MICROFILM DIVIDER

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SFN 2053 (2/85) 5M

GREAT SEAL STATE OF NORTH DAKOTA

ROLL NUMBER

DESCRIPTION

1399

2001 HOUSE FINANCE AND TAXATION

HB 1399

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1399

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 31, 2001

Tape Number	Side A	Side B	Meter #
1	X		383
Committee Clerk Signature	Janice Stein		

Minutes:

REP. DROVDAL, VICE-CHAIRMAN. Opened the hearing, and read the fiscal note.

REP. AL CARLSON, DIST. 41, SOUTHWEST FARGO Introduced the bill as the prime sponsor. He called this a decoupler bill from income tax. This bill has the basic idea to decouple us from the federal tax. Right now, you are familiar with our federal tax which is figured on fourteen percent of your federal incumbrance. This bill, makes a major shift in that, it moves everything up one line. This bill is a pure flat tax. There is one rate in the bill. The purpose of the bill is to move it to your taxable income line of the income tax form you fill out to the federal government. In the past, there has been opposition to this idea, for one basic reason, it wasn't that they didn't like the concept of decoupling, the proponents of the bill said, anything that would be a rate that low, is just plain too easy to rate. I have a hard time understanding that. The intent of this bill was to make it revenue neutral. As you can see, there is a positive fiscal note of about nine hundred thousand dollars. If we are going to look at a decoupling bill, this is the time we should be doing it. Not only has President Elect Bush, made his platform that he will reduce the federal income tax, even Allen Greenspan, from the Federal Reserve, has also endorsed the plan for parts of his tax cut proposal. So the reality is, if the federal income tax incumbrance does reduce, so does the tax at the state level.

Rep. Carlson submitted a handout relating to comparison of tax liabilities. He stated John Walstad of the Legislative Council will talk about all of the workings of the bill and also will present an amendment to the bill. See attached handout.

REP. HERBEL Why is this better then the bills we have already looked at?

REP. CARLSON The other bill is designed specifically, to make everyone pay what they paid yesterday. This bill does not use that approach. The more you make, the more income tax you pay.

REP. KIM KOPPELMAN, DIST. 13, WEST FARGO, Testified as a co-sponsor of the bill. See attached written testimony.

JOHN WALSTAD, ATTORNEY, LEGISLATIVE COUNCIL, Appeared before the committee in a neutral position. He reviewed the bill and presented a copy of the 1040 tax form so that committee members could follow the changes. This change would avoid a change of the state because of what Congress does. He also submitted an amendment to the bill.

He stated the problem with subtracting these amounts from taxable income before determining the tax is, non residents who work in North Dakota for a portion of the year, and earn a portion of their annual income here, have a tax liability now, subtracting these amounts off the top, unduly, favors non residents, as they only report the income earned in this state. This would have the effect of zeroing out income for a lot of non residents, so the amendment will deal with that.

REP. DROVDAL Related to HB 1055 which is another decoupler bill, does HB 1055 start at the same point as HB 1399 as far as multiplying against federal liability?

JOHN WALSTAD Yes, the starting point is the same, it is the line 39 number which is taken off, then in HB 1055, that number is run through what are essentially, the federal brackets times .14%, it is the bracket now in place. If federal changes are made, the brackets in that bill will not adjust accordingly.

REP. DROVDAL Asked, when it comes to farmer's property tax, their homes are not taxable, would we include the property tax abated on all of their lands of which the farm is actually located in, or how do you determine that?

JOHN WALSTAD If a farmer's residence is not located on the land that farmer owns and farms, there could be a problem, but, the way it is worded, property that includes the primary residence, as you know, the property tax exemption for farm residences is stated as, for an exemption, you have to be on land that is contiguous to the farm land.

REP. DROVDAL If my farm was non taxable and I had five quarters contiguous around that farm house, I could take the deduction from the property tax on the whole five quarters?

JOHN WALSTAD Yes, that is the way I would envision it this would work.

REP. WINRICH Why are we taking out the two lines on page two, about the standard deduction of eight thousand for a couple and four thousand for an individual?

JOHN WALSTAD. That is the language which I was talking about which unduly benefits non residents. The credit in this amendment is to take the place of this eight thousand or four thousand dollar deduction, and the reason is, if a non resident earns seven thousand dollars of taxable income in this state during the tax year, the eight thousand dollar deduction on a joint return wipes out that income, and that person pays nothing for the state of North Dakota. That is removed by the amendment, and instead, a credit is allowed for property taxes paid in one form or another. If that non resident with seven thousand dollars of income in this state during a tax year, did not pay rent, property tax or mobile home tax in this state, that full seven thousand dollars would be subject to the three percent tax.

REP. RENNER To take advantage of these exemptions, would that take care of the state tax return?

JOHN WALSTAD It would add another line to the short form, to indicate the credit which you are entitled for. There probably would be some documentation required or a worksheet required.

REP. RENNER This amendment takes place of the standard deductions, so North Dakota taxpayers would not have a deduction, this would be for the out of state

JOHN WALSTAD Yes, the A, B, C items are not exclusive. If a person rented for ten months of the year, bought a home, paid property tax for two months of the year, both of those items could be combined to qualify for this credit amount.

REP. RENNER I like this idea, but will it complicate the filing of the tax returns by the citizens?

JOHN WALSTAD It is more complicated then just subtracting eight thousand and four thousand, but I don't think it is a great problem. With regard to rent paid, there might be a compliance complication. There might be a need to have some kind of a statement from a landlord.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Testified in a neutral position.

Commented on the potential of getting around the property tax, you could prorate the deduction to the amount of income derived in North Dakota. If an out of state resident derives ten percent of their income from North Dakota, they receive ten percent of the deduction. On the issue of the effective date of the bill, it is effective for taxable years beginning after December 31, 2000, that means it would be effective for this year. However, as far as employer's are concerned, we would have to create schedules, this would no longer just be based on a portion of the federal liability. It does have an effect, because if their tax burden shift amongst individuals, there would be some adverse effect to taxpayers at the end of this tax year, because they were withholding under one set of rules and it may not be sufficient withholding. It may have to become effective for next tax year. Regarding the fiscal note, we want to point out, I visited with the House Majority Leader, you will note at the bottom of the fiscal note, this is a preliminary forecast based on interest, more than anything. We have been asked to go foreward and provide that additional programming. It will take some time, more than just the five days. It will be based on a synopsis of what an average taxpayer takes as deductions, we need to do it more specific to what has been the activity, in order for us to do that, we need to take computer runs.

REP. DROVDAL Asked if they would also take a look at HB 1055 to see if we have the accurate figures there.

RICK CLAYBURGH Stated that bill is currently revenue neutral down to the individual taxpayer.

REP. DROVDAL Stated he does computer work where the computer automatically withholds the tax, in HB 1055, I wouldn't have to change a thing with the computer, it would be the exact same thing, is that correct?

RICK CLAYBURGH No, in any of these changes, we are going to change it, no matter what you do, there will be some type of adjustment.

REP. KELSH Under the provisions of this bill, do you have a ballpark figure or threshold on the high and low level where a person would realize savings or if they are paying higher taxes than before?

RICK CLAYBURGH The sheet which you all have which was put together by the Tax Department, the two comparisons under 37 S and then HB 1399, we just went in and picked an arbitrary taxpayer, we picked a couple, married and two children and tried to figure what their tax would be in North Dakota, and a single person with no dependents. You can see, that it would probably, roughly, be about forty five thousand dollars for a married couple filing jointly, where it would be that point, where it would not affect them negatively or positively. Probably more in the range of seventy nine thousand dollars where it would affect them. It changes just a little bit, it is a rough ballpark.

REP. RENNERFELDT Wouldn't it be easier to allow a trigger with the fourteen percent, wouldn't it be easier to understand in their business and their life?

RICK CLAYBURGH It depends, we have to know what the change is going to be and what that trigger is going to be, I certainly appreciate the comments Rep. Carlson made, if the feds change the rate, that the Tax Department would make the determination what would be revenue neutral. There are some policy discussions in that, what is revenue neutral. There would have to be guidelines as to what we would do. I am not interested in being the one who is perceived to raise the tax rate. I learned very quickly from Rep. Strinden, that you are the policy making branch of government.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-19-01, TAPE #1, SIDE A, METER #2189

REP. CARLSON Explained the similarities between HB 1055 and HB 1399. Both deal with the percentage based off the taxable income off the federal form. 37 S Tax, is basically, HB 1055. The rates in HB 1055 match exactly what you pay now on federal tax. HB 1399 is the flat tax. Up to one hundred and ten thousand dollars, you pay 2.7%. Over that amount, you pay 3.7%. If you look at HB 1055, a single person, up to twenty seven thousand, you pay 2.10%, twenty seven thousand to sixty five thousand, you pay 3.92%, it is a progressive tax. It mirrors the federal government on how they do taxation.

Committee members brought up the fact, what would happen if Congress cuts taxes, there could be the possibility we would have to have a special session. They also felt they would have to go with a plan that the people of North Dakota would understand and accept.

REP. HERBEL Made a motion to adopt amendment #10529.0302

REP. CLARK Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. HERBEL Made a motion to adopt amendment #2 relating to the 2.7% & 3.7% rates

REP. CLARK Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. NICHOLAS Made a motion for a **DO PASS AS AMENDED.**

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

8 YES 7 NO 0 ABSENT

REP. GROSZ Was given the floor assignment.

FISCAL NOTE

Requested by Legislative Council
04/26/2001

Bill/Resolution No.:

Amendment to: Engrossed HB 1399

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

If enacted, Engrossed HB 1399 with Conference Committee amendments is approximately revenue neutral.

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.*

   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.*

HB 1399 is expected to increase the administrative expenses for the Tax Commissioner's Office which is being addressed by the Conference Committee on HB 1006 (Tax Commissioner's appropriation).

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Kathryn L. Strombeck	**Agency:** Tax Department

Phone Number: 328-3402 Date Prepared: 04/26/2001

FISCAL NOTE

Requested by Legislative Council
04/06/2001

Bill/Resolution No.:

Amendment to: Engrossed HB 1399

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	Gen al Fund	Other Funds
Revenues						
Expenditures			$912,000			
Appropriations			$912,000			

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1399 with Senate amendments changes the starting point for the "short form" individual income tax computation from federal tax liability to federal taxable income. The bill allows for a series of adjustments to taxable income, continues existing tax credits, creates a new tax credit, and imposes two tax rates. All of these provisions are expected to be revenue neutral. However, this is a significant change in how the state imposes the income tax, thereby creating a margin of error of (plus or minus) two to five percent or more.

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.*

   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.*

The Tax Department will incur administrative expenses of $912,000 to implement the provisions of HB 1399.

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the* *executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

An increase in the Tax Department's appropriation of $912,000 for the 01-03 biennium will be necessary to implement the provisions of HB 1399.

Name:	Kathryn L. Strombeck	**Agency:**	Tax Department
Phone Number:	701.328.3402	**Date Prepared:**	04/09/2001

FISCAL NOTE

Requested by Legislative Council

03/12/2001

REVISION

Bill/Resolution No.:

Amendment to: HB 1399

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$472,000			
Appropriations			$472,000			

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1399 First Engrossment changes the tax structure for short-form filers to a two-rate system based on Federal adjusted gross and taxable income in place of adjusted federal tax liability. Preliminary estimates indicate these rates will generate approximately the same revenue as the current short-form. However, additional programming will be needed to examine the fiscal impact of HB 1399 First Engrossment in more detail.

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.*

   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.*

The Tax Department estimates additional operating expenses totaling $472,000 for the 01-03 biennium would be incurred.

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the* *executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	**Agency:**	Tax Department
Phone Number:	328-3402	**Date Prepared:**	03/12/2001

FISCAL NOTE

Requested by Legislative Council
02/21/2001

Bill/Resolution No.:

Amendment to: HB 1399

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1399 First Engrossment changes the tax structure for short-form filers to a two-rate system based on Federal adjusted gross and taxable income in place of adjusted federal tax liability. Preliminary estimates indicate these rates will generate approximately the same revenue as the current short-form. However, additional programming will be needed to examine the fiscal impact of HB 1399 First Engrossment in more detail. Additionally, there will be some administrative expenses associated with this new structure in an amount not yet determined.

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.*

   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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	**Agency:**	Tax Department
Phone Number:	328-3402	**Date Prepared:**	02/22/2001

FISCAL NOTE

Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1399

Amendment to:

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$900,000			
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1399 changes the tax structure for short-form filers to a flat 3% tax on federal taxable income, with a state deduction of $8000 for married joint filers and a $4000 deduction for all other taxpayers.

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.*

Preliminary estimates show HB 1399 would increase state general fund revenues by $900,000 or two-tenths of one percent of the total biennial forecast of individual income tax collections. Although close to revenue neutral overall, the provisions of the bill would cause some shifts in liabilities among taxpayers. Generally, low and high income taxpayers may benefit under the provisions of HB 1399. Middle income taxpayers may see their liabilities increase under this bill.

Note: This is a preliminary estimate. The tax department will need to do some more extensive programming to determine the effects of HB 1399 in more detail. If this bill is enacted, there would be some administrative expenses, the amount of which is not yet determined.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	**Agency:**	Tax Department
Phone Number:	328-3402	**Date Prepared:**	01/29/2001

Date: 2-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1399

House **FINANCE & TAXATION** Committee

☐ Subcommittee on ____________________
or
☐ Conference Committee

Legislative Council Amendment Number ____________________

Action Taken Do Pass as amends

Motion Made By Rep. Nicholas Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR		✓	RENNER, DENNIS		✓
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL		✓
CLARK, BYRON	✓		SCHMIDT, ARLO		✓
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY		✓
KELSH, SCOT		✓			
KROEBER, JOE		✓			
LLOYD, EDWARD	✓				

Total (Yes) 8 No 7

Absent 0

Floor Assignment Rep. Grosz

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

REPORT OF STANDING COMMITTEE

HB 1399: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 17, after "federal" insert "adjusted gross income and a federal"

Page 1, line 21, replace "three" with "two and seven-tenths"

Page 1, line 22, after "year" insert "if the individual's, estate's, or trust's federal adjusted gross income that is taxable to this state for the taxable year is less than fifty-five thousand dollars, or less than one hundred ten thousand dollars for a husband and wife filing a joint state income tax return. This tax is three and seven-tenths percent of the individual's, estate's, or trust's adjusted federal taxable income that is taxable to this state for the taxable year if the individual's, estate's, or trust's federal adjusted gross income that is taxable to this state for the taxable year is fifty-five thousand dollars or more, or one hundred ten thousand dollars or more for a husband and wife filing a joint state income tax return"

Page 2, line 7, remove "Eight thousand dollars for a husband and wife filing a joint state income tax"

Page 2, remove line 8

Page 2, line 9, remove "b."

