section. Provided, that for purposes of this~~
10 ~~section, any person required to file a state income tax return under this chapter, but~~
11 ~~who has not computed a federal taxable income figure, shall compute a federal~~
12 ~~taxable income figure using a pro forma return in order to determine a federal taxable~~
13 ~~income figure to be used as a starting point in computing state income tax under this~~
14 ~~section. The tax for individuals, estates, and trusts is equal to zero percent of North~~
15 ~~Dakota taxable income multiplied by the rates in the applicable rate schedule in~~
16 ~~subdivisions a through d corresponding to an individual's filing status used for federal~~
17 ~~income tax purposes. For an estate or trust, the schedule in subdivision e must be~~
18 ~~used for purposes of this subsection.~~

19 ~~a. Single, other than head of household or surviving spouse:~~

20 ~~If North Dakota taxable income is:~~

Over	Not over	The tax is equal to	Of amount over
\$0	\$37,450	1.10%	\$0
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500

27 ~~b. Married filing jointly and surviving spouse:~~

28 ~~If North Dakota taxable income is:~~

Over	Not over	The tax is equal to	Of amount over
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600

1	\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
2	\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
3	\$411,500		\$9,074.74 + 2.90%	\$411,500
4	c. Married filing separately.			
5	If North Dakota taxable income is:			
6	Over	Not over	The tax is equal to	Of amount over
7	\$0	\$31,300	1.10%	\$0
8	\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
9	\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
10	\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
11	\$205,750		\$4,537.37 + 2.90%	\$205,750
12	d. Head of household.			
13	If North Dakota taxable income is:			
14	Over	Not over	The tax is equal to	Of amount over
15	\$0	\$50,200	1.10%	\$0
16	\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200
17	\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
18	\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
19	\$411,500		\$9,317.20 + 2.90%	\$411,500
20	e. Estates and trusts.			
21	If North Dakota taxable income is:			
22	Over	Not over	The tax is equal to	Of amount over
23	\$0	\$2,500	1.10%	\$0
24	\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
25	\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
26	\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
27	\$12,300		\$254.17 + 2.90%	\$12,300
28	f. For an individual who is not a resident of this state for the entire year, or for a			
29	nonresident estate or trust, the tax is equal to the tax otherwise computed under			
30	this subsection multiplied by a fraction in which:			

- 1 ~~(1) The numerator is the federal adjusted gross income allocable and~~
2 ~~apportionable to this state; and~~
- 3 ~~(2) The denominator is the federal adjusted gross income from all sources~~
4 ~~reduced by the net income from the amounts specified in subdivisions a and~~
5 ~~b of subsection 2.~~
- 6 ~~In the case of married individuals filing a joint return, if one spouse is a resident~~
7 ~~of this state for the entire year and the other spouse is a nonresident for part or~~
8 ~~all of the tax year, the tax on the joint return must be computed under this~~
9 ~~subdivision.~~
- 10 ~~g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the~~
11 ~~schedules set forth in subdivisions a through e. The new schedules must be~~
12 ~~determined by increasing the minimum and maximum dollar amounts for each~~
13 ~~income bracket for which a tax is imposed by the cost of living adjustment for the~~
14 ~~taxable year as determined by the secretary of the United States treasury for~~
15 ~~purposes of section 1(f) of the United States Internal Revenue Code of 1954, as~~
16 ~~amended. For this purpose, the rate applicable to each income bracket may not~~
17 ~~be changed, and the manner of applying the cost of living adjustment must be~~
18 ~~the same as that used for adjusting the income brackets for federal income tax~~
19 ~~purposes.~~
- 20 ~~h.b. The tax commissioner shall prescribe an optional simplified method of computing~~
21 ~~tax under this section that may be used by an individual taxpayer who is not~~
22 ~~entitled to claim an adjustment under subsection 2 or credit against income tax~~
23 ~~liability under subsection 7.~~
- 24 ~~2. For purposes of this section, "North Dakota taxable income" means the federal taxable~~
25 ~~income of an individual, estate, or trust as computed under the Internal Revenue Code~~
26 ~~of 1986, as amended, adjusted as follows:~~
- 27 ~~a. Reduced by interest income from obligations of the United States and income~~
28 ~~exempt from state income tax under federal statute or United States or North~~
29 ~~Dakota constitutional provisions.~~
- 30 ~~b. Reduced by the portion of a distribution from a qualified investment fund~~
31 ~~described in section 57-38-01 which is attributable to investments by the qualified~~

investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.

e. ~~Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under section 57-38-01.35.~~

d. ~~Reduced by forty percent of:~~

(1) ~~The excess of the taxpayer's net long term capital gain for the taxable year over the net short term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long term capital gain is allocated to this state.~~

(2) ~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.~~

e. ~~Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.~~

f. ~~Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under section 57-38-01.35.~~