Page 2, line 12, remove the overstrike over "~~b.~~" and remove "c."

Page 2, line 18, remove the overstrike over "~~c.~~" and remove "d."

Page 5, after line 23, insert:

"10. A taxpayer filing a return under this section is entitled to a credit of up to one hundred twenty dollars, or two hundred forty dollars for a husband and wife filing a joint state income tax return, based on payments by the taxpayer during the taxable year of any of the following:

a. Twenty percent of property taxes paid on property in this state which includes the primary residence occupied by the taxpayer during the taxable year.

b. Ten percent of rent paid by the taxpayer for residential property in this state occupied by the taxpayer as a primary residence during the taxable year.

c. Twenty percent of mobile home tax paid under chapter 57-55 and lot rent paid in this state by the taxpayer for a mobile home occupied by the taxpayer as a primary residence during the taxable year."

Renumber accordingly

2001 SENATE FINANCE AND TAXATION

HB 1399

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1399

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date 3/12/01

Tape Number	Side A	Side B	Meter #
1	x		26.2-end
		x	0-19.2
3/13/01 - 2	x		3.5-11.6
3/19/01 - 2	x		4-51.5
3/21/01 - 1	x		10-end
		x	0-17.2
3/26/01 - 1	x		0-43.2
3/27/01 - 1	x		9.3-36.5
3/28/01 - 1	x		0-end
		x	0-27.4
3/29/01 - 1	x		0-42.7
3/30/01 - 1	x		0-end
		x	0-1.6
4/2/01 - 1	x		0-end
		x	0-35

Committee Clerk Signature

Minutes:

Senator Urlacher: Opened the hearing on HB 1399, relating to determination of income tax liability on the short-form state income tax return.

Senator Nichols was absent from the hearing.

Representative Al Carlson: Prime sponsor, testified in support. Provides handout and chart and explains them. Last session, Senator Nelson and I were the prime sponsors of what would now be HB 1055, the decoupling bill, which passed the Senate and failed in the House. Several times that idea has failed. Both of the bills create revenue neutrality for the year 2000. I think it's a great idea to give the taxpayers of ND a tax break, but I have not seen one person who has shown any willingness to decrease our spending accordingly. 1055 is taking what you paid last year and you'll pay the same this year. 1399 says that up to $55,000 if you're single, or $110,000 if you're married, your tax rate will be 2.7%. If you're over that, the rate goes to 3.7%. The chart explains it. Three exemptions - property taxes, rent, and mobile home taxes - require residency in the state. This was not designed to be class warfare or redistribution of wealth, this was designed to be fair. We designed it to be revenue neutral.

Senator Gary Nelson: Co-sponsored the bill, testified in support. I think the differences we're facing this year as compared to the last two sessions when Representative Carlson and I introduced this legislation. What we had really introduced is the other bill that you hear(1055). The concept of decoupling was really the main portion of our concern. I'm not as concerned with the idea that we're going to lose money on a federal tax decrease as I am that North Dakota should be in charge of it's own future and in charge of it's own revenue stream. If we're going to increase or decrease revenues to the state through income tax, that we are able to do it without being incumbered by the federal government. I think the attitude has changed this year. The House has already passed two decoupling bills, which shows they are agreeing with the concept. I believe we're making a step in the direction of fairness and allowing our taxpayers to have a relatively simple forms that they're not going to have to hire additional help to make out their income tax.

Representative Kim Koppelman: Co-sponsored the bill, testified in support. Written testimony attached.

Senator Stenehjem: (towards Carlson) Where did you come up with the $120?

Representative Al Carlson: In the original bill, we had a $4,000 deduction and an $8,000 deduction that would come off the taxable income. If you relate that into a percentage, that's $120 and $240 which is the 3% of both of those.

Senator Stenehjem: Where did you come up with the $4,000 and $8,000? Those were arbitrary numbers because it was an attempt to help those on the lower income side of the scale. There's another concern-we've had a tremendous amount of deductions and exemptions moving from the long-form to the short-form.

Rick Clayburgh: State Tax Commissioner. There is a revised fiscal note. There are some technical issues that need to be addressed.

Senator Christmann: Have you looked at the graph?

Rick Clayburgh: I have just seen it. It is very similar go a graph that we put together for the House. I think it's pretty close as far as the what the differences would be.

Representative Lonny Winrich: Testified in opposition. I am not opposed to decoupling, I believe the proper way to decouple is 1055. Provides written testimony and handout (both attached). The chart you have, I believe is wrong, Rep.Gross computed his examples and the bases of taxable income. In the bill, the rate is based on adjusted gross income, not on taxable income. That's a different line on the federal 1040 form. 1399 would create inequities. A person who makes one dollar more than another, can pay $1,000 more in taxes because of the flat rate structure in 1399. This system is not simpler than the current system, it's identical. I urge a Do Pass on 1055, and a Do Not Pass on 1399.

Rick Clayburgh: There is some problem with the chart that Representative Carlson handed out. He's starting with federal adjusted gross income. This doesn't look quite right.

Senator Christmann: Did he start with the wrong number or wrong line?

Rick Clayburgh: It looks as if he's not putting his calculation where he got down to federal taxable income. If you look at Rep. Winrich's, it's dollars apart from ours.

Paul Wohnoutka: Eide Bailly LLP., testified in opposition because of the calculation of the tax. A person who makes one dollar more can have $1,000 additional tax. That is the part we're in opposition to.

Senator Stenehjem: Couldn't I give to a church or something to get rid of that dollar?

Paul Wohnoutka: That is possible, most people don't know what their taxable income or adjusted gross income is until after the end of the year and then it's too late.

Senator Stenehjem: Are there instances where as after the first of January, you can make a donation or something so that I could adjust my income for the previous year?

Paul Wohnoutka: In some cases, that is possible. For the majority of the people are limited as far as doing that.

Senator Christmann: If we adjusted the break, which bill would you prefer if that was fixed?

Paul Wohnoutka: If the riff in 1399 was eliminated, I really don't have a preference one way or the other.

Senator Wardner: Do read this as locking at the percentage and then you take your standard deductions and exemptions, which would be less possibly but it's locked income because of the gross income?

Paul Wohnoutka: That is correct. The rate is locked in.

Senator Wardner: So then you couldn't give to the church because that comes after the adjusted gross income.

Paul Wohnoutka: That's correct.

Tax Department hands out their chart.

Senator Christmann: Does the line with the 1399, is that what the net tax would be after the $240 exemption?

Joe Becker: State Tax Dept. I'm assuming that was factored in. (After figuring the calculation-it does reflect the credit).

Senator Christmann: Is everything here based on the fact that the bill should say taxable income or is this based on this being right.

Joe Becker: That's a good question because the testimony has not made it clear. The trigger for the tax rate in the bill as drafted is your adjusted gross income. Then once you find out which rate you are at, then we apply that to your federal taxable income. The bill is OK as drafted.

Senator Christmann: The trigger is going from the 2.7% to 3.7%?

Joe Becker: That's correct.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held 3/13/01. Meter number 3.5-11.6, Tape 2, Side A.

Senator Christmann: I have gotten some more information but I would like some more time to look at it.

Senator Stenehjem: I did find out that you have until April 15th to put money into an IRA and effect your adjusted gross income for the previous year.

Rick Clayburgh: Before you act on either bill, there is some technical cleanup that needs to be made in either bill. We could sit down with the committee and explain.

Discussion held 3/19/01. Meter number 4-51.5.

Reference was also made to HB 1055 throughout the discussion.

Donnita Wald: State Tax Dept., provided handouts and proposed amendment numbered 10529.tax2 and explained them.

Senator Stenehjem: Where would we use Section 3?

Donnita Wald: If the Feds audit somebody.

Senator Stenehjem: What if the Feds just put a Roth IRA as a deduction and then change the adjusted growth. Is that a reportable event?

Donnita Wald: Yes. This is just on returns that have already been filed.

Senator Stenehjem: Are both bills based on the same numbers?

Donnita Wald: No. 1055 starts with Federal taxable income.

Senator Stenehjem: Series of questions for Joe Becker.

Senator Christmann: Would it have any impact if we changed instead of going to a higher rate at $55,000 adjusted gross income, if it went up at a $47,800 Federal taxable income?

Joe Becker: You could have the same Federal taxable income numbers but the AGI of one is under the $55,000 cutoff but the other one is above because of itemized deductions or exemptions. They ultimately end up paying different taxes to the state just simply because of their AGI numbers.

Senator Christmann: Is one any a better determining line factor than the other? There's real confusion there.

Rick Clayburgh: I don't think that would be a problem. If you adjusted some of the technical sides out of both bills, you basically have the same bill. And then you can change it to what you want from there. I think that's the real philosophical debate in all of this, deciding what are the rates and everything else can be worked out.

Senator Christmann: Explains what his idea was, gave some numbers to the Tax Dept. to run. Apply 2.8% on the first $50,000 for singles, $100,000 for couples, and apply 5% to everything after that. And limiting the tax credit on property taxes a little bit. That would eliminate the sudden line, it would be a steady increase, and no one would be affected as dramatically.

Senator Wardner: Thinks we should concentrate on 1055. Can 1055's brackets be put into a table, and in what increments?

Rick Clayburgh: Yes it can.

Joe Becker: We would follow the Federal brackets, just multiply them by 14%. It's a $50 range.

Senator Wardner: 1055 would keep the amount taxpayers pay and state revenue pretty much the same. I think going to the table would be simple. I think we're spending too much time on 1399.

Rick Clayburgh: The way 1055 is currently is written, it is more cumbersome to the taxpayers than 1399. In 1055, there's 5 different items in which a taxpayers going to have go to a schedule and come up with a calculation, where there's only one on 1399.

Senator Wardner: I didn't realize there was so much other stuff in 1055. I think we should decide which plan we are going to do and then dig into it and get it cleaned up.

Rick Clayburgh: We can hammer out the details either here or in conference committee. I think the bottom line really is the rate, after that we can provide all the information to get it done.

Senator Stenehjem: What's happening with the Feds?

Rick Clayburgh: They're changing the brackets. They're going to take it down to 4 brackets.

Senator Stenehjem: Then if we really want to do something that's revenue neutral, we should take their brackets, multiply them by 14% and that's what we use.

Rick Clayburgh: That's what 1055 does.

Senator Stenehjem: I think that's as neutral as you can be. In 1399, there will be a tax shift.

Senator Wardner: Joe said that are some more adjustments beside that table that have to be made.

Rick Clayburgh: Without those adjustments, we will have a very complex short form.

Senator Nichols: Do you have some figures on what the changes might be if we don't decouple?

Rick Clayburgh: No we really don't. We don't know the final details from the President's tax plan.

Senator Christmann: I prefer to wait and see how the numbers look from the Tax Dept. I think we all agree that don't want the sudden line, my proposal fixes that and some other things. I think that when we look at those numbers, that would be the time to decide if we want to go with that kind of a plan or go with a plan based on the old 5 brackets.

Senator Wardner: I'm ready to dig into 1399, look at what Senator Christmann has, and work at it from there.

Committee decides to wait for numbers.

Discussion held on 1055 meter number 52.7-end, Side A, 0-13.2, Side B.

Discussion held on both bills 3/21/01. Meter number 10-end, Side A & 0-17.2, Side B.

Joe Becker: Handed out more charts and explained them.

Senator Kroeplin: Would like to see more than two rates to make it more smooth. Would like another chart to show that.

Senator Christmann: The question is do we want to do the five brackets like we used to have or make it smooth in 1399.

Senator Stenehjem: Number of questions on the chart for Joe.

Rick Clayburgh: Explained more on the charts and rates.

Senator Christmann: Number of questions for Rick.

Discussion on property tax credit.

Donnita Wald: Clarified what numbers the committee wants to run.

Discussion held on both bills 3/26/01. Meter number 0-43.2. Senator Nichols was absent.

Senator Christmann: Gave another chart, with 2.8% for the bottom one and 4.8% on the top one, and explained it. This cuts out the little humps that are caused by our current structure which is based on the Federal rates, this levels them out. For single people, it doesn't come out quite as nicely but I have a solution for that. Explained that the property tax credit the same for singles and couples.

Senator Wardner: Then would you propose that we make $250 for everybody?

Senator Christmann: My proposal would be to make it the same. I don't know what the exact number will be.

Senator Kroeplin: 1399 still doesn't address capital gains or income averaging.

Senator Christmann: I think Joe and Donnita are working on it. I recommended they work on capital gains, income averaging would be the next step. The rest are pretty small.

Discussion on capital gains and a way to make it revenue neutral. Meter number 11.5-24.

Senator Wardner: I think we should get rid of 1055 and concentrate on 1399.

Senator Kroeplin: Is there any way we can write in a trigger of some sort to raise the percentage of what we're doing now to stay revenue neutral and study this for the interim. I think there's a certain amount of uncertainty, even with the Tax Dept.

Senator Christmann: I'm not sure that we can do that constitutionally.

Senator Kroeplin: Will look into it.

Discussion on keeping 1055 alive or killing it. Meter number 30.6-34.8.

Committee killed HB 1055 with a 4-2 vote.

Discussion followed about fiscal impact.

Discussion held 3/27/01. Meter number 9.3-36.5

Senator Christmann: Reported to the committee about his meeting with the Tax Dept. Long term capital gains is most significant in changing. Tax Dept. is working on how to fix it. They also talked about income averaging. Meter number 9.3-12.6.

Senator Urlacher: Capital gains affect about 75% of the people that my accountant works with. Income tax averaging effects very few people. On the lump some distribution, it's very low. So the emphasis is on capital gains.

Senator Kroeplin: I think where they use the income averaging is for someone who gets forced out of farming and they've had losses and they have a sale. What's the Tax Dept.'s margin of error on doing these charts? If they miss by one percent it's a 1.9 million dollar swing. Still working with John Walstad on figuring out putting a trigger affect in.

Discussion on trigger effect, using the Foundation Aide, the Federal tax cut, and public acceptance. Meter number 17-25.2.

Senator Stenehjem: It is an idea to put the trigger on the decoupler. Come up with the best idea of decoupling and if the income changes on the Federal level, that would trigger this bill in. That's only a thought.

Senator Christmann: At what point do we determine that the Feds have done something? Federal law is so complex that we don't know for years down the line what it actually did. We're going to have be very detailed in what we expect to have happen in order to set up a trigger. I don't know what you'd set it on, there's a lot of factors.

Discussion on the property tax credit. Meter number 25.5-36.5.

The Tax Dept. is still working on a way to fix it. They feel it would be easier to deduct the credit from taxable income before applying the percentage.

Discussion held 3/28/01. Meter number 0-end, Side A & 0-27.4, Side B.

Senator Kroeplin: Introduced amendment numbered 10529.0401 and explained it. The amendment would keep the current system of state income tax and if the Federal gov't changes the income tax legislation, there would be a new calculation done for our state income tax.

Discussion on the amendment and when decoupling should take place. Meter number 3.9-13.7.

Joe Becker: Gave out another chart with the 2.8% on the low end and 4.8% on the high end, and explained it.

Kathy Strombeck: State Tax Dept., gave handout on an example of the effect of capital gains, and explained it.

Number of questions from the committee.

Rick Clayburgh: Also explained a few things.

Joe Becker: Gave handout of items built into the Federal income tax liability that are not accounted for in this bill, and explained that he had talked to an accountant about these items and received input from him. Meter number 45.8-end, Side A & 0-6.3, Side B.

Discussion followed on those items, plus municipal interest, and how they would fit into the tax forms.

Discussion held 3/29/01. Meter number 0-42.7.

Donnita Wald: Provides proposed amendment and goes through it. This amendment includes the ones previously proposed.

Rod Backman: Appeared to address those items(that Joe talked about) that could be accounted for.

Discussion on the property tax credit and public perception.

Discussion held 3/30/01. Meter number 0-end, Side A & 0-1 6, Side B.

Donnita Wald: Handed out new draft of the amendment and went through the changes.

In this amendment, everybody is getting the tax credit, not just those paying property tax.

Senator Christmann would like to keep it based on property tax.

Rick Clayburgh: Pointed out that there are administrative problems with that. Discussion on that.

Senator Christmann: Would like the committee to look at three things: The tax credit be based on property tax and rent paid, that amount should be equal for married couples and singles, and maybe getting this set up so it shows a few million dollar revenue surplus at the beginning and then building into the bill that before the biennium ends the excess money be sent out as a tax refund. This would prevent from the danger of a slowdown or having a potential big increase. It would allow us to get through this initial transition.

Rick Clayburgh: Points out that there may be some constitutional problems with refunds.

Committee agrees to look into the first two issues that Senator Christmann pointed out.

Discussion held 4/2/01. Meter number 0-end, Side A & 0-35, Side B.

Discussion on property tax exemption. Donnita Wald, Kathy Strombeck, and Rick Clayburgh appeared. Donnita brought another amendment limiting the exemption to $150 for singles and couples. Discussion over what it should be, what it should be called, and the complications. Also discussion over auditing.

Discussion held later. Donnita Wald brought more amendments and explained them. Joe Becker provided more charts and Kathy Strombeck gave another handout. Discussion held on amendments.

AMENDMENT ACTION:

Motion by Senator Wardner, Seconded by Senator Christmann, to move amendment(unnumbered, labeled Wardner's proposal). Roll call vote taken. Vote was 5 yeas, 0 nays, 1 absent and not voting. Amendment adopted.

Motion made by Senator Kroeplin, Seconded by Senator Nichols, to move amendment numbered 10529.0401. Roll call vote taken. Vote was 2 yeas, 4 nays, 0 absent and not voting. Motion failed.

COMMITTEE ACTION:

Motion made by Senator Wardner for a DO PASS AS AMENDED, Seconded by Senator Christmann. Vote was 4 yeas, 2 nays, 0 absent and not voting. Bill carrier was Senator Christmann.

10529.0401
Title.

Prepared by the Legislative Council staff for
Senator Kroeplin
March 28, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to adjustment of individual, estate, and trust income tax rates contingent upon estimated reductions in state tax revenues as a result of federal legislation; to provide for a legislative council study; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Individual, estate, and trust income tax rate adjustment.

1. If federal income tax legislation becomes effective for taxable year 2001 or 2002, or both, the tax commissioner shall determine the calculated effect of that legislation on state individual income tax revenues for the relevant taxable year or years. If the calculated effect is that there will be a shortfall of two million dollars or more for the taxable year, individual income tax rates in sections 57-38-29 and 57-38-30.3 are adjusted as provided in subsection 2.

2. Upon determination of a shortfall for a taxable year under this section, the individual income tax rate in section 57-38-30.3 is adjusted for that taxable year by an increase in percentage points as determined in this subsection. Applicable increases are determined as follows:

   a. If the shortfall is two million dollars or more but less than six million dollars, one-fourth of one percentage point.

   b. If the shortfall is six million dollars or more but less than ten million dollars, one-half of one percentage point.

   c. If the shortfall is ten million dollars or more but less than fourteen million dollars, three-fourths of one percentage point.

   d. If the shortfall is fourteen million dollars or more but less than eighteen million dollars, one percentage point.

   e. If the shortfall is eighteen million dollars or more but less than twenty-two million dollars, one and one-fourth percentage points.

   f. If the shortfall is twenty-two million dollars or more but less than twenty-six million dollars, one and one-half percentage points.

   g. If the shortfall is twenty-six million dollars or more but less than thirty million dollars, one and three-fourths percentage points.

   h. If the shortfall is thirty million dollars or more, two percentage points.

3. Upon an increase in the individual income tax rate in section 57-38-30.3 determined under subsection 2, the tax commissioner shall determine the percentage increase in that rate and apply that percentage increase to

provide a proportionate increase of each rate under section 57-38-29 for the taxable year.

4. The tax commissioner shall advise the budget section of the legislative council at the earliest opportunity of the calculated effect and shortfall, if any, determined under this section.

5. For purposes of this section:

   a. "Anticipated individual income tax revenues" means estimated state individual income tax revenues for taxable year 2001 or 2002 under this chapter as estimated in the most recent official forecast available to the legislative assembly at the close of the 2001 regular legislative session.

   b. "Calculated effect" means estimated state individual income tax revenues for taxable year 2001 or 2002 under this chapter as estimated by the tax commissioner after consideration of the impact of federal income tax legislation that has become effective for taxable year 2001 or 2002, or both.

   c. "Federal income tax legislation" means changes to the Internal Revenue Code enacted after April 1, 2001, which become effective for taxable year 2001 or 2002, or both, and which are expected to reduce federal income tax liability of individuals, estates, and trusts.

   d. "Shortfall" means the reduction in state individual income tax revenues for the taxable year as determined by subtracting the calculated effect from the anticipated individual income tax revenues for that taxable year.

   e. "State individual income tax" means income taxes imposed upon individuals, estates, and trusts under this chapter.

SECTION 2. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying the state income tax, with emphasis on examination of the feasibility and desirability of decoupling the state income tax from the federal income tax. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-eighth legislative assembly.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective for the first two taxable years beginning after December 31, 2000, and is thereafter ineffective."

Renumber accordingly

10529.0402
Title.0500

Adopted by the Finance and Taxation Committee
April 2, 2001

JB
4-3-1
1 of 4

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, replace "section" with "sections" and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state", and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married individuals filing a joint return is computed at the following rates:

(1) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent"

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

2 of 4

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of 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.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and political subdivisions exempt from federal income tax, except that interest upon obligations of the state of North Dakota or any of its political subdivisions may not be included.

f. 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 receives the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state."

Page 4, line 21, after the overstruck period insert "Each adjustment in subsection 3, except subdivision h, may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

3.14

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

"11. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars or one hundred fifteen dollars for married individuals filing separate state income tax returns. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

a. Paid property taxes under chapter 57-02 on property in this state;

b. Leased and paid rent for real property in this state; or

c. Paid mobile home tax under chapter 57-55 and lot rent for a mobile home in this state.

12. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001, reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

13. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year must be equal to the sum of the following:

(1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 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. 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.

4.44

b. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

14. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2 if the amounts of the computed tax are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresidential individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly.

Date: 4/2/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1399

Senate Finance and Taxation Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Move amendment (Wardner's Proposal)

Motion Made By Wardner   Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem					
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment

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

Date: 4/2/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1399

enate Finance and Taxation Committee

☐ Subcommittee on ______

or

☐ Conference Committee

egislative Council Amendment Number 10529.0401

Action Taken Move Amendment

Motion Made By Kroeplin Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman		✓			
Senator Wardner-Vice Chairman		✓			
Senator Christmann		✓			
Senator Stenehjem		✓			
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 2 No 4

Absent 0

Floor Assignment ______

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

Date: 4/2/01

Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1399

Senate Finance and Taxation Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS AS AS AMENDED

Motion Made By Wardner Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin		✓			
Senator Nichols		✓			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Christmann

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

REPORT OF STANDING COMMITTEE

HB 1399, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

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Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

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Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married individuals filing a joint return is computed at the following rates:

(1) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent"

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of 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.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and political subdivisions exempt from federal income tax, except that interest upon obligations of the state of North Dakota or any of its political subdivisions may not be included.

f. 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 receives the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state."

Page 4, line 21, after the overstruck period insert "Each adjustment in subsection 3, except subdivision h, may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

"11. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars or one hundred fifteen dollars for married individuals filing separate state income tax returns. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

a. Paid property taxes under chapter 57-02 on property in this state;

b. Leased and paid rent for real property in this state; or

c. Paid mobile home tax under chapter 57-55 and lot rent for a mobile home in this state.

12. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001, reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

13. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year must be equal to the sum of the following:

(1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

14. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2 if the amounts of the computed tax are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresidential individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly.

2001 HOUSE FINANCE AND TAXATION

CONFERENCE COMMITTEE

HB 1399

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1399 Conf.

House Finance and Taxation Committee

☒ Conference Committee

Hearing Date April 13, 2001

Tape Number	Side A	Side B	Meter #
1	X		50
Committee Clerk Signature Janice Stein			

Minutes:

REP. AL CARLSON, CHAIRMAN Called the conference committee meeting to order.

He asked Sen. Christmann to explain the rationale behind the Senate amendments.

SEN. CHRISTMANN Explained the house version of the bill and how it came to the Senate and then explained how and why they amended the bill. They changed the rates with the Senate amendments from 2.7 to 2.8% and then 3.7% on the higher end to 4.9%. The low rate stays in effect for the lower rate even when they will eventually get to the higher rate.

He went on to explain every section of the bill.

He talked about the many phone calls, and e-mail he received since working on this bill. He felt it is mostly misunderstandings of the people who are calling.

RICK CLAYBURGH, STATE TAX COMMISSIONER, Gave an additional explanation of the handout which the Tax Department submitted, which gave a comparison of tax liability under current law with Engrossed HB 1399 and as amended by the Senate. Mr. Clayburgh stated he did not want the taxpayers to depend too much on these charts, because these are just assumptions of a particular taxpayer.

REP. CARLSON Stated there were considerable changes from when the bill left the House. There were two bills sent to the Senate which were HB 1055 and HB 1399, this is a work in progress, it has gone from a three percent flat tax to a two tiered tax with a credit built into it, plus dealing with all of the other issues. There are many different variables to this bill. He stated the intent of this bill is not to raise more money, but to keep the revenue stream constant. We need to fully understand the reason for bringing in the capital gains, the income averaging, the one-time distribution of retirement benefits, and the taxing of bonds from out of state and what effect they have

REP. GROSZ Asked questions relating to the last five subsections of the bill.

SEN. CHRISTMANN Answered all of the questions.

REP. CARLSON Asked Donnita Wald of the Tax Department if she could add anything to what had been said. She said NO.

RICK CLAYBURGH Added a few more comments.

SEN. CHRISTMANN Commented that we have a tax break that encourages people from our state to buy bonds in another state, that needs to be changed to close that loop hole and keep the money here.

REP. CARLSON Asked someone from the Tax Department if this would only be bonds that aren't in that category.

DONNITA WALD Answered, she stated you can't tax North Dakota bonds, and that stays the same in this language.

REP. CARLSON Asked, how many states that have an income tax, are taxing bonds from other states?

DONNITA WALD Stated there are two that don't and that is Utah and Indiana. There are others who do tax out of state bonds, in some manner.

REP. GROSZ Asked whether this would create administrative problems.

JOSEPH BECKER Referred to the work sheet which was submitted, he stated they would be working with a work sheet fairly close to the one handed out.

REP. SCHMIDT Related to someone who has a home in Texas and a home in North Dakota, he stated, under this bill, he would call Texas his residence.

JOSEPH BECKER He stated he wasn't sure of all of the ramifications which come in to play in his situation, but one thing that comes to mind, is, that Texas has no income tax.

REP. SCHMIDT Asked how many states have capital gains tax.

JOSEPH BECKER Stated he had not canvassed them.

REP. CARLSON Stated there was one area in the bill which he still had a concern about and that was dealing with the credit of two hundred and thirty dollars and the fact that it is the same for both married and single.

REP. SCHMIDT Stated he had an amendment to the bill.

REP. CARLSON Stated he should bring his amendment to the next meeting.

SEN. CHRISTMANN Stated he had a recommendation from a collegue regarding use taxes, in purchases on the internet. He thought there should probably be a line in the tax form for that.

SEN. WARDNER Stated, another side to this issue besides neutrality, is simplicity to the tax form.

With no other comments, the meeting was adjourned until next week.

CONFERENCE COMMITTEE 4-16-01, TAPE #1, SIDE A, METER 0

REP. CARLSON Called the meeting to order with all members present.

He opened by stating that most of his e-mail, messages, calls came regarding taxing of out of state bonds. He also stated he still had a concern regarding the credit. the built in credit of two hundred and thirty dollars.

He asked Donnita Wald when the taxing would go into effect?

DONNITA WALD, ATTORNEY, STATE TAX DEPARTMENT, Stated it would go back to 2001.

REP. CARLSON Asked whether that number was taken into effect when the rates were built?

DONNITA WALD Stated yes, it would be 1.6 million dollars.

REP. CARLSON Asked for a list of the variables annually.

Capital Gains would be 2.7% negative,

Income averaging for farmers was undeterminable,

Deduction for Income from Pass Through Entities Subject to North Dakota Financial Institutions

Tax = Revenue neutral, it would be what people have now.

Distribution of Retirement Benefits = Undeterminable

Deduction for Income of a Non Resident who is not taxable in North Dakota = Neutral

Credit for prior year minimum tax = is minus but hard to determinable,

Municipal Bonds = 1.6 million dollars

SEN. CHRISTMANN Commented that it needed to be clarified, that the capital gains were a minus 2.7%, even if we passed this bill and didn't address capital gains. We are actually giving up that amount under the current system too.

He also stated, that from his own observation, from the messages he was getting, we perhaps, need to phase the taxation on the bonds in. He felt it is basically, a loop hole that we are closing. He stated he didn't know enough about sales and purchases of bonds to know how much time these people need to liquidate or invest in something else if they want to do that.

REP. CARLSON Asked the people from the Tax Department, how many states charge an income tax right now?

DONNITA WALD Answered - 42 states charge an income tax.

REP. CARLSON Asked how many tax bonds which are not in there state?