- 1 ~~g.~~ Reduced by the amount received by the taxpayer as payment for services
2 performed when mobilized under title 10 United States Code federal service as a
3 member of the national guard or reserve member of the armed forces of the
4 United States. This subdivision does not apply to federal service while attending
5 annual training, basic military training, or professional military education.
- 6 ~~h.~~ Reduced by income from a new and expanding business exempt from state
7 income tax under section 40-57-1-04.
- 8 ~~i.~~ Reduced by interest and income from bonds issued under chapter 11-37.
- 9 ~~j.~~ Reduced by up to ten thousand dollars of qualified expenses that are related to a
10 donation by a taxpayer or a taxpayer's dependent, while living, of one or more
11 human organs to another human being for human organ transplantation. A
12 taxpayer may claim the reduction in this subdivision only once for each instance
13 of organ donation during the taxable year in which the human organ donation and
14 the human organ transplantation occurs but if qualified expenses are incurred in
15 more than one taxable year, the reduction for those expenses must be claimed in
16 the year in which the expenses are incurred. For purposes of this subdivision:
- 17 ~~(1)~~ "Human organ transplantation" means the medical procedure by which
18 transfer of a human organ is made from the body of one person to the body
19 of another person.
- 20 ~~(2)~~ "Organ" means all or part of an individual's liver, pancreas, kidney, intestine,
21 lung, or bone marrow.
- 22 ~~(3)~~ "Qualified expenses" means lost wages not compensated by sick pay and
23 unreimbursed medical expenses as defined for federal income tax
24 purposes, to the extent not deducted in computing federal taxable income,
25 whether or not the taxpayer itemizes federal income tax deductions.
- 26 ~~k.i.~~ Increased by the amount of the contribution upon which the credit under section
27 57-38-01.21 is computed, but only to the extent that the contribution reduced
28 federal taxable income.
- 29 ~~l.k.~~ Reduced by the amount of any payment received by a veteran or beneficiary of a
30 veteran under section 37-28-03 or 37-28-04.

1 ~~m.l.~~ Reduced by the amount received by a taxpayer that was paid by an employer
2 under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire
3 the taxpayer for a hard to fill position under section 57-38-01.25, but only to the
4 extent the amount received by the taxpayer is included in federal taxable income.
5 The reduction applies only if the employer is entitled to the credit under section
6 57-38-01.25. The taxpayer must attach a statement from the employer in which
7 the employer certifies that the employer is entitled to the credit under section
8 57-38-01.25 and which specifically identified the type of payment and the amount
9 of the exemption under this section.

10 ~~n.m.~~ Reduced by the amount up to a maximum of five thousand dollars, or ten
11 thousand dollars if a joint return is filed, for contributions made under a higher
12 education savings plan administered by the Bank of North Dakota, pursuant to
13 section 6-09-38.

14 ~~e.n.~~ Reduced by the amount of income of a taxpayer, who resides anywhere within
15 the exterior boundaries of a reservation situated in this state or situated both in
16 this state and in an adjoining state and who is an enrolled member of a federally
17 recognized Indian tribe, from activities or sources anywhere within the exterior
18 boundaries of a reservation situated in this state or both situated in this state and
19 in an adjoining state.

20 ~~p.e.~~ For married individuals filing jointly, reduced by an amount equal to the excess of
21 the recomputed itemized deductions or standard deduction over the amount of
22 the itemized deductions or standard deduction deducted in computing federal
23 taxable income. For purposes of this subdivision, "itemized deductions or
24 standard deduction" means the amount under section 63 of the Internal Revenue
25 Code that the married individuals deducted in computing their federal taxable
26 income and "recomputed itemized deductions or standard deduction" means an
27 amount determined by computing the itemized deductions or standard deduction
28 in a manner that replaces the basic standard deduction under section 63(c)(2) of
29 the Internal Revenue Code for married individuals filing jointly with an amount
30 equal to double the amount of the basic standard deduction under section 63(c)
31 (2) of the Internal Revenue Code for a single individual other than a head of

- 1 household and surviving spouse. If the married individuals elected under
2 section 63(e) of the Internal Revenue Code to deduct itemized deductions in
3 computing their federal taxable income even though the amount of the allowable
4 standard deduction is greater, the reduction under this subdivision is not allowed.
5 Married individuals filing jointly shall compute the available reduction under this
6 subdivision in a manner prescribed by the tax commissioner.
- 7 ~~q.p.~~ Reduced by an amount equal to the exemption available for a qualifying child
8 under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended,
9 for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a
10 fetal death certificate has been filed under section 23-02.1-20. For purposes of
11 this subdivision, the exemption may only be claimed in the taxable year in which
12 the stillbirth occurred.
- 13 ~~3.~~ The same filing status used when filing federal income tax returns must be used when
14 filing state income tax returns.
- 15 ~~4. a.~~ A resident individual, estate, or trust is entitled to a credit against the tax imposed
16 under this section for the amount of income tax paid by the taxpayer for the
17 taxable year by another state or territory of the United States or the District of
18 Columbia on income derived from sources in those jurisdictions that is also
19 subject to tax under this section.
- 20 ~~b.~~ For an individual, estate, or trust that is a resident of this state for the entire
21 taxable year, the credit allowed under this subsection may not exceed an amount
22 equal to the tax imposed under this section multiplied by a ratio equal to federal
23 adjusted gross income derived from sources in the other jurisdiction divided by
24 federal adjusted gross income less the amounts under subdivisions a and b of
25 subsection 2.
- 26 ~~c.~~ For an individual, estate, or trust that is a resident of this state for only part of the
27 taxable year, the credit allowed under this subsection may not exceed the lesser
28 of the following:
- 29 ~~(1)~~ The tax imposed under this chapter multiplied by a ratio equal to federal
30 adjusted gross income derived from sources in the other jurisdiction
31 received while a resident of this state divided by federal adjusted gross

income derived from North Dakota sources less the amounts under
subdivisions a and b of subsection 2.