RICK CLAYBURGH, STATE TAX COMMISSIONER Answered by saying that 42 states plus the District of Columbia, there are four states that have a special treatment for out-of-state municipal interest, they are North Dakota, D. C., Indiana and Utah. In North Dakota, we only provide the exemption on the short form.

REP. CARLSON In other words, it is standard procedure for most all states that have an income tax, to tax bonds from other states.

SEN. WARDNER Commented that if we leave a phase in, some of the people will move out of this, they will go into something else, I don't know what effect that will have. In talking to the tax people in Dickinson, most of them thought that two years was a fair time to phase this in. I don't know if that will be a problem for us. They all felt they needed time to adjust, they stated when the federal government changed their taxing system, they always give people some time to react and adjust to the rate changes.

SEN. CHRISTMANN Commented that probably for 2001, they would remain tax free, but then we would have to lower the tax credit a little to make that up, and then the next year, if they were at fifty percent, we could phase the tax credit back up, something to gain that 1.6 million the first year. I don't think we want to abandon the idea of having a tax incentive.

REP. CARLSON TO JOSEPH BECKER We are basically talking about the interest payment on the bonds. There must be a lot of interest generated to get 1.6 million dollars of revenue. What rate would that be taxed at?

JOSEPH BECKER, STATE TAX DEPARTMENT Answered, stating it would be taxed as ordinary income. The bill will require that to be added in to the North Dakota taxable rate.

RICK CLAYBURG Intervened, stating that 1.6 million dollar number was an estimate based on the original tax system, the 14% of the federal liability.

REP. CARLSON Asked each committee member what their consensus was regarding the taxing of the bonds.

All committee members felt that it should be phased in so people have time to liquidate or whatever they need to do.

He asked that the Tax Department draft charts showing what the effect would be if we don't tax bonds in 2001, and with only 50% taxed in 2002, and then the full tax in 2003. He also asked that they look what we would have to change the credit to.

RICK CLAYBURGH Stated that a ten dollar change would result in $625,000 annually. One tenth in the low rate would result in 2.8 million dollars annually.

SEN. CHRISTMANN Asked what would happen if a lot of people liquidate?

RICK CLAYBURGH Stated he was not certain, he stated he would check with some brokers if they thought a lot of people would sell their bonds.

SEN. NICHOLS Commented that a lot of people will just probably balance their investments, and it will probably not be a big factor whether they continue with their bonds.

REP. CARLSON Submitted handouts to committee members which showed a single taxpayer with no dependents and a two percent rate on the first ten thousand dollars, the credits are gone, and the two hundred and thirty dollars is not in this equation, then the chart shows 2.6% on the next thirty thousand, and then 4.8% over forty thousand.

On married individuals, it shows two dependents, then married individuals without dependents, it goes 2% on the first twenty, and 2.6% on the next sixty thousand, and 4.8% over eighty thousand.

DONNITA WALD Stated these numbers provided the same income as they did with the credit.

REP. CARLSON Asked that the committee members study the charts to see what it does without the credit, and then balancing it with the different rates. Maybe we should have the same tax credit for all individuals.

He wanted committee members to study the charts and possibly plan to come back tomorrow to make a decision on the bill.

SEN. NICHOLS Asked what the cost of decoupling will be.

RICK CLAYBURGH Addressed that, stating that they have two proposals in front of appropriations right now. One proposal is about $470,000, which is taking the new decoupling tax program and laying it into the existing mainframe system, in that is also included printing costs, which we have not budgeted for. We will be adding about fifteen more pages to the form. The $912,000 number is what we layed out to do a rewrite of our present system. We do have an antiquated system from the mainframe standpoint. All of the work we do for you to put fiscal notes together, has to be run against the mainframe. We want to provide more of a server based system, in that, if you call us and ask for something, Kathy Strombeck can get the date right on her PC at her desk. It makes us more efficient. If we are going to rewrite this system, why not do it now. The existing program is twenty years old.

SEN. NICHOLS Stated, you talked about fifteen pages, how many does a taxpayer actually use?

RICK CLAYBURGH The twelve to fifteen pages is the rate pages. They will look for their rate and go to a table.

REP. SCHMIDT Asked if they approve this, will the Tax Department be ready?

RICK CLAYBURGH He stated they will have to be up and running.

REP. CARLSON Adjourned the meeting, with a possible meeting again tomorrow.

CONFERENCE COMMITTEE 4-18-01, TAPE #1, SIDE A, METER # 25

REP. CARLSON Stated they would look at a few options today, and if anyone had any additional proposals or amendments they can be submitted, so action can be taken tomorrow.

FRED SCHMIDT, BROKER Gave information in regard to municipal bonds. He voiced a concern he and his clients have is the availability of bonds for sale in North Dakota. He stated that most municipal bond buyers like triple A rated, insured bonds. We don't have those. They look for different maturity and different yield, and bonds which are not subject to AMT (alternative minimum tax). We can only build so many Alerus Centers, Fargo Domes, university buildings, schools, hospitals, those are the attractive bonds. Explained that the City of Bismarck issued bonds for Horizon Middle School, a thirteen or fourteen million dollar deal, a citizen of North Dakota did not have an opportunity to buy it, because it was bought by Harris Trust out of Chicago or New York. Many of the bonds in North Dakota are so attractive to out of state investors, that they are bought up, and we can't even make them available to the individual investor. The issue is, in a perfect world, if you could assure us that there would be available bonds that North Dakotans could invest in, that would be our choice, but they aren't here.

SEN. CHRISTMANN If North Dakota bonds were a tax advantage, would you pay a lower interest rate on them?

FRED SCHMIDT Supply and demand, would suggest that that would happen, but I would also suggest that there would be fewer bonds available, or no bonds. There have been times in my career when we have had no bonds. The only way to get tax exempt bonds is probably to invest with the fund and pay the fund management fee, to get the bonds. It would drive rates down.

SEN. CHRISTMANN Does it ever occur to us that we are paying too much interest, if the market is that tight?

FRED SCHMIDT They are done on a national basis, you are competing nationally, not locally.

REP. CARLSON How can we stop those bonds from getting bought up, for example on that school, by an out of state bond company, weren't you guys allowed to bid on it?

FRED SCHMIDT We were allowed to bid, but because they are instiutional, their expenses are less. Recognize, that on retail the cost is higher, because you are dealing with smaller increments, five, ten, twenty thousand dollars worth of bonds. If you do a fourteen million dollar deal, in one deal, it is a lot less expensive.

REP. CARLSON TO DONNITA WALD, Asked if the tax department had prepared amendments?

DONNITA WALD She stated she was under the impression, that committee members would study the charts they prepared before amendments would be drafted.

SEN. WARDNER Stated in visiting with more brokers and income tax people, this is starting to cloud the issue with our decoupling. The first objective is to decouple and protect the revenues the state of North Dakota is already receiving. The person that testified brings in another issue. He stated he did not have a problem with grandfathering the people in, who have municipal bonds. He felt the decoupling will create a problem with these people.

REP. CARLSON Agreed, saying most of his e-mail and messages have been regarding the bonds.

SEN. WARDNER Stated, if we end up 1.6 million dollars less, that is fine with him, we will just have to dig and scratch and claw to figure out our budget for next time. I think what has been put together here is pretty close to being right. I think we should probably tax them, because the other states are.

SEN. NICHOLS He thought grandfathering in those who already have purchased bonds, so they don't have to pay a tax on something, that when they went into the agreement, they did not have to be taxed. From the standpoint of all of those other states, that do tax, we should also do that. He felt it should be effective for all of those who bought bonds before the bill goes into effect.

SEN. WARDNER Suggested the tax take effect, January 1, 2002.

SEN. CHRISTMANN Why is it harder in two or three years, when someone is doing their income taxes, for them to show that they bought that bond in 2002 not 2001, then it is to show that they bought it in July of 2001, not June of 2001. It seems to me what we are setting up here, is going to be kind of a rush on these. That would encourage North Dakota people to swerve their assets out of state.

RICK CLAYBURGH, STATE TAX COMMISSIONER Intervened stating, there is an administrative issue on how you handle these. We are different in North Dakota then the IRS. When you purchase an investment, you have a capital gain which you report on your taxes. The broker you deal with, sends a 1099 to the IRS, and they can track and compare your investments. In North Dakota, we don't have audit capabilities at the individual level.

Committee members felt if people knew when the effective date was, they would act accordingly.

REP. CARLSON Agreed, that they were clouding the issue of decoupling with the same thing that clouded it last time, and that was the bonds.

SEN. CHRISTMANN Wanted Mr. Schmidt to explain what his idea was regarding an average length of bonds, would they be in effect for eight or ten years, or will they be gone.

FRED SCHMIDT He stated, a number of those out of state bonds would be called over the next ten years. The yields are higher then rates today, so many of those institutions will refinance. I suspect you will see quite a turn-over in the bonds over the next ten years. I already have bonds that are advanced refunded to the year, 2007.

SEN. CHRISTMANN Asked what an average return was

FRED SCHMIDT Bonds that they might be holding now, many of those have an interest rate of 63/4%. I just had a bond that matured, a University of North Dakota bond, at 10 1/4%, most of them are in the 6 - 7% range. Today, if you want to invest out of state, you will probably get 5 1/8%, in North Dakota, you will get 4.7%. He also commented, he didn't think there would be a rush to buy bonds, no matter what the effective date. Municipal bond investors invest based on liquitity.

Committee members worked up a schedule as to what an investor would make with today's rates making $80,000. They came up with only twenty eight dollars difference, in the current tax rate, versus decoupling.

RICK CLAYBURGH Presented an amendment #10529.tax5 for the committee's approval. The amendment deals with how we would address out of state taxpayers.

JOSEPH BECKER, STATE TAX DEPARTMENT Explained what the amendments did. He explained what current state law did in regard to non residents.

REP. CARLSON Asked whether we would still be tied to the federal liability?

JOSEPH BECKER No.

SEN. CHRISTMANN Reminded the committee that a line should be added for use taxes.

RICK CLAYBURGH Submitted three more amendments from the tax department for some legislators who are making suggestions. He wanted the committee members to review them before action on the bill. One of the amendments was the rate structure regarding Rep. Maragos' bill, it does not have the same complexity, it just lays on top of this bill. The second amendment is a trigger mechanism, that was considered in the Senate, but also has a study to it. And one amendment is purely a study resolution that a committee of eight would be appointed, six members of the legislature and two members appointed by the Governor. It would review the tax change this year and make a recommendation either in a special session or the next regular session of the legislature. It does not decouple at this point. About eight million dollars would be left on the table for fiscal year 2000, and too, if the President's tax package is retroactive. One of the potential benefits of that approach, is that we are talking about a significant change, and whatever you do in decoupling, the tax department, basically, has three to four months to make all of the changes, where if something is done later in the year, we would have close to ten months to make the changes.

__REP. CARLSON__ Stated committee members should think about what was discussed so the committee could be ready for action tomorrow.

The meeting was adjourned.

CONFERENCE COMMITTEE 4-19-01, TAPE #1, SIDE A, METER #34

__REP. AL CARLSON__ called the meeting to order with all committee members present. He stated he wanted to address the taxing of out of state bonds, which Donnita Wald has an amendment for, making the short form our standard form and the default form being the long form, right now it is reversed. When anybody gets information from our state, they get information on the long form. I believe another committee is addressing this, but it is more germaine to this bill then an economic bill. Another thing is to address the topic of an amendment which was brought to us yesterday, about adding a line onto the tax form for voluntary submission of the use tax, and then, we will resolve the last issues of the bill in terms of brackets and credits, or adjust it to a three level.

DONNITA WALD, ATTORNEY FOR THE STATE TAX DEPARTMENT, Addressed the amendments which she had drafted. She added language which would state on the long form that it was now an option for computing taxes, and for the short form stated that was the simplified form of computing taxes.

SEN. CHRISTMANN Asked why should we do this, what good does it do?

REP. CARLSON answered, that basically, when any rates are published across the country, they publish rates based upon our long form instead of the short form. Most of our taxpayers use the short form.

SEN. CHRISTMANN Most publications I have ever seen show us at a fourteen percent rate.

REP. CARLSON This is a clean up of our language, ninety seven percent of our citizens use the short form, so why aren't we using that as our form and the long form as our default form.

JOHN WALSTAD Intervened stating that we didn't have to put this in this bill because it is already in another bill, they will merge it in publication.

REP. CARLSON The final recommendation from you is

JOHN WALSTAD I don't know what the chances of success of the amendment in SB 2033 is, but if it is in there, it doesn't have to be in both places.

SEN. CHRISTMANN Presented an amendment from Sen. Cook which would add a line to the tax form to allow them to pay use tax. He asked the people from the tax department if there is a problem with administration regarding this. Also, he wondered if there was any problem with a taxpayer who wants to use this, and buys something on the internet in January, but doesn't pay their use tax until April, is that a problem?

KATHY STROMBECK, STATE TAX DEPARTMENT Answered stating there was no problem with that.

DONNITA WALD Questioned whether this was just individuals, or corporations, etc. Committee members stated the intent was just for individuals.

SEN. CHRISTMANN Made a motion to have one line to claim use tax.

REP. WARDNER Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. CARLSON Asked committee members to review a summary sheet regarding the engrossed bill, page 3, line 7, which relates to out of state bonds.

SEN. CHRISTMANN Stated he preferred to grandfather in the existing bonds, meaning that they go into effect on the date this bill goes into effect. Stated he felt it was good to close this loop hole, but didn't feel comfortable with punishing people who played by the rules and bought these bonds in good faith, my hope is to grandfather in the existing bond holders. He preferred July 1, to be the effective date.

REP. SCHMIDT Asked what if someone has a long term bond for twenty years, will that be grandfathered in for twenty years?

REP. CARLSON Yes, if they were purchased before the effective date of the bill, will be exempt from North Dakota tax. He asked the tax department if there would be any problems with the mechanics of this amendment.

JOSEPH BECKER Stated it wouldn't effect the issue either way, it would be a compliance issue. Their instructions will have to tell them which bonds we are looking for, which were purchased after some date.

DONNITA WALD Was concerned with the date of purchase for the taxpayer, we are unaware if all companies let the taxpayers know the dates.

SEN. WARDNER Asked if we set back the date to the tax year, 2002, would that take care of that?

DONNITA WALD They may still have some bonds purchased before that date.

ROD BACKMAN, OFFICE OF MANAGEMENT AND BUDGET Commented, stating where you would have a problem is people who buy bonds in mutual funds, at the end of the year they will get a 1099, they give them the information as to what state the bonds come from, but they don't tell you of that four percent that comes from North Dakota, how many were before or after that date.

REP. CARLSON Stated he was having trouble with these issues because they were clouding up the reason we did the bill.

SEN. CHRISTMANN Asked if one of those municipal bonds would have sixty to seventy percent into these types of bonds, or would that just be a small part of the mutual fund?