~~(2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal
adjusted gross income derived from sources in the other jurisdiction
received while a resident of this state divided by federal adjusted gross
income derived from sources in the other states.~~

~~d. The tax commissioner may require written proof of the tax paid to another state.
The required proof must be provided in a form and manner as determined by the
tax commissioner.~~

~~5. Individuals, estates, or trusts that file an amended federal income tax return changing
their federal taxable income figure for a year for which an election to file state income
tax returns has been made under this section shall file an amended state income tax
return to reflect the changes on the federal income tax return.~~

~~6. The tax commissioner may prescribe procedures and guidelines to prevent requiring
income that had been previously taxed under this chapter from becoming taxed again
because of the provisions of this section and may prescribe procedures and guidelines
to prevent any income from becoming exempt from taxation because of the provisions
of this section if it would otherwise have been subject to taxation under the provisions
of this chapter.~~

~~7. A taxpayer filing a return under this section is entitled to the following tax credits:~~

~~a. Family care tax credit under section 57-38-01.20.~~

~~b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.~~

~~c. Agricultural business investment tax credit under section 57-38.6-03.~~

~~d. Seed capital investment tax credit under section 57-38.5-03.~~

~~e. Planned gift tax credit under section 57-38-01.21.~~

~~f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and
57-38-01.23.~~

~~g. Internship employment tax credit under section 57-38-01.24.~~

~~h. Workforce recruitment credit under section 57-38-01.25.~~

~~i. Angel fund investment tax credit under section 57-38-01.26 (effective for the first
taxable year beginning after December 31, 2016).~~

- 1 ~~j. Marriage penalty credit under section 57-38-01.28.~~
- 2 ~~k.i. Research and experimental expenditures under section 57-38-30.5.~~
- 3 ~~l.k. Geothermal energy device installation credit under section 57-38-01.8.~~
- 4 ~~m.l. Long term care partnership plan premiums income tax credit under section~~
- 5 ~~57-38-29.3.~~
- 6 ~~n.m. Employer tax credit for salary and related retirement plan contributions of~~
- 7 ~~mobilized employees under section 57-38-01.31.~~
- 8 ~~o. Automating manufacturing processes tax credit under section 57-38-01.33~~
- 9 ~~(effective for the first five taxable years beginning after December 31, 2012).~~
- 10 ~~p.n. Income tax credit for passthrough entity contributions to private education~~
- 11 ~~institutions under section 57-38-01.7.~~
- 12 ~~q.o. Angel investor tax credit under section 57-38-01.26.~~
- 13 ~~8. A taxpayer filing a return under this section is entitled to the any exemption provided for~~
- 14 ~~which the taxpayer qualifies under section 40-63-04.~~
- 15 ~~9. a. If an individual taxpayer engaged in a farming business elects to average farm~~
- 16 ~~income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the~~
- 17 ~~taxpayer may elect to compute tax under this subsection. If an election to~~
- 18 ~~compute tax under this subsection is made, the tax imposed by subsection 1 for~~
- 19 ~~the taxable year must be equal to the sum of the following:~~
- 20 ~~(1) The tax computed under subsection 1 on North Dakota taxable income~~
- 21 ~~reduced by elected farm income.~~
- 22 ~~(2) The increase in tax imposed by subsection 1 which would result if North~~
- 23 ~~Dakota taxable income for each of the three prior taxable years were~~
- 24 ~~increased by an amount equal to one third of the elected farm income.~~
- 25 ~~However, if other provisions of this chapter other than this section were~~
- 26 ~~used to compute the tax for any of the three prior years, the same~~
- 27 ~~provisions in effect for that prior tax year must be used to compute the~~
- 28 ~~increase in tax under this paragraph. For purposes of applying this~~
- 29 ~~paragraph to taxable years beginning before January 1, 2001, the increase~~
- 30 ~~in tax must be determined by recomputing the tax in the manner prescribed~~
- 31 ~~by the tax commissioner.~~

b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion claimed under subdivision d of subsection 2 that is attributable to a net long-term capital gain included in elected farm income.

c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.

d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.

10. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 1, if the amounts of the tax tables are based on the tax rates set forth in subsection 1. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.

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

Return filing suspension.

Notwithstanding any other provisions of law, the requirements pertaining to filing a return under this chapter are suspended for any year in which the state tax rate applied to the taxable income of corporations, individuals, estates, and trusts is zero percent.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2018.

SECTION 1. AMENDMENT. Section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30.3. Individual, estate, and trust income tax.

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, estates, and trusts is equal to two and one-half percent of 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. North Dakota taxable income must be reduced by the amounts under subdivisions a through e, based on a taxpayer's filing status used for federal income tax purposes.

a. Single, other than head of household or surviving spouse, \$15,650.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$37,450	1.10%	\$0
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500

b. Married filing jointly and surviving spouse, \$31,300.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
\$411,500		\$9,074.74 + 2.90%	\$411,500

c. Married filing separately, \$15,650.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$31,300	1.10%	\$0
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300

\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
\$205,750		\$4,537.37 + 2.90%	\$205,750

d. Head of household, \$25,100.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$50,200	1.10%	\$0
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200
\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
\$411,500		\$9,317.20 + 2.90%	\$411,500

e. Estates and trusts, \$1,250.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$2,500	1.10%	\$0
\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
\$12,300		\$254.17 + 2.90%	\$12,300

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.

- 1 g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the
2 schedules set forth in subdivisions a through e. The new schedules must be
3 determined by increasing the minimum and maximum dollar amounts for each
4 income bracket for which a tax is imposed by the cost of living adjustment for the
5 taxable year as determined by the secretary of the United States treasury for
6 purposes of section 1(f) of the United States Internal Revenue Code of 1954, as
7 amended. For this purpose, the rate applicable to each income bracket may not
8 be changed, and the manner of applying the cost of living adjustment must be
9 the same as that used for adjusting the income brackets for federal income tax
10 purposes.
- 11 h. The tax commissioner shall prescribe an optional simplified method of computing
12 tax under this section that may be used by an individual taxpayer who is not
13 entitled to claim an adjustment under subsection 2 or credit against income tax
14 liability under subsection 7.
- 15 2. For purposes of this section, "North Dakota taxable income" means the federal taxable
16 income of an individual, estate, or trust as computed under the Internal Revenue Code
17 of 1986, as amended, adjusted as follows:
- 18 a. Reduced by interest income from obligations of the United States and income
19 exempt from state income tax under federal statute or United States or North
20 Dakota constitutional provisions.
- 21 b. Reduced by the portion of a distribution from a qualified investment fund
22 described in section 57-38-01 which is attributable to investments by the qualified
23 investment fund in obligations of the United States, obligations of North Dakota or
24 its political subdivisions, and any other obligation the interest from which is
25 exempt from state income tax under federal statute or United States or North
26 Dakota constitutional provisions.
- 27 c. Reduced by the amount equal to the earnings that are passed through to a
28 taxpayer in connection with an allocation and apportionment to North Dakota
29 under section 57-38-01.35.
- 30 d. Reduced by forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) Qualified dividends as defined under Internal Revenue Code section 1(h) (11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under section 57-38-01.35.

g. Reduced by the amount received by the taxpayer as payment for services performed when mobilized under title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, or professional military education.

h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.

i. ~~Reduced by interest and income from bonds issued under chapter 11 37.~~

- 1 Reduced by up to ten thousand dollars of qualified expenses that are related to a
2 donation by a taxpayer or a taxpayer's dependent, while living, of one or more
3 human organs to another human being for human organ transplantation. A
4 taxpayer may claim the reduction in this subdivision only once for each instance
5 of organ donation during the taxable year in which the human organ donation and
6 the human organ transplantation occurs but if qualified expenses are incurred in
7 more than one taxable year, the reduction for those expenses must be claimed in
8 the year in which the expenses are incurred. For purposes of this subdivision:
- 9 (1) "Human organ transplantation" means the medical procedure by which
10 transfer of a human organ is made from the body of one person to the body
11 of another person.
- 12 (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine,
13 lung, or bone marrow.
- 14 (3) "Qualified expenses" means lost wages not compensated by sick pay and
15 unreimbursed medical expenses as defined for federal income tax
16 purposes, to the extent not deducted in computing federal taxable income,
17 whether or not the taxpayer itemizes federal income tax deductions.
- 18 k.l. Increased by the amount of the contribution upon which the credit under section
19 57-38-01.21 is computed, but only to the extent that the contribution reduced
20 federal taxable income.
- 21 l.k. Reduced by the amount of any payment received by a veteran or beneficiary of a
22 veteran under section 37-28-03 or 37-28-04.
- 23 m.l. Reduced by the amount received by a taxpayer that was paid by an employer
24 under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire
25 the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the
26 extent the amount received by the taxpayer is included in federal taxable income.
27 The reduction applies only if the employer is entitled to the credit under section
28 57-38-01.25. The taxpayer must attach a statement from the employer in which
29 the employer certifies that the employer is entitled to the credit under section
30 57-38-01.25 and which specifically identified the type of payment and the amount
31 of the exemption under this section.

n.m. Reduced by the amount up to a maximum of five thousand dollars, or ten thousand dollars if a joint return is filed, for contributions made under a higher education savings plan administered by the Bank of North Dakota, pursuant to section 6-09-38.

e.n. Reduced by the amount of income of a taxpayer, who resides anywhere within the exterior boundaries of a reservation situated in this state or situated both in this state and in an adjoining state and who is an enrolled member of a federally recognized Indian tribe, from activities or sources anywhere within the exterior boundaries of a reservation situated in this state or both situated in this state and in an adjoining state.

p.o. For married individuals filing jointly, reduced by an amount equal to the excess of the recomputed itemized deductions or standard deduction over the amount of the itemized deductions or standard deduction deducted in computing federal taxable income. For purposes of this subdivision, "itemized deductions or standard deduction" means the amount under section 63 of the Internal Revenue Code that the married individuals deducted in computing their federal taxable income and "recomputed itemized deductions or standard deduction" means an amount determined by computing the itemized deductions or standard deduction in a manner that replaces the basic standard deduction under section 63(c)(2) of the Internal Revenue Code for married individuals filing jointly with an amount equal to double the amount of the basic standard deduction under section 63(c)(2) of the Internal Revenue Code for a single individual other than a head of household and surviving spouse. If the married individuals elected under section 63(e) of the Internal Revenue Code to deduct itemized deductions in computing their federal taxable income even though the amount of the allowable standard deduction is greater, the reduction under this subdivision is not allowed. Married individuals filing jointly shall compute the available reduction under this subdivision in a manner prescribed by the tax commissioner.

e.p. Reduced by an amount equal to the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a