ROD BACKMAN That is a good point, most of them will have a small percentage of North Dakota bonds. It won't impact anyone taxpayer that much.

REP. CARLSON Questioned whether we are creating a bookkeeping nightmare.

JOSEPH BECKER Stated that from the tax department's end, that was not a real concern. The concern will lie with the taxpayer. From past experience with U S obligations, when we asked for that kind of breakdown, we have gotten complaints from taxpayers, sometimes they have to run to their broker or their fiduciary in an estate of trust, and ask them for their records, and they are not very happy with that.

KATHY STROMBECK Agreed with Joe Becker, that it wouldn't be as difficult for the tax department as it would be for the taxpayer getting the data back, and yet, it happens in every other state.

REP. CARLSON 39 other states are doing it, they have some methodology to pick that up.

SEN. NICHOLS That was my comment, when 40 other states are doing it, we would not be doing anything different other then grandfathering in the one part.

REP. CARLSON If we delay it until tax year, December 31, 2001, and everything in the next tax year is taxed, they have all of this year and you have this year to deal with how you are going to handle it.

SEN. WARDNER Stated he also like starting with the beginning of the tax year, that would simplify one part of it anyway.

SEN. WARDNER Made a motion to implement the date as of January 1, 2002.

SEN. NICHOLS Second the motion. **MOTION CARRIED.** 6 YES 0 NO

FRED SCHMIDT, PIPER, JAFFREY Commented that when bonds are set or priced, when they come out on the initial offering, they are priced nationally.

Committee members discussed different rates for married and single and the tax credits. Discussion was held if everyone owning a home received this credit. Donnita Wald stated there would be wage earners such as children living at home, ministers and teachers who rent homes or live in homes paid by their employers, farm homes, would not receive the credit. Donnita questioned, what is the goal, if it is for the low end wage earner then you probably would not give it to all taxpayers, but then it could be an unconstitutional factor.

REP. CARLSON Asked whether there was a way to state this so it is not tied to property, but still have the twenty five percent requirement in there, so that somebody is not paying anything when he should have been paying something. The original intent of the bill was, to help assist those at the lowest level of income. Instead of establishing a rate bracket for them, we established a credit which benefited them the most.

In discussing this idea, committee members felt it should be left at $230 credit.

REP. CARLSON Asked the Tax Department staff to address how it would look if we would give the credit to everyone, prorate the non residents and make sure a wage earner isn't paying nothing. The meeting was adjourned but the committee planned to meet later in the day.

CONFERENCE COMMITTEE - LATER IN THE DAY 4-19-01, TAPE #1, SIDE B, METER #0 - 1100

REP. CARLSON Called the conference committee to order with all members present.

DONNITA WALD, STATE TAX DEPARTMENT Presented amendments which the committee had requested earlier in the day.

Page 3, line 8, is the grandfather language for the municipal bonds.

Page 6, line 26, 29, 30, 31, deals with the property tax credit. It removes the property tax qualifier, renting qualifier and leaves the credit at $230, and $115 for married individuals filing separately. It also adds some language for non residents regarding the ratio.

SEN. CHRISTMANN Asked if that was preferable from the tax department's standpoint, to have the filing separate?

DONNITA WALD We can't give you an answer to that, it really boils down to what the purpose of this credit is. We could give you a better answer if we knew what the committee's goal was.

SEN. CHRISTMANN It can be done either way?

DONNITA WALD there are a number of ways to do it. She stated, depending what you do with the property tax credit, if you leave it as it is, Sen. Christmann asked this morning, that the "and" in the mobile home and lot rent language be changed to "mobile home tax or lot rent", if the property tax credit stays the same, we need to get that "or" in there.

She also stated, that by grandfathering in the municipal obligations the way we did, there is a fiscal effect.

KATHY STROMBECK, STATE TAX DEPARTMENT Explained the fiscal effect of the 1.6 million per year, the least known number would be in the second year, they estimated it at one half of 1.6 million.

Another amendment #10529.tax5 was presented to the committee drafted by the tax department.

SEN. WARDNER Made a motion to adopt Amendment #10529.tax5 as presented.

REP. GROSZ Second the motion. **MOTION CARRIED BY VOICE VOTE.**

RICK CLAYBURGH, STATE TAX COMMISSIONER Stated it would be easier for the staff to work out the scenerio if they know what the goal is of the committee regarding the credit. He stated they need to know what the committee is doing regarding the credit and why are they doing it. They need to know that for administration purposes.

REP. CARLSON We just can't assign a credit and say we are giving a credit?

DONNITA WALD Stated, you could, I suppose. We can give you the best dollar amount, we need to know what the credit is, is it $230, or $115 for married filing single, we have the marriage penalty thing.

REP. CARLSON Stated they will set the meeting for later tomorrow and get an answer to them.

The meeting was adjourned.

CONFERENCE COMMITTEE 4-20-01, TAPE #1, SIDE A, METER #0

REP. AL CARLSON Called the conference committee meeting to order with all members present.

He reviewed the amendments which already had been adopted at prior meetings.

DONNITA WALD, STATE TAX DEPARTMENT Presented additional amendments for the committee, tax6 and .tax7. Tax6 amendment 's assuming that the property tax qualifier is removed from the bill. This clarifies that the non resident would only get a ratio of that up to $230. By adopting this, you would take the property tax portion out of the bill. Tax7, leaves the property tax qualifier in and adds another qualifier which would cover the farm hand, the minister, **and those people who don't own their own home.**

SEN. CHRISTMANN Stated that the reason the tax credit started out, it was in recognition of property taxes going up, and the burden people have who pay property taxes, however, it is not only the property tax payors, the people who are renting are also suffering because of the high rent they need to pay because landlords are charging more rent to pay the high property taxes. This tax credit is an incentive for people who work hard and pay property taxes.

SEN. CHRISTMANN Made a motion to adopt Amendment .tax7 as presented.

SEN. WARDNER Second the motion. **MOTION CARRIED BY VOICE VOTE.**

Because Amendment.tax7 was adopted, Amendment .tax6 was not needed.

REP. CARLSON Returned to Amendment .tax8, regarding the municipal bonds. He felt by extending the date to December 31, 2001, he felt it would send a message for people to reinvest in out of state bonds. He asked for the committee's ideas on changing the date in the amendment which had been adopted.

SEN. WARDNER Made a motion to reconsider the action whereby Amendment .tax8 was adopted with the December 31, 2001, effective date in it.

SEN. CHRISTMANN Second the motion. **MOTION CARRIED BY VOICE VOTE.**

Committee members discussed several different options and dates for effective dates. All committee members agreed upon the grandfather portion of the bill, whereby, those who bought municipal bonds before the effective date would be exempt.

JOSEPH BECKER, STATE TAX DEPARTMENT Was asked by the committee if it was better to have the effective date set at a quarterly basis.

He answered saying the taxpayer will probably not know what the mutual fund's makeup is, the fund probably wouldn't provide that to them, it would become an interesting compliance issue. There is no information to audit them on.

SEN. WARDNER Made a motion to change the effective date from December 31, 2001, to June 30, 2001.

SEN. CHRISTMANN Second the motion. **MOTION CARRIED BY VOICE VOTE**

RICK CLAYBURGH, STATE TAX COMMISSIONER Intervened stating there probably aren't a lot of dollars involved.

SEN. NICHOLS Presented amendment #10529.tax4, which would replace the bill with an individual income tax committee to do an analysis of a study regarding federal tax legislation. The reason he was doing this, is there is a fairly high fiscal note, and it would give the tax department time to get ready for it, and he also felt there were a lot more things involved which the committee did not see at this point.

REP. SCHMIDT Second the motion.

SEN. WARDNER Stated we need to get this thing started, it is a work in progress. He felt if there were some problems, they can be changed in the next session.

REP. CARLSON Also felt we need to move ahead. He stated it will probably not be possible to create neutrality for everyone. The reality of the feds cutting the taxes is real. I support the decoupling. He didn't think a study is appropriate right now, even though a study has merit.

REP. SCHMIDT Also felt it might be better to have a study.

MOTION TO ADOPT AMENDMENT #10529.0tax4 FAILED 2 YES 4 NO

REP. GROSZ Made a motion that the House accede to the Senate amendments and further amend with the amendments which were adopted.

SEN. CHRISTMANN Second the motion.

After discussion, Sen. Christmann suggested that all the amendments which were submitted, be drafted together by the Legislative Council so it would be easier to see what they all looked like combined.

REP. CARLSON Agreed with that suggestion and asked Rep. Grosz and Sen. Christmann to withdraw their motions, which they did. Rep. Carlson also asked the Tax Department to run some charts which included all of the adopted amendments and to draft a new fiscal note.

The committee was adjourned until Monday, April 23, 2001.

CONFERENCE COMMITTEE 4-23-01, TAPE #1, SIDE A, METER #30

REP. CARLSON Called the conference committee to order with all members present.

Adopted amendments were all drafted together from the last meeting and presented to committee members as Amendment #10529.0408.

Donnita Wald submitted a summary of how the bill would read with the amendments added.

Also submitted was a work sheet and chart showing what a married filing jointly return would be and a single filing.

REP. CARLSON Asked Kathy Strombeck what the forecast was for the biennium

KATHY STROMBECK Stated she thought it would be two hundred twenty million for fiscal year 2002, and approximately two hundred twenty four million in fiscal 2003.

REP. CHRISTMANN Asked what the forecast was if the bill was killed.

KATHY STROMBECK Stated it would be the same as it was projected on the fourteen percent income tax.

JOHN WALSTAD, ATTORNEY FOR THE LEGISLATIVE COUNCIL Explained the amendments which were prepared April 23, 2001. See copy of summary of amendments as they would look in the bill.

Mr. Walstad specifically stated, that the credit for married individuals filing a separate state income tax return is limited to one hundred fifteen dollars for each spouse, unless separate returns are required under subsection 2 of section 57-38-31, and one of those spouses is not required to file a return under this chapter.

REP. SCHMIDT Asked what the qualifications were that determined you were a non resident of North Dakota.

JOHN WALSTAD There are a number of circumstances where a non resident could live twelve months in North Dakota, the military comes to mind.

He stated the status of non resident, does not excuse income tax liability, if that person earned income in that state, it is taxable by that state. They file on a non resident status, but do have a filing obligation.

KATHY STROMBECK Gave the actual numbers of what the forecast would be, the 2002 forecast is two hundred nineteen million seventy seven thousand, for 2003 the forecast is two hundred thirty one million, three hundred seventy thousand. This is just a baseline forecast.

REP. CARLSON Again reviewed the bill with amendments attached, to make sure all committee members understood how it would read.

SEN. WARDNER Made a motion that the Senate recede from the Senate amendments and that Amendment #10529.0408 be adopted, and then **DO PASS AS AMENDED.**

SEN. GROSZ Second the motion. **MOTION CARRIED 4 YES 2 NO**

The Conference Committee meeting was adjourned.

CONFERENCE COMMITTEE 4-25-01, TAPE #1, SIDE A, METER #35

REP. CARLSON Called the conference committee to order with all members present.

HB 1399 conference report was not accepted on the House floor, and was therefore, returned to committee.

REP. CARLSON Gave six options which the committee could do to pass the bill out of committee. 1. We could send the same plan back to the floor and take our chances with that plan. 2. We could review the plan and amendments which I submitted, it was a three step plan with no credit. 3. We could address amendments for a five step plan which would continue to tie us to the way the federal has its steps established. 4. We could address amendments that deal with a trigger mechanism, leaving us coupled, and have a trigger mechanism on raises when the revenue is below a certain level. 5. We could address a study. 6. Any plans, four steps, ten steps, whatever we think we need to do to address what seems to be the biggest concern, that no one pays a nickel more than they did in the previous system.

SEN. CHRISTMANN Stated on the Senate side they looked at two different trigger mechanisms which were built into code. It was also discussed in the Senate, to turn the responsibility over to the tax commissioner to keep it revenue neutral, and have the commissioner set the rate.

REP. CARLSON Presented amendments which were prepared by the state tax commissioner's office which say that the tax commissioner and the office of management and budget shall report the calculated effect to the budget section of the legislative council. If the budget section calculates that there will be a short fall by two million dollars or more for the taxable year, the individual income tax will be adjusted as provided in section two. Then it goes in increments of two million, six million, ten million, etc., it basically, increases in increments of four million dollars of a short fall, and the rates could range from fourteen percent up to about sixteen percent, with a thirty million dollar short fall. He asked the committee to address the recommendation by which the bill was passed out of committee for the two step plan with a credit in there. He stated the legislators on the House side brought up numerous items in the conference committee report, they didn't settle on any one comment. His personal opinion was, that if the bill is taken back to the floor the way it is, they will probably pass the conference committee report but kill the bill.

SEN. CHRISTMANN Suggested they discuss all of the options he mentioned.

REP. CARLSON Reviewed a handout which showed three rates which were, 2.0% for the first twenty thousand, 2.6% on twenty thousand to eighty thousand if you were married and 4.8% over eighty thousand. If you were single, it was 2.0% on the first ten thousand, 2.6% on ten to forty thousand and 4.9% over forty thousand. When you looked at the numbers there, there were just as many bumps in that system as there were in the two step with the credit.

SEN. WARDNER Stated his perception is, if there were too many bumps in the one we sent up, there will be too many bumps in the three step one also. A lot of the objection was that some individuals would pay more, but some would pay a little less.

REP. CARLSON Went back to the original intent of the bill, he stated, his original intent was when he introduced the flat tax with the three percent. With our small population state, the tax should be simple, fair and easy to administer. The flat tax had a lot of bumps, because when you started at 2.01% or whatever and the federal ended up with 5.54%, then all of a sudden, your line is at 3%, it might be a fair tax because everyone pays the same amount, but we found out in a hurry we couldn't get that out of committee.

SEN. CHRISTMANN Stated the flat tax left worse bumps, because the people that would pay more were the single folks in the seventies in the three hundred thousand range and married folks in the one hundred fifty to three hundred thousand range. If there was that level of concern that those folks don't pay more, there will sure be a larger amount of concern over some people only making twenty five to thirty thousand paying more. I don't see this to be a formula that has even as good a chance as the other one.

REP. CARLSON Stated, what has been frustrating to him is, he never liked the five step system. We try to break away from, what I think, is a regressive tax system, then everybody judges the merit of this system because it is different.

SEN. WARDNER Commented on the trigger option. He stated he didn't like leaving the raising of rates in the hands of someone else, that is the legislator's job. We will be held responsible for that, so I do have a concern about it being on a trigger. Through all of this, people will say, if you raise my taxes, and that will be a tax increase for everybody, you will hear from me. I didn't think there were that many people who felt that strongly about it, but believe me, there are. They want all kinds of services, but they do not want their income taxes or any tax increase.