- 1 fetal death certificate has been filed under section 23-02.1-20. For purposes of
2 this subdivision, the exemption may only be claimed in the taxable year in which
3 the stillbirth occurred.
- 4 3. The same filing status used when filing federal income tax returns must be used when
5 filing state income tax returns.
- 6 4. a. A resident individual, estate, or trust is entitled to a credit against the tax imposed
7 under this section for the amount of income tax paid by the taxpayer for the
8 taxable year by another state or territory of the United States or the District of
9 Columbia on income derived from sources in those jurisdictions that is also
10 subject to tax under this section.
- 11 b. For an individual, estate, or trust that is a resident of this state for the entire
12 taxable year, the credit allowed under this subsection may not exceed an amount
13 equal to the tax imposed under this section multiplied by a ratio equal to federal
14 adjusted gross income derived from sources in the other jurisdiction divided by
15 federal adjusted gross income less the amounts under subdivisions a and b of
16 subsection 2.
- 17 c. For an individual, estate, or trust that is a resident of this state for only part of the
18 taxable year, the credit allowed under this subsection may not exceed the lesser
19 of the following:
- 20 (1) The tax imposed under this chapter multiplied by a ratio equal to federal
21 adjusted gross income derived from sources in the other jurisdiction
22 received while a resident of this state divided by federal adjusted gross
23 income derived from North Dakota sources less the amounts under
24 subdivisions a and b of subsection 2.
- 25 (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal
26 adjusted gross income derived from sources in the other jurisdiction
27 received while a resident of this state divided by federal adjusted gross
28 income derived from sources in the other states.
- 29 d. The tax commissioner may require written proof of the tax paid to another state.
30 The required proof must be provided in a form and manner as determined by the
31 tax commissioner.

5. Individuals, estates, or trusts that file an amended federal income tax return changing their federal taxable income figure for a year for which an election to file state income tax returns has been made under this section shall file an amended state income tax return to reflect the changes on the federal income tax return.
6. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.
7. A taxpayer filing a return under this section is entitled to the following tax credits:
 - a. Family care tax credit under section 57-38-01.20.
 - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - c. ~~Agricultural business investment tax credit under section 57-38.6-03.~~
 - d. Seed capital investment tax credit under section 57-38.5-03.
 - e. Planned gift tax credit under section 57-38-01.21.
 - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
 - g. Internship employment tax credit under section 57-38-01.24.
 - h. Workforce recruitment credit under section 57-38-01.25.
 - i. ~~Angel fund investment tax credit under section 57-38-01.26 (effective for the first taxable year beginning after December 31, 2016).~~
 - j. ~~Marriage penalty credit under section 57-38-01.28.~~
 - k. ~~Research and experimental expenditures under section 57-38-30.5.~~
 - h.j. ~~Geothermal energy device installation credit under section 57-38-01.8.~~
 - m.k. ~~Long-term care partnership plan premiums income tax credit under section 57-38-29.3.~~
 - n.l. ~~Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.~~
 - o. ~~Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).~~

- 1 ~~p.m.~~ Income tax credit for passthrough entity contributions to private education
2 institutions under section 57-38-01.7.
- 3 ~~q.n.~~ Angel investor tax credit under section 57-38-01.26.
- 4 8. A taxpayer filing a return under this section is entitled to ~~the any~~ exemption ~~provided for~~
5 ~~which the taxpayer qualifies~~ under section 40-63-04.
- 6 9. a. If an individual taxpayer engaged in a farming business elects to average farm
7 income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the
8 taxpayer may elect to compute tax under this subsection. If an election to
9 compute tax under this subsection is made, the tax imposed by subsection 1 for
10 the taxable year must be equal to the sum of the following:
- 11 (1) The tax computed under subsection 1 on North Dakota taxable income
12 reduced by elected farm income.
- 13 (2) The increase in tax imposed by subsection 1 which would result if North
14 Dakota taxable income for each of the three prior taxable years were
15 increased by an amount equal to one-third of the elected farm income.
16 However, if other provisions of this chapter other than this section were
17 used to compute the tax for any of the three prior years, the same
18 provisions in effect for that prior tax year must be used to compute the
19 increase in tax under this paragraph. For purposes of applying this
20 paragraph to taxable years beginning before January 1, 2001, the increase
21 in tax must be determined by recomputing the tax in the manner prescribed
22 by the tax commissioner.
- 23 b. For purposes of this subsection, "elected farm income" means that portion of
24 North Dakota taxable income for the taxable year which is elected farm income
25 as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C.
26 1301], as amended, reduced by the portion of an exclusion claimed under
27 subdivision d of subsection 2 that is attributable to a net long-term capital gain
28 included in elected farm income.
- 29 c. The reduction in North Dakota taxable income under this subsection must be
30 taken into account for purposes of making an election under this subsection for
31 any subsequent taxable year.

d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.

~~10. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 1, if the amounts of the tax tables are based on the tax rates set forth in subsection 1. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.~~

SECTION 2. 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, estates, and trusts is equal to two ~~and one half~~ percent North Dakota taxable income. North Dakota taxable income must be reduced by the amounts under subdivisions a through e, based on a taxpayer's filing status used for federal income tax purposes.

a. Single, other than head of household or surviving spouse, \$15,650.

b. Married filing jointly and surviving spouse, \$31,300.

c. Married filing separately, \$15,650.

d. Head of household, \$25,100.

e. Estates and trusts, \$1,250.

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

1 (2) The denominator is the federal adjusted gross income from all sources
2 reduced by the net income from the amounts specified in subdivisions a and
3 b of subsection 2.

4 In the case of married individuals filing a joint return, if one spouse is a resident
5 of this state for the entire year and the other spouse is a nonresident for part or
6 all of the tax year, the tax on the joint return must be computed under this
7 subdivision.