REP. CARLSON Agreed with Sen. Wardner. If we want to relinquish the authority, then we should introduce a bill that says, if the Governor sees a shortfall revenue, he should raise the taxes, or the tax commissioner sees it, he should raise the taxes, but for us to just divest ourselves of that, then take it to the budget section, which is not the full assembly, to approve a tax increase, I wouldn't put my name on anything with a trigger on it. I voted on the gas tax, but that is a different deal.

REP. GROSZ Another problem with a trigger happening, is in small businesses, they already have started the year with withholding, what breaks do they use?

REP. CARLSON You will probably be short.

REP. GROSZ Then a lot of employees will be mad because they will owe at the end of the year.

RICK CLAYBURGH Intervened stating an income tax trigger is different then the gas tax trigger. Gave a history of what happened over the past twenty years.

REP. CARLSON Gave his perspective of promises made to protect the revenue, and now we are wondering if we should protect the revenue, now we know willfully, there may be a tax cut on the horizon, spent the money and have not addressed the issue of the revenue source. I suppose we can harvest the bank some more, or we can broadbase cut. We really need to address the core issue here, do we or do we not, want to protect the revenue stream that we have projected in the budgets that we passed on the floor of the House and the Senate. I didn't see a lot of NO votes that slowed the spending down. We passed those budgets 96 to 2.

SEN. WARDNER To our constituents out there, they think we are raising the taxes, we would have to do a good job of educating, the money is the same, the percentages are different. Stated he also had a problem with the legislature handing over their responsibilities to an executive branch.

SEN. CHRISTMANN No matter what we do, everyone will not pay the same as they did in the old plan, to be revenue neutral in the state. The federal government is not talking about lowering the percentage rate. You hear all kinds of amounts that they are cutting. They are talking about several things for the marriage penalty. Some of us will benefit, some of us don't. We can't do anything that will be exactly neutral for every person in the state. If we are going to try to come up with something that affects nobody, we will never do anything creative in this legislature. He felt we are finding a couple of people who will pay more, then we throw the whole thing out.

REP. CARLSON Agreed with everything he said.

SEN. NICHOLS He agreed there is no way we will make everyone neutral, regarding the five step plan, how many changes would have to be made to take into account everything we had in the bill.

DONNITA WALD, STATE TAX DEPARTMENT Presented amendments with a five step plan. She stated everything was the same except the rate structure and took out the municipal bonds.

REP. CARLSON Asked why the municipal bonds were taken out.

DONNITA WALD Stated the commissioner made her do it...

RICK CLAYBURGH Stated they were confused as to the discussion which was on the House floor yesterday, regarding the bill, so they threw a few ideas together harboring on the revenue neutral, by pulling out the municipal bonds, it maintained a revenue neutral bill.

Committee members had several questions regarding the amendments as presented.

REP. SCHMIDT Felt the bill should be turned into a study.

JOHN WALSTAD, ATTORNEY FOR THE LEGISLATIVE COUNCIL

Commented on some of the questions which arose. He stated the reason this exists, is that Congress got a lot of criticism for sitting back and taking extra revenue from taxpayers and incomes rose, what happened is, you don't just jump across a line into a higher bracket, that extra two percent earnings you have each year is taxed at the highest rate, wherever you are in the current rate structure. Congress, as a concession to taxpayers, created this indexing system. The IRS does not just pick a number and adjust these rates. It is set by law how that factor is determined based on consumer price changes and so on. In drafting this, what I was told to do was, just get us out from under the federal rate system, get us back to taxable income. Then, set up a bracket system, basically, fourteen percent of whatever those federal brackets are. In doing that, that is the numbers you see here, that is the fourteen percent, but to keep us on keel of what is happening on the federal level, I added this inflation thing that Congress has in it. So if in one year, we change the brackets the way the federal brackets do, so we stay even with the federal government.

REP. CARLSON There is still the argument, that if you have a rate, it is a rate. If the income level goes up, you are still paying 2.1%. I am assuming that if you do a five step, if you make thirty eight thousand, five hundred dollars, this is your tax. It would be one percent on the first twenty seven thousand and everything over that would be 3.92%, I would imagine you will have a table, or are you going to let them calculate it.

RICK CLAYBURGH Stated they will have tables.

REP. CARLSON There is no extra work for you?

RICK CLAYBURGH There will be a little more labor on our part, but not for the taxpayer.

SEN. WARDNER Stated he was against the study. He stated we need to protect the revenues. He stated he was a little frustrated with the whole thing. He felt we need to decouple. When we went into this, we said we don't want any state revenue and don't want any decreases. We want to protect the current stream and keep it simple. We do have demands, right now we have a conference going on in educational funding. If we study, and the cuts do come down, it is not if, it is when they come down and how much. It will happen before the two years is over, we are going to come up with a shortfall, and we will be in big trouble. We cannot be studying. This reminds me of the teacher's retirement fund, which we deal with every year that I am in the legislature. Every session, we are reminded of the bailout in 1978, the legislature didn't take care of the input, but kept increasing the output. That is why we are where we are right now. A study, to me, is out of the question.

REP. CARLSON Stated he agreed with Sen. Wardner.

After more discussion, the committee agreed to come back later in the day with the idea they would pass the bill out of committee someway. He asked the tax department people if they could determine how difficult it will be for the normal North Dakotan to do his taxes.

Meeting was adjourned until later in the day.

CONFERENCE COMMITTEE LATER IN THE DAY 4-25-01, TAPE #1, SIDE B, METER #0 - 4800

REP. CARLSON Called the meeting to order with all members present.

DONNITA WALD, STATE TAX DEPARTMENT Submitted amendment #10529.tx10 which the committee had requested earlier in the day. She stated the only thing that changed from the amendments this morning, is the grandfathering in of the out-of-state municipal bonds on page 3, subdivision e. The second thing that was done, was to take the language out relating to the use tax line. And, the third thing discussed this morning was the indexing in doing something that does not trigger out what the feds do. We are still working on that language, we have to set up our own time tables and time lines, that would be page 2, subdivision h.

REP. CARLSON Asked a question relating to subchapter S corporations, will this affect anybody besides individuals.

JOSEPH BECKER, STATE TAX DEPARTMENT Answered stating the adjustment is in the law now, relating to financial institutions. We won't double tax them, and we won't allow double losses, it is not a concern on their part.

SEN. CHRISTMANN Related to rates on page 1 and 2, is that all in HB 1055, or have they been altered to accommodate the changes in capital gains and that type of thing.

DONNITA WALD They already have been accounted for in HB 1055.

SEN. CHRISTMANN What about the ten year retirement thing, is that accounted for in here?

DONNITA WALD Yes, this amendment has in it, the Senate amendments, except the property tax. It is revenue neutral.

REP. CARLSON Asked Donnita Wald if all items on the list were covered.

DONNITA WALD Stated yes, to all items which he read off of the tax list.

SEN. CHRISTMANN Asked a theoretical question, if the federal tax cut, what ever amount they come up with, one of the things they always talk about is a more dramatic cut in capital gains, then the regular income rate, if two percent is cut, then if this is revenue neutral, aren't the people who do not pay capital gains cumulatively, pay two percent more?

RICK CLAYBURGH Stated that is a little theoretical, at this point, the president's tax package does not address long term capital gains. It addresses marriage penalty rates, per child tax credit and estate tax.

SEN. CHRISTMANN You could use the same thing for a child tax credit, if this is neutral, and whatever percentage you want to throw in comes off for people who have children, doesn't that mean we have a tax increase for everyone who doesn't have children?

RICK CLAYBURGH The per child tax credit is an issue we currently pick up on our federal form after we pick up our state tax. Any adjustment in the per child tax credit, does not have any affect. We don't pick it up at all in North Dakota. The only issue in the federal adjustment that is currently being discussed in Washington, are rate adjustments, what level we don't know and the reduction of marriage penalty.

REP. CARLSON Anything you mention would be applied to either system.

RICK CLAYBURGH That is correct.

SEN. CHRISTMANN Stated he didn't think we need to add the provision on the municipal bonds at this time.

KATHY STROMBECK, STATE TAX DEPARTMENT Submitted information which addressed the simplicity of the five rate system. See attached copy of the explanation.

REP. CARLSON Asked how many people file electronically.

RICK CLAYBURGH Stated today, 50,016 people filed electronically.

Gave an explanation as to how easy it is to file electronically. He stated if individual taxpayers file under the same assumption next year as they did this year, the individual will virtually see no change.

SEN. NICHOLS Asked if the transition costs would be the same for this as what we talked about earlier?

REP. CARLSON Stated there were different numbers, we get a different number from the ITD, then we get from the Tax Department.

RICK CLAYBURGH Stated there was confusion, because when they first sat down with the Senate committee they talked about two proposals. One proposal was a bandaid approach which was putting a new system on top of the old system, within the next two bienniums, that estimate was $300,000, the other rewrite system was $700,000. The bandaid cost for the biennium was 462,000, the rewrite was $912,000. But, we weren't anticipating decoupling, that wasn't part of our game plan.

Expansion of printing of the booklets, postage, post cards, will be extra costs.

SEN. NICHOLS Typically, if this transition were to take place, would that budget go through yours or the technology department?

RICK CLAYBURGH To my understanding, it will be put in our budget.

REP. GROSZ directed a question to **REP. WINRICH** relating to the floor debate yesterday. Would these amendments alleviate the questions you had.

REP. WINRICH Stated, in his opinion, this was as close as we would get to being revenue neutral by decoupling.

RICK CLAYBURGH Wanted to thank the committee and publicly thank his staff for the work they did on this bill. He stated they will be utilizing all of their resources to have this system up and working by August. It will take a lot of effort to be running by next tax season.

REP. CARLSON Stated, when you talk 220 million dollars of the taxpayers money, that is not a little issue, that is a big issue.

SEN. CHRISTMANN Stated those sentiments to the tax department, don't just come from the commissioner, stated he was speaking for the whole committee.

REP. CARLSON Stated it was our responsibility to get the facts, but we only get the facts when we ask somebody else for the facts. We appreciate your help, you guys have done a good job for us. You have been very direct and straightforward and honest with your answers. That is really important to us, because we rely on what you give us. I felt really good about any information I got, even if I didn't like what I saw.

SEN. CHRISTMANN Made a motion to remove Section e, page 3, which relates to the municipal bonds.

SEN. NICHOLS Second the motion.

During discussion, Sen. Wardner felt it was fair thing to have them in, but after thinking about it some more, I really think it is important that we decouple, the municipal issue really did not have a hearing, even though I feel they should probably be in there, I will support the motion so that we have one less piece of deadweight on the bill.

SEN. NICHOLS Agreed with Sen. Wardner.

ROLL CALL VOTE WAS TAKEN WITH 6 YES 0 NO

MOTION CARRIED.

REP. CARLSON Asked if everyone understood the indexing which was built in. Mr. Clayburgh gave an interesting piece of information that Ronald Reagan put that in the tax laws some years back, to address that very thing, that people weren't, by making more money, automatically taking more money home, because it sometimes put them into another tax bracket. He asked Donnita W.ald if there was a regional index that could be used, because sometimes it is different for the national.

SEN. CHRISTMANN Stated this may be another thing they would be attacked for not studying enough.

RICK CLAYBURGH Stated it was in existing law already.

JOSEPH BECKER Stated for everyone's information, when the bill was originally drafted, the 2001 federal rates that were used to draft these rates, we used the ones that we knew about at the time, but since then, we have learned there were a couple of brackets that moved by about twenty five or fifty dollars. Do you want us to correct that>

Committee members agreed that it should be corrected.

REP. SCHMIDT Asked whether he could go home and explain to his constituents that they will pay fourteen percent of the federal regardless what the federal does.

RICK CLAYBURGH Stated you can tell your constituents that their tax liability for North Dakota will virtually be the same next year, based on all things being equal.

SEN. WARDNER Made a motion that the Senate recede from the Senate amendments and adopting amendment #10529.tx10.

SEN. NICHOLS Second the motion. **MOTION CARRIED 4 YES 2 NO**

After discussion and voting, committee members felt that they wanted to see the adopted amendment in its finished form before the bill was passed to the House floor.

The committee will meet again Thursday morning. The meeting was adjourned.

CONFERENCE COMMITTEE 4-26-01, TAPE #1, SIDE A, METER # 0

REP. CARLSON Called the conference committee meeting to order with all members present. The committee meeting was called only to review the finished product of the amendments.

JOHN WALSTAD, ATTORNEY FOR THE LEGISLATIVE COUNCIL Gave an explanation of the amendments on the items the committee had adopted in yesterday's meeting. He stated some of the dollar amounts changed slightly from yesterday's meeting.

REP. CARLSON Presented index numbers which Joe Becker, State Tax Department, had submitted to him.

JOHN WALSTAD Stated that if you look at Job Services' Website, they have all kinds of indexes for all kinds of stuff, very specific, or fairly general.

JOHN WALSTAD Also mentioned that the IRS has recently done some tweaking in the income brackets that you see, he explained the slight changes which occurred. He also stated that the out-of-state municipal bond issue is now out of the bill.

SEN. CHRISTMANN Asked what number would be used in publications telling people what our tax rate was.

REP. CARLSON Stated most every state publishes a range, unless they have a flat tax.

RICK CLAYBURGH, I[illegible] coupling did not occur, we would have been reporting a fourteen percent liability with an asterisk, which we would then publish the effective rate of 2.1% to 5.54%, with the asterisk saying this is calculated by taking fourteen percent of your federal liability. With HB 1399 now, the effective rate and the actual rate are the same, we will be reporting 2.1% to 5.54% with no asterisk. In the commerce bill, we will be reporting the short form. Our optional return will be the long form.