8 g. The tax commissioner shall prescribe an optional simplified method of computing
9 tax under this section that may be used by an individual taxpayer who is not
10 entitled to claim an adjustment under subsection 2 or credit against income tax
11 liability under subsection 7.

12 **SECTION 3. REPEAL.** Section 57-38-01.28 of the North Dakota Century Code is repealed.

13 **SECTION 4. EFFECTIVE DATE.** Sections 1 and 3 of this Act are effective for taxable years
14 beginning after December 31, 2018. Section 2 of this Act is effective for taxable years beginning
15 after December 31, 2019.

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Comparison of 2018 ND Tax Under Current Law and 2.5% Flat Tax Under HB 1535 (Rep. Koppelman)

Single Filer (No dependents / Under 65 years old / Not blind)

Adjusted Gross Income	Federal Return				North Dakota Return Tax Liability Comparison					
	Personal Exemption Amount	Dependency Exemption Amount	Standard Deduction Amount	Taxable Income	Tax Under Current Law	HB 1535			Difference	% Reduction
						"Standard Deduction"	North Dakota Taxable Income	Flat 2.5% Tax		
\$ 10,000	\$	\$	\$ 12,000	\$	\$	\$ 15,650	\$	\$	\$	0.00%
25,000			12,000	13,000	143	15,650			(143)	-100.00%
30,000			12,000	18,000	198	15,650	2,350	59	(139)	-70.33%
35,000			12,000	23,000	253	15,650	7,350	184	(69)	-27.37%
40,000			12,000	28,000	308	15,650	12,350	309		0.24%
50,000			12,000	38,000	418	15,650	22,350	559	141	33.67%
60,000			12,000	48,000	608	15,650	32,350	809	200	32.94%
75,000			12,000	63,000	914	15,650	47,350	1,184	269	29.46%
85,000			12,000	73,000	1,118	15,650	57,350	1,434	315	28.20%
90,000			12,000	78,000	1,220	15,650	62,350	1,559	338	27.73%
100,000			12,000	88,000	1,424	15,650	72,350	1,809	384	26.99%
125,000			12,000	113,000	1,975	15,650	97,350	2,434	459	23.25%
150,000			12,000	138,000	2,542	15,650	122,350	3,059	517	20.32%
175,000			12,000	163,000	3,110	15,650	147,350	3,684	574	18.46%
200,000			12,000	188,000	3,677	15,650	172,350	4,309	632	17.18%
225,000			12,000	213,000	4,296	15,650	197,350	4,934	638	14.86%
250,000			12,000	238,000	4,956	15,650	222,350	5,559	603	12.17%
275,000			12,000	263,000	5,616	15,650	247,350	6,184	568	10.12%
300,000			12,000	288,000	6,276	15,650	272,350	6,809	533	8.50%
350,000			12,000	338,000	7,596	15,650	322,350	8,059	463	6.10%
400,000			12,000	388,000	8,916	15,650	372,350	9,309	393	4.41%
450,000			12,000	438,000	10,248	15,650	422,350	10,559	311	3.03%
500,000			12,000	488,000	11,698	15,650	472,350	11,809	111	0.95%
600,000			12,000	588,000	14,598	15,650	572,350	14,309	(289)	-1.98%
700,000			12,000	688,000	17,498	15,650	672,350	16,809	(689)	-3.94%
800,000			12,000	788,000	20,398	15,650	772,350	19,309	(1,089)	-5.34%
900,000			12,000	888,000	23,298	15,650	872,350	21,809	(1,489)	-6.39%
1,000,000			12,000	988,000	26,198	15,650	972,350	24,309	(1,889)	-7.21%

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2-6-19
P.2

Comparison of 2018 ND Tax Under Current Law and 2.5% Flat Tax Under HB 1535 (Rep. Koppelman)

Married Filing Joint Filers (No dependents / Under 65 years old / Not blind)

Federal Return					North Dakota Return Tax Liability Comparison					
Adjusted Gross Income	Personal Exemption Amount	Dependency Exemption Amount	Standard Deduction Amount	Taxable Income	Tax Under Current Law	HB 1535			Difference	% Reduction
						"Standard Deduction"	North Dakota Taxable Income	Flat 2.5% Tax		
\$ 10,000	\$	\$	\$ 24,000	\$	\$	\$ 31,300	\$	\$	\$	0.00%
25,000			24,000	1,000	11	31,300			(11)	-100.00%
30,000			24,000	6,000	66	31,300			(66)	-100.00%
35,000			24,000	11,000	121	31,300			(121)	-100.00%
40,000			24,000	16,000	176	31,300			(176)	-100.00%
50,000			24,000	26,000	286	31,300			(286)	-100.00%
60,000			24,000	36,000	396	31,300	4,700	118	(279)	-70.33%
75,000			24,000	51,000	561	31,300	19,700	493	(69)	-12.21%
85,000			24,000	61,000	671	31,300	29,700	743	72	10.66%
90,000			24,000	66,000	727	31,300	34,700	868	141	19.34%
100,000			24,000	76,000	931	31,300	44,700	1,118	187	20.04%
125,000			24,000	101,000	1,441	31,300	69,700	1,743	302	20.93%
150,000			24,000	126,000	1,951	31,300	94,700	2,368	417	21.35%
175,000			24,000	151,000	2,461	31,300	119,700	2,993	532	21.60%
200,000			24,000	176,000	3,010	31,300	144,700	3,618	608	20.20%
225,000			24,000	201,000	3,577	31,300	169,700	4,243	665	18.60%
250,000			24,000	226,000	4,145	31,300	194,700	4,868	723	17.44%
275,000			24,000	251,000	4,743	31,300	219,700	5,493	749	15.79%
300,000			24,000	276,000	5,403	31,300	244,700	6,118	714	13.22%
350,000			24,000	326,000	6,723	31,300	294,700	7,368	644	9.58%
400,000			24,000	376,000	8,043	31,300	344,700	8,618	574	7.14%
450,000			24,000	426,000	9,363	31,300	394,700	9,868	504	5.38%
500,000			24,000	476,000	10,795	31,300	444,700	11,118	323	2.99%
600,000			24,000	576,000	13,695	31,300	544,700	13,618	(77)	-0.56%
700,000			24,000	676,000	16,595	31,300	644,700	16,118	(477)	-2.88%
800,000			24,000	776,000	19,495	31,300	744,700	18,618	(877)	-4.50%
900,000			24,000	876,000	22,395	31,300	844,700	21,118	(1,277)	-5.70%
1,000,000			24,000	976,000	25,295	31,300	944,700	23,618	(1,677)	-6.63%