All committee members approved the amendments as presented and the vote from yesterday's conference committee meeting (April 25, 2001) remained. The meeting was adjourned.

adopted

Date: 4-17

Roll Call Vote # 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House ______________________________ Committee

☐ Subcommittee on ______________________________

or

☒ Conference Committee

Legislative Council Amendment Number ~~an amendment~~ Do Pass

Action Taken Jan 1 2003 implement date - Grandfather in former [illegible]

Motion Made By ______________ Seconded By ______________

Representatives	Yes	No	SENATORS	Yes	No
REP. CARLSON	✓		SEN. WARDNER	✓	
REP. GROSZ	✓		SEN. CHRISTMANN	✓	
REP. SCHMIDT	✓		SEN. NICHOLS	✓	

Total (Yes) 6 No ______________

Absent ______________________________

Floor Assignment ______________________________

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

Date: 4-23-01
Roll Call Vote # 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1399

House ______________________ Committee

☐ Subcommittee on ______________________
or
☒ Conference Committee

Legislative Council Amendment Number 10529.0408

Action Taken Do Pass as amended

Motion Made By Sen. Wardner Seconded By Rep. Grosz

Representatives	Yes	No	SENATORS	Yes	No
REP. CARLSON	✓		SEN. WARDNER	✓	
REP. GROSZ	✓		SEN. CHRISTMANN	✓	
REP. SCHMIDT		✓	SEN. NICHOLS		✓

Total (Yes) 4 No 2

Absent 0

Floor Assignment ______________________

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

REPORT OF CONFERENCE COMMITTEE

HB 1399, as engrossed: Your conference committee (Sens. Wardner, Christmann, Nichols and Reps. Carlson, Grosz, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1365-1368, adopt amendments as follows, and place HB 1399 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1365-1368 of the House Journal and pages 1182-1185 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 57-38-31 of the North Dakota Century Code, relating to space on income tax returns to report and remit use taxes;", replace "section" with "sections", and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state", and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married individuals filing a joint return is computed at the following rates:

(1) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.

c. For a nonresident individual, estate or trust, the tax determined under subdivision a or b, whichever applies, must be multiplied by a fraction in which:

(1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources, increased by the addition in subdivision e of subsection 3; and

(2) The denominator is the individual's federal adjusted gross income from all sources, increased by the addition in subdivision e of subsection 3, and reduced by the net income from the amounts specified in subdivisions a and b of subsection 3"

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "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"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of 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.

e. Increased by the amount of any income exempt from federal income tax which consists of interest and dividends from foreign securities or interest from securities of states and political subdivisions that are purchased after June 30,2001, except that interest upon obligations of the state of North Dakota or any of its political subdivisions may not be included.

f. 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 receives the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3."

Page 4, line 21, after the overstruck period insert "Each adjustment in subsection 3, except under subdivision h, may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

"11. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars for any return filed under this section. The credit for married individuals filing separate state income tax returns is limited to one hundred fifteen dollars for each spouse, unless separate returns are required under subsection 2 of section 57-38-31 and one of the spouses is not required to file a return under this chapter. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

a. Paid property taxes under chapter 57-02 on property in this state;

b. Leased and paid rent for real property in this state;

c. Paid mobile home tax under chapter 57-55 or lot rent for a mobile home in this state; or

d. Occupied housing in this state as a primary residence, which was provided by the taxpayer's employer as part of the employment relationship.

12. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before

January 1, 2001, reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit under this subsection is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability under this section for the taxable year. For a nonresident taxpayer, the credit determined under this subsection must be multiplied by the percentage that the nonresident taxpayer's North Dakota adjusted gross income is of the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

13. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 for the taxable year must be equal to the sum of the following:

(1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 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. 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 [26 U.S.C. 1301].

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.

14. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 2, if the amounts of the tax tables are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. A new subsection to section 57-38-31 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner shall include on each individual income tax return a space for reporting use taxes on purchases by the taxpayer from out-of-state retailers during the taxable year. The commissioner shall include in the instructions with individual income tax returns instructions for reporting, computing, and remitting use tax liability under chapter 57-40.2.

The commissioner shall keep separate records of use tax collections under this section and those collections must be allocated as provided in chapter 57-39.2. The provisions of chapter 57-39.2 govern the administration of this subsection.

SECTION 3. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresidential individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 4. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly

Engrossed HB 1399 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) HB 1399 (, as (re)engrossed):

Your Conference Committee

For the Senate:	For the House:
SEN. WARDNER	REP. CARLSON
SEN. CHRISTMANN	REP. GROSZ
SEN. NICHOLS	REP. SCHMIDT

☐ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) 723/724 725/726 S724/H726 S723/H725 the (Senate/House) amendments on (SJ/HJ) page(s) ____ - ____

☐ and place ________ on the Seventh order.

727

☒ , adopt (~~further~~) amendments as follows, and place ________ on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged and a new committee be appointed. 690/515

((Re)Engrossed) ________ was placed on the Seventh order of business on the calendar.

DATE: 4/23/01

CARRIER: ____________

LC NO. ________ . ______ of amendment

LC NO. ________ . ______ of engrossment

Emergency clause added or deleted ____

Statement of purpose of amendment ____

(1) LC (2) LC (3) DESK (4) COMM.

Date: 4/25/01
Roll Call Vote # 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House ______________________________ Committee

☐ Subcommittee on ______________________________
or
☒ Conference Committee

Legislative Council Amendment Number ______________________________

Action Taken Take out Sec a pg 3

Motion Made By Sen Christmann Seconded By Sen Nichols

Representatives	Yes	No	SENATORS	Yes	No
REP. CARLSON	✓		SEN. WARDNER	✓	
REP. GROSZ	✓		SEN. CHRISTMANN	✓	
REP. SCHMIDT	✓		SEN. NICHOLS	✓	

Total (Yes) 6 No 0

Absent ______________________________

Floor Assignment ______________________________

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

Date: 4-25-01
Roll Call Vote # 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1399

House F + T Committee

☐ Subcommittee on
or
☒ Conference Committee

Legislative Council Amendment Number 10529. TX10

Action Taken Do pass as amended

Motion Made By Rep. Seconded By Rep.

Representatives	Yes	No	SENATORS	Yes	No
REP. CARLSON	✓		SEN. WARDNER	✓	
REP. GROSZ		✓	SEN. CHRISTMANN		✓
REP. SCHMIDT	✓		SEN. NICHOLS	✓	

Total (Yes) 4 No 2

Absent 0

Floor Assignment

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

REPORT OF CONFERENCE COMMITTEE

HB 1399, as engrossed: Your conference committee (Sens. Wardner, Christmann, Nichols and Reps. Carlson, Grosz, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1365-1368, adopt amendments as follows, and place HB 1399 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1365-1368 of the House Journal and pages 1182-1185 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state", and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with "The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection. For a nonresident individual, estate, or trust, the tax is equal to the tax determined in accordance with the applicable schedule in subdivisions a through e multiplied by the fraction under subdivision f.

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

If North Dakota taxable income is:	The tax is equal to:
Not over $27,050	2.10%
Over $27,050 but not over $65,550	$568.05 plus 3.92% of amount over $27,050
Over $65,550 but not over $136,750	$2,077.25 plus 4.34% of amount over $65,550
Over $136,750 but not over $297,350	$5,167.33 plus 5.04% of amount over $136,750
Over $297,350	$13,261.57 plus 5.54% of amount over $297,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over $45,200	2.10%
Over $45,200 but not over $109,250	$949.20 plus 3.92% of amount over $45,200
Over $109,250 but not over $166,500	$3,459.96 plus 4.34% of amount over $109,250
Over $166,500 but not over $297,350	$5,944.61 plus 5.04% of amount over $166,500
Over $297,350	$12,539.45 plus 5.54% of amount over $297,350

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over $22,600	2.10%
Over $22,600 but not over $54,625	$474.60 plus 3.92% of amount over $22,600
Over $54,625 but not over $83,250	$1,729.98 plus 4.34% of amount over $54,625

Over $83,250 but not over $148,675	$2,972.31 plus 5.04% of amount over $83,250
Over $148,675	$6,269.73 plus 5.54% of amount over $148,675

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over $36,250	2.10%
Over $36,250 but not over $93,650	$761.25 plus 3.92% of amount over $36,250
Over $93,650 but not over $151,650	$3,011.33 plus 4.34% of amount over $93,650
Over $151,650 but not over $297,350	$5,528.53 plus 5.04% of amount over $151,650
Over $297,350	$12,871.81 plus 5.54% of amount over $297,350

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over $1,800	2.10%
Over $1,800 but not over $4,250	$37.80 plus 3.92% of amount over $1,800
Over $4,250 but not over $6,500	$133.84 plus 4.34% of amount over $4,250
Over $6,500 but not over $8,900	$231.49 plus 5.04% of amount over $6,500
Over $8,900	$352.45 plus 5.54% of amount over $8,900

f. For a nonresident individual, estate, or trust, the tax determined under the applicable schedule in subdivisions a through e must be multiplied by a fraction in which:

(1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources; and

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

g. If married individuals who file a joint federal income tax return are required to file separate state income tax returns under any provision of this chapter, the tax under this subsection for each spouse must be determined by applying the rates under subdivision b to the spouses' joint North Dakota taxable income and prorating the result between the spouses based on their separate North Dakota taxable incomes.

h. For taxable years beginning after December 31, 2001, 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."

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable", and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "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"

Page 2, line 16, overstrike "interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of 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.

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 chapter 57-35.3."

Page 4, line 21, after the overstruck period insert:

"Each adjustment in subsection 3 may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

"11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001, reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit under this subsection is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability under this section for the taxable year. For a nonresident taxpayer, the credit determined under this subsection must be multiplied by the percentage that the nonresident taxpayer's North Dakota adjusted gross income is of the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 for the taxable year must be equal to the sum of the following:

(1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 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. 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.

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.

13. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 2, if the amounts of the tax tables are based on the tax rates set forth in subsection 2. 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. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ five and fifty-four hundredths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly

Engrossed HB 1399 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

HB 1399

NORTH DAKOTA
HOUSE OF REPRESENTATIVES

sentative Kim Koppelman
t 13
First Avenue Northwest
West Fargo, ND 58078-1101

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

COMMITTEES:
Appropriations

Testimony on House Bill 1399
by Rep. Kim Koppelman
before the House Finance and Tax Committee

1-31-01

Good Morning, Chairman Carlson and Members of the House Finance and Tax Committee, for the record, I am Rep. Kim Koppelman and I represent District 13.

Although this is my fourth session in the North Dakota House of Representatives, I believe this is the first time I have testified before your committee, so it's a privilege to be here.

I appear here today to ask your support of House Bill 1399, a bill which will both simplify and improve North Dakota's income tax system.

Four years ago, when we considered a tax decoupling bill, I voted against it, probably for the same reasons many legislators did. We feared that it would tamper with the simplicity of our income tax forms and the process of filing taxes in North Dakota. I believe most of us shared the attitude "If it's not broke, don't fix it."

Mr. Chairman and members of the committee, I've since become convinced that "it is broke", if not in reality, at least in perception. Our income tax system in North Dakota has two flaws: the absence of self determination and the problem of perception.

Because our income tax calculation is currently tied to a taxpayer's federal income tax liability, we are at the mercy of any changes in the federal income tax. While some have noted that this could reduce revenues for state government, if there is a tax cut in Washington, DC, I am personally even more worried about the potential for the people of North Dakota to be subjected to a "stealth" state income tax increase, at some point, not as a result of anything their elected legislators do, but as a result of what Congress does.

Passing the buck for state tax policy-making to Washington, I believe, ignores our responsibility to the people of our state and gives more power to a federal government which, many would argue, already has too much power, as it is.

I've also become convinced that there is, indeed, a perception problem. People outside our state believe our tax is higher than it is. "Aren't business people and economic development experts able to figure out that our tax is calculated on the *federal tax obligation* and not on the taxpayer's income?", you may ask. Yes, they're smart enough, but too often, they simply don't pay enough attention.

Too often a terse overview of economic, business or tax conditions in North Dakota can and does leave the impression that we have a 14% income tax and that hastily-formed perception alone may be enough to remove us from consideration, in today's competetive economic development climate among states. We can't afford the continuation of that myth or the perpetuation of the confusion.

For these reasons, I was prepared to introduce legislation to correct this problem and was in the process of drafting such a bill, when I discovered Rep. Carlson's bill. I concluded that it was so similar to my idea, that I chose to sign on as a co-sponsor of his bill, instead of introducing another.

House Bill 1399 not only corrects the problems I've described, it also creates a fairer, flatter tax, while retaining many federal deductions, and eliminates the "marriage penalty" for North Dakota state income tax payers, as well.

Mr. Chairman and members of the committee, I urge your favorable consideration of this bill and I'd be glad to attempt to answer any questions you may have.

Comparison of Tax Liabilities
Current Law and HB 1399

2000 Federal Stats:	
Personal Exemption:	2,800
Standard Deduction - MFJ	7,350
Standard Deduction - Single	4,400
HB 1399 Deduction - MFJ	8,000
HB 1399 Deduction - Single	4,000
HB 1399 Rate	3%

Married Joint - 2 children:

Adjusted Gross Income	20,000	40,000	50,000	60,000	70,000	80,000	100,000	250,000	500,000
Personal Exemptions	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)
Standard Deduction	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)
Federal Taxable Income	1,450	21,450	31,450	41,450	51,450	61,450	81,450	231,450	481,450
Federal Tax	219	3,221	4,721	6,221	8,713	11,513	17,113	66,371	163,322
37-S Tax	31	451	661	871	1,220	1,612	2,396	9,292	22,865
HB 1399 Tax	-	404	704	1,004	1,304	1,604	2,204	6,704	14,204
Difference	(31)	(47)	43	133	84	(8)	(192)	(2,588)	(8,662)

Single - No Dependents:

Adjusted Gross Income	10,000	20,000	25,000	30,000	35,000	40,000	50,000	125,000	250,000
Personal Exemptions	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)
Standard Deduction	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)
Federal Taxable Income	2,800	12,800	17,800	22,800	27,800	32,800	42,800	117,800	242,800
Federal Tax	422	1,924	2,674	3,424	4,379	5,779	8,579	31,199	75,459
37-S Tax	59	269	374	479	613	809	1,201	4,368	10,564
HB 1399 Tax	-	264	414	564	714	864	1,164	3,414	7,164
Difference	(59)	(5)	40	85	101	55	(37)	(954)	(3,400)

Revenue Neutral

Examples of How HB 1399 (if amended to two rates)
May Affect Hypothetical Taxpayers

2000 Federal Stats:		
Personal Exemption:	2,800	
Standard Deduction - MFJ	7,350	(Only 15% of ND taxpayers itemize)
Standard Deduction - Single	4,400	
HB 1399 Deduction - MFJ	8,000	(Same Impact as a $240 Tax Credit)
HB 1399 Deduction - Single	4,000	(Same Impact as a $120 Tax Credit)
HB 1399 Tax:	2.70%	**Incomes up to $110,000**
	3.70%	**Incomes over $110,000**

Married Joint - 2 children:

148,000 taxpayers [illegible]

Income	20,000	40,000	50,000	60,000	70,000	80,000	100,000	250,000	500,000
Personal Exemptions	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)
Standard Deduction	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)
Federal Taxable Income	1,450	21,450	31,450	41,450	51,450	61,450	81,450	231,450	481,450
Federal Tax	219	3,221	4,721	6,221	8,713	11,513	17,113	66,371	163,322
37-S Tax	31	451	661	871	1,220	1,612	2,396	9,292	22,865
HB 1399 Tax	-	363	633	903	1,173	1,443	1,983	8,268	17,518
Difference	(31)	(88)	(28)	32	(47)	(169)	(413)	(1,024)	(5,347)

Single - No Dependents:

Income	10,000	20,000	25,000	30,000	35,000	40,000	50,000	125,000	250,000
Personal Exemptions	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)
Standard Deduction	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)
Federal Taxable Income	2,800	12,800	17,800	22,800	27,800	32,800	42,800	117,800	242,800
Federal Tax	422	1,924	2,674	3,424	4,379	5,779	8,579	31,199	75,459
37-S Tax	59	269	374	479	613	809	1,201	4,368	10,564
HB 1399 Tax	-	238	373	508	643	778	1,048	4,211	8,836
Difference	(59)	(32)	(2)	28	30	(31)	(153)	(157)	(1,729)

JOHN WINSLOW
HB 1399

Form **1040** Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return **2000** (99) IRS Use Only—Do not write or staple in this space

For the year Jan. 1-Dec. 31, 2000, or other tax year beginning , 2000, ending , 20 OMB No. 1545-0074

Label (See instructions on page 19.) **Use the IRS label.** Otherwise, please print or type.