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Comparison of 2018 ND Tax Under Current Law and 2.5% Flat Tax Under HB 1535 (Rep. Koppelman)

Head of Household Filer (One dependent / Under 65 years old / Not blind)

Adjusted Gross Income	Federal Return				North Dakota Return Tax Liability Comparison					
	Personal Exemption Amount	Dependency Exemption Amount	Standard Deduction Amount	Taxable Income	Tax Under Current Law	HB 1535			Difference	% Reduction
						"Standard Deduction"	North Dakota Taxable Income	Flat 2.5% Tax		
\$ 10,000			\$ 18,000	\$	\$	\$ 25,100	\$	\$	\$	0.00%
25,000			18,000	7,000	77	25,100			(77)	-100.00%
30,000			18,000	12,000	132	25,100			(132)	-100.00%
35,000			18,000	17,000	187	25,100			(187)	-100.00%
40,000			18,000	22,000	242	25,100			(242)	-100.00%
50,000			18,000	32,000	352	25,100	6,900	173	(180)	-50.99%
60,000			18,000	42,000	462	25,100	16,900	423	(40)	-8.55%
75,000			18,000	57,000	666	25,100	31,900	798	131	19.74%
85,000			18,000	67,000	870	25,100	41,900	1,048	177	20.40%
90,000			18,000	72,000	972	25,100	46,900	1,173	200	20.63%
100,000			18,000	82,000	1,176	25,100	56,900	1,423	246	20.96%
125,000			18,000	107,000	1,686	25,100	81,900	2,048	361	21.44%
150,000			18,000	132,000	2,196	25,100	106,900	2,673	476	21.70%
175,000			18,000	157,000	2,753	25,100	131,900	3,298	544	19.77%
200,000			18,000	182,000	3,321	25,100	156,900	3,923	602	18.12%
225,000			18,000	207,000	3,888	25,100	181,900	4,548	659	16.95%
250,000			18,000	232,000	4,497	25,100	206,900	5,173	676	15.02%
275,000			18,000	257,000	5,157	25,100	231,900	5,798	641	12.42%
300,000			18,000	282,000	5,817	25,100	256,900	6,423	606	10.41%
350,000			18,000	332,000	7,137	25,100	306,900	7,673	536	7.51%
400,000			18,000	382,000	8,457	25,100	356,900	8,923	466	5.51%
450,000			18,000	432,000	9,777	25,100	406,900	10,173	396	4.05%
500,000			18,000	482,000	11,224	25,100	456,900	11,423	199	1.77%
600,000			18,000	582,000	14,124	25,100	556,900	13,923	(201)	-1.42%
700,000			18,000	682,000	17,024	25,100	656,900	16,423	(601)	-3.53%
800,000			18,000	782,000	19,924	25,100	756,900	18,923	(1,001)	-5.03%
900,000			18,000	882,000	22,824	25,100	856,900	21,423	(1,401)	-6.14%
1,000,000			18,000	982,000	25,724	25,100	956,900	23,923	(1,801)	-7.00%

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Comparison of 2018 ND Tax Under Current Law and 2.5% Flat Tax Under HB 1535 (Rep. Koppelman)

Federal Adjusted Gross Income	Single Filer				Married Filing Joint Filer				Head of Household Filer			
	ND Tax: Current Law	ND Tax: Flat 2.5%	Tax Reduction	% Reduction	ND Tax: Current Law	ND Tax: Flat 2.5%	Tax Reduction	% Reduction	ND Tax: Current Law	ND Tax: Flat 2.5%	Tax Reduction	% Reduction
\$ 10,000	\$ -	\$ -	\$ -	0.00%	\$ -	\$ -	\$ -	0.00%	\$ -	\$ -	\$ -	0.00%
25,000	143		(143)	-100.00%	11		(11)	-100.00%	77		(77)	-100.00%
30,000	198	59	(139)	-70.33%	66		(66)	-100.00%	132		(132)	-100.00%
35,000	253	184	(69)	-27.37%	121		(121)	-100.00%	187		(187)	-100.00%
40,000	308	309	1	0.24%	176		(176)	-100.00%	242		(242)	-100.00%
50,000	418	559	141	33.67%	286		(286)	-100.00%	352	173	(180)	-50.99%
60,000	608	809	200	32.94%	396	118	(279)	-70.33%	462	423	(40)	-8.55%
75,000	914	1,184	269	29.46%	561	493	(69)	-12.21%	666	798	131	19.74%
85,000	1,118	1,434	315	28.20%	671	743	72	10.66%	870	1,048	177	20.40%
90,000	1,220	1,559	338	27.73%	727	868	141	19.34%	972	1,173	200	20.63%
100,000	1,424	1,809	384	26.99%	931	1,118	187	20.04%	1,176	1,423	246	20.96%
125,000	1,975	2,434	459	23.25%	1,441	1,743	302	20.93%	1,686	2,048	361	21.44%
150,000	2,542	3,059	517	20.32%	1,951	2,368	417	21.35%	2,196	2,673	476	21.70%
175,000	3,110	3,684	574	18.46%	2,461	2,993	532	21.60%	2,753	3,298	544	19.77%
200,000	3,677	4,309	632	17.18%	3,010	3,618	608	20.20%	3,321	3,923	602	18.12%
225,000	4,296	4,934	638	14.86%	3,577	4,243	665	18.60%	3,888	4,548	659	16.95%
250,000	4,956	5,559	603	12.17%	4,145	4,868	723	17.44%	4,497	5,173	676	15.02%
275,000	5,616	6,184	568	10.12%	4,743	5,493	749	15.79%	5,157	5,798	641	12.42%
300,000	6,276	6,809	533	8.50%	5,403	6,118	714	13.22%	5,817	6,423	606	10.41%
350,000	7,596	8,059	463	6.10%	6,723	7,368	644	9.58%	7,137	7,673	536	7.51%
400,000	8,916	9,309	393	4.41%	8,043	8,618	574	7.14%	8,457	8,923	466	5.51%
450,000	10,248	10,559	311	3.03%	9,363	9,868	504	5.38%	9,777	10,173	396	4.05%
500,000	11,698	11,809	111	0.95%	10,795	11,118	323	2.99%	11,224	11,423	199	1.77%
600,000	14,598	14,309	(289)	-1.98%	13,695	13,618	(77)	-0.56%	14,124	13,923	(201)	-1.42%
700,000	17,498	16,809	(689)	-3.94%	16,595	16,118	(477)	-2.88%	17,024	16,423	(601)	-3.53%
800,000	20,398	19,309	(1,089)	-5.34%	19,495	18,618	(877)	-4.50%	19,924	18,923	(1,001)	-5.03%
900,000	23,298	21,809	(1,489)	-6.39%	22,395	21,118	(1,277)	-5.70%	22,824	21,423	(1,401)	-6.14%
1,000,000	26,198	24,309	(1,889)	-7.21%	25,295	23,618	(1,677)	-6.63%	25,724	23,923	(1,801)	-7.00%

* Assumptions used for federal calculation: standard deduction, under 65 years old, not blind, no dependents for Single Filer or Married Filing Joint Filers, and one dependent for Head of Household Filer.

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Single			
Standard Deduction in HB 1535	Tax Increase (Decrease)	Adjustment to Standard Deduction to Zero Out Tax Increase (Decrease)	Standard Deduction (Addback) Needed to Yield a Tax at 2.5% of NDTI
\$ 15,650	-	-	-
15,650	(143)	(5,720)	9,930
15,650	(139)	(5,570)	10,080
15,650	(69)	(2,770)	12,880
15,650	1	30	15,680
15,650	141	5,630	21,280
15,650	200	8,015	23,665
15,650	269	10,775	26,425
15,650	315	12,615	28,265
15,650	338	13,535	29,185
15,650	384	15,375	31,025
15,650	459	18,365	34,015
15,650	517	20,665	36,315
15,650	574	22,965	38,615
15,650	632	25,265	40,915
15,650	638	25,530	41,180
15,650	603	24,130	39,780
15,650	568	22,730	38,380
15,650	533	21,330	36,980
15,650	463	18,530	34,180
15,650	393	15,730	31,380
15,650	311	12,431	28,081
15,650	111	4,431	20,081
15,650	(289)	(11,569)	4,081
15,650	(689)	(27,569)	(11,919)
15,650	(1,089)	(43,569)	(27,919)
15,650	(1,489)	(59,569)	(43,919)
15,650	(1,889)	(75,569)	(59,919)

Married Filing Jointly			
Standard Deduction in HB 1535	Tax Increase (Decrease)	Adjustment to Standard Deduction to Zero Out Tax Increase (Decrease)	Standard Deduction (Addback) Needed to Yield a Tax at 2.5% of NDTI
\$ 31,300	-	-	-
31,300	(11)	(440)	30,860
31,300	(66)	(2,640)	28,660
31,300	(121)	(4,840)	26,460
31,300	(176)	(7,040)	24,260
31,300	(286)	(11,440)	19,860
31,300	(279)	(11,140)	20,160
31,300	(69)	(2,740)	28,560
31,300	72	2,860	34,160
31,300	141	5,622	36,922
31,300	187	7,462	38,762
31,300	302	12,062	43,362
31,300	417	16,662	47,962
31,300	532	21,262	52,562
31,300	608	24,317	55,617
31,300	665	26,617	57,917
31,300	723	28,917	60,217
31,300	749	29,966	61,266
31,300	714	28,566	59,866
31,300	644	25,766	57,066
31,300	574	22,966	54,266
31,300	504	20,166	51,466
31,300	323	12,915	44,215
31,300	(77)	(3,085)	28,215
31,300	(477)	(19,085)	12,215
31,300	(877)	(35,085)	(3,785)
31,300	(1,277)	(51,085)	(19,785)
31,300	(1,677)	(67,085)	(35,785)