LABEL HERE

Your first name and initial	Last name		Your social security number
If a joint return, spouse's first name and initial	Last name		Spouse's social security number
Home address (number and street). If you have a P.O. box, see page 19.		Apt. no.	**Important!** You must enter your SSN(s) above
City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.			

Presidential Election Campaign (See page 19.)
Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want $3 to go to this fund? . . . ▶ You ☐ Yes ☐ No Spouse ☐ Yes ☐ No

Filing Status

Check only one box.

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4 ☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

6a ☐ **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a . . . . .
b ☐ **Spouse** . . . . .
c **Dependents:**

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 20)
			☐
			☐
			☐
			☐
			☐
			☐

If more than six dependents, see page 20.

d Total number of exemptions claimed . . . . .

No. of boxes checked on 6a and 6b ____
No. of your children on 6c who:
• lived with you ____
• did not live with you due to divorce or separation (see page 20) ____
Dependents on 6c not entered above ____
Add numbers entered on lines above ▶ ☐

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	**Taxable** interest. Attach Schedule B if required	8a	
b	**Tax-exempt** interest. **Do not** include on line 8a . . . 8b		
9	Ordinary dividends. Attach Schedule B if required	9	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22) . .	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	Total IRA distributions . 15a b Taxable amount (see page 23)	15b	
16a	Total pensions and annuities 16a b Taxable amount (see page 23)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits . 20a b Taxable amount (see page 25)	20b	
21	Other income. List type and amount (see page 25)	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your **total income** ▶	22	

Adjusted Gross Income

23	IRA deduction (see page 27)	23	
24	Student loan interest deduction (see page 27)	24	
25	Medical savings account deduction. Attach Form 8853 .	25	
26	Moving expenses. Attach Form 3903 .	26	
27	One-half of self-employment tax. Attach Schedule SE .	27	
28	Self-employed health insurance deduction (see page 29)	28	
29	Self-employed SEP, SIMPLE, and qualified plans . .	29	
30	Penalty on early withdrawal of savings . . .	30	
31a	Alimony paid b Recipient's SSN ▶	31a	
32	Add lines 23 through 31a	32	
33	Subtract line 32 from line 22. This is your **adjusted gross income** . . . . ▶	33	

Tax and Credits

34 Amount from line 33 (adjusted gross income) . . . 34

35a Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here . . . ▶ 35a

b If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here . . . ▶ 35b ☐

Standard Deduction for Most People
Single: $4,400
Head of household: $6,450
Married filing jointly or Qualifying widow(er): $7,350
Married filing separately: $3,675

36 Enter your **itemized deductions** from Schedule A, line 28, **or standard deduction** shown on the left. **But** see page 31 to find your standard deduction if you checked any box on line 35a or 35b **or** if someone can claim you as a dependent . . . 36

37 Subtract line 36 from line 34 . . . 37

38 If line 34 is $96,700 or less, multiply $2,800 by the total number of exemptions claimed on line 6d. If line 34 is over $96,700, see the worksheet on page 32 for the amount to enter . . 38

39 **Taxable income.** Subtract line 38 from line 37. If line 38 is more than line 37, enter -0- . . 39

40 **Tax** (see page 32). Check if any tax is from a ☐ Form(s) 8814 b ☐ Form 4972 . . . 40

41 Alternative minimum tax. Attach Form 6251 . . . 41

42 Add lines 40 and 41 . . . ▶ 42

43 Foreign tax credit. Attach Form 1116 if required . . . 43

44 Credit for child and dependent care expenses. Attach Form 2441 44

45 Credit for the elderly or the disabled. Attach Schedule R . . 45

46 Education credits. Attach Form 8863 . . . 46

47 Child tax credit (see page 36) . . . 47

48 Adoption credit. Attach Form 8839 . . . 48

49 Other. Check if from a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (specify) ______ 49

50 Add lines 43 through 49. These are your **total credits** . . . 50

51 Subtract line 50 from line 42. If line 50 is more than line 42, enter -0- . . . ▶ 51

Other Taxes

52 Self-employment tax. Attach Schedule SE . . . 52

53 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 53

54 Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required . . . 54

55 Advance earned income credit payments from Form(s) W-2 . . . 55

56 Household employment taxes. Attach Schedule H . . . 56

57 Add lines 51 through 56. This is your **total tax** . . . ▶ 57

Payments

58 Federal income tax withheld from Forms W-2 and 1099 . . 58

59 2000 estimated tax payments and amount applied from 1999 return 59

If you have a qualifying child, attach Schedule EIC.

60a **Earned income credit (EIC)** . . . 60a

b Nontaxable earned income: amount . . ▶ ______ and type ▶ ......

61 Excess social security and RRTA tax withheld (see page 50) 61

62 Additional child tax credit. Attach Form 8812 . . . 62

63 Amount paid with request for extension to file (see page 50) 63

64 Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136 64

65 Add lines 58, 59, 60a, and 61 through 64. These are your **total payments** . . . ▶ 65

Refund

Have it directly deposited! See page 50 and fill in 67b, 67c, and 67d.

66 If line 65 is more than line 57, subtract line 57 from line 65. This is the amount you **overpaid** 66

67a Amount of line 66 you want **refunded to you** . . . ▶ 67a

▶ b Routing number ☐☐☐☐☐☐☐☐☐ ▶ c Type: ☐ Checking ☐ Savings

▶ d Account number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

68 Amount of line 66 you want applied to your 2001 estimated tax . . ▶ 68

Amount You Owe

69 If line 57 is more than line 65, subtract line 65 from line 57. This is the **amount you owe**. For details on how to pay, see page 51 . . . ▶ 69

70 Estimated tax penalty. Also include on line 69 . . . 70

Sign Here

Joint return? See page 19. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number ( )
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	May the IRS discuss this return with the preparer shown below (see page 52)? ☐ Yes ☐ No

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code		EIN	
		Phone no. ( )	

Items built into the federal income tax liability under current law that are not accounted for under House Bill 1399, as amended

If House Bill 1399 (as amended by the House) is passed without further change, the following items will cause a positive or negative fiscal impact as shown.

Description of item		Fiscal effect of not accounting for item under HB1399	
		State	Taxpayer
1. Long-term capital gains		Positive	Negative
2. Federal income averaging rules for farmers		Positive	Negative
3. Lump-sum distribution from pension plan[1] (only applies if the federal 5- or 10-year income averaging rules are used)		Negative	Positive
4. Federal alternative minimum tax 5. Credit for prior year (alternative) minimum tax[2]	These two items offset each other. Item 4 increases the state tax, while item 5 decreases it.	Negative (net effect)	Positive (net effect)
6. Additional federal ("penalty") income taxes on:			
a. Early distributions from qualified pension plans, IRAs, annuities, etc.		Negative	Positive
b. Excess contributions to qualified pension plans, IRAs, annuities, etc.		Negative	Positive
c. Excess accumulations in qualified pension plans, IRAs, annuities, etc.		Negative	Positive
d. Excess distributions from qualified pension plans, IRAs, annuities, etc.		Negative	Positive
e. Accumulation distribution from a trust.		Negative	Positive
f. Excess benefits tax (under IRC section 72(m)(5).		Negative	Positive
7. Additional federal income tax on excess investment income of a dependent under age 14 (the so-called "kiddie tax").		Negative	Positive
8. Alternative federal income tax calculation for parents who elect to report on their return the excess investment income of a dependent under age 14.		Negative	Positive

[1] The taxpayer must have reached the age of 50 before 1986 to qualify for the 10-year averaging rules for qualified lump-sum distributions. Therefore, to be eligible to use this averaging rule in the 2001 tax year, the taxpayer must turn age 66 sometime in 2001.

[2] The credit is allowed for AMT deferral preferences and is allowed in subsequent tax years in which the taxpayer is not subject to the AMT. Deferral preferences, such as for depreciation, represent temporary differences between the regular tax and AMT calculations that will eventually equalize over the long-term. No credit is allowed for exclusion preferences, i.e., permanent differences between the regular tax and AMT calculations.

Example of a Taxpayer (married joint 2 children) with Adjusted Gross Income of $70,000 and a Long-Term Capital Gain of $5,000

Adjusted Gross Income	70,000
Federal Taxable Income	51,450
Federal Tax	8,313
Form 37-S Tax	1,164

Without Addressing Capital Gains in HB 1399:

HB 1399 Tax	1,191
Difference from Current Law	27

If HB 1399 granted 30% exlusion of long term Capital Gain

Federal Taxable Income	51,450
Reduced by 30% of Gain	(1,500)
State Taxable Income	49,950
HB 1399 Tax	1,149
Difference from Current Law	(15)

Example of a Taxpayer (married joint 2 children) with Adjusted Gross Income of $70,000 and Municipal Interest of $1,000 From Non-ND Sources

Adjusted Gross Income	70,000
Federal Taxable Income	51,450
Federal Tax	8,713
Form 37-S Tax	1,220

Without Addressing Municipal Interest in HB 1399:

HB 1399 Tax	1,191
Difference from Current Law	(29)

If HB 1399 included municipal interest from non-ND sources

Federal Taxable Income	51,450
Increased by Mun.Interest	1,000
State Taxable Income	52,450
HB 1399 Tax	1,219
Difference from Current Law	(1)

ıort form method for individual income tax (Form 37-S): ›use Bill 1055 (as introduced)

Federal taxable income

Tax rate

- **Progressive tax rate schedules.** The schedules consist of the same set of tax rate schedules used for federal income tax purposes, except that the rate for each income bracket equals the federal tax rate multiplied by 14%.
- **Alternative calculation.** This applies only if the taxpayer is eligible for the special federal tax rates on long-term capital gains* or the farmers' income averaging rules*, or is subject to the so-called "kiddie tax" provisions.*

Tax
(on federal taxable income)

Do you have a special adjustment? **Yes** / **NO**

Special adjustments
There are two categories of special adjustments.

- **Category 1: Income (loss) adjustments***
  If the taxpayer has any of the items listed below, the tax on federal taxable income (regular calculation) must be multiplied by the following ratio: (Federal AGI - Total adjustments)/ Federal AGI.
  1 Income (loss) not reportable to ND by nonresident individual.
  2 Interest from U.S. obligations.
  3 Exempt income of a Native American.
  4 Benefits from U.S. Railroad Retirement Board.
  5 Income (loss) from pass-through entity subject to ND financial institution tax.
  6 Business and investment income exempted under ND Renaissance Zone Act.
- **Category 2: Additional federal tax adjustments***
  If the taxpayer has any of the items listed below, multiply them by 14% and add the result tax on federal taxable income (regular calculation); however, if the taxpayer also has any of the items in Category 1 above, the ratio calculated for the Category 1 items must be applied to the amount determined under the Category 2 calculation.
  1 Federal tax on a lump-sum distribution (Form 4972).
  2 Federal alternative minimum tax (Form 6251).
  3 Federal tax on an accumulation distribution of a trust (Form 4970).
  4 Federal tax on early distributions, excess contributions, excess accumulations, and excess distributions with respect to qualified retirement plans, IRAs, annuities, and modified endowment contracts (Form 5329).
  5 Federal excess benefits tax under IRC section 72(m)(5).
  6 Federal tax from Form 8814 (parent election to report child's interest and dividends).

Adjusted tax

Credits

1 Credit for income tax paid to another state
2 Credit for expenses incurred to prevent the placement of a family member in a long-te[illegible] facility
3 Credit for inves[illegible] [illegible]enaissance fund corporation
4 Credit for preserving or renovating historic property in a renaissance zone
5 Credit for purchasing a single-family residence in a renaissance zone

Net North Dakota income tax liability

Payments

- Income tax withheld
- Estimated income tax paid

* Note: Each of the items marked with an asterisk will require a separate schedule on which to make the calculation.

Tax due or refund

›ort form method for individual income tax (Form 37-S): ›use Bill 1399 (First engrossment)

Federal taxable income

Subtract adjustments

1 Income (loss) not reportable to ND by nonresident individual.
2 Interest from U.S. obligations.
3 Exempt income of a Native American.
4 Benefits from U.S. Railroad Retirement Board
5 Income (loss) from pass-through entity subject to ND financial institution tax.
6 Business and investment income exempted under ND Renaissance Zone Act

Adjusted federal taxable income

Flat tax rate

Filing status	Adjusted gross income	Tax rate
Single, head of household, qualifying widow(er), and married filing separate	Under $55,000	2.7%
	Equal to or greater than $55,000	3.7%
Married filing joint	Under $110,000	2.7%
	Equal to or greater than $110,000	3.7%

Tax

Credits

1 **New** Credit for property taxes paid on ND property that includes the individual's primary residence—20%, up to $120 ($240 joint).
2 **New** Credit for rent paid on leased ND residential property that is the individual's primary residence—10%, up to $120 ($240 joint).
3 **New** Credit for mobile home tax and lot rent paid for a mobile home in ND that is the individual's primary residence—20%, up to $120 ($240 joint).
4 Credit for income tax paid to another state
5 Credit for expenses incurred to prevent the placement of a family member in a long-term care facility
6 Credit for investing in a renaissance fund corporation
7 Credit for preserving or renovating historic property in a renaissance zone
5 Credit for purchasing a single-family residence in a renaissance zone

Net North Dakota income tax liability

Payments

- Income tax withheld
- Estimated income tax paid

Tax due or refund

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [1]

Federal																			
Adjusted gross income	**15,000**	**25,000**	**27,250**	**30,000**	**35,000**	**36,400**	**40,000**	**45,000**	**54,900**	**55,000**	**65,000**	**75,000**	**85,000**	**100,000**	**104,600**	**105,000**	**110,000**	**120,000**	**200,000**
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	47,750	47,800	57,800	67,800	77,800	92,800	97,400	97,800	102,800	112,800	194,424
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	9,965	9,979	12,779	15,707	18,807	23,457	24,883	25,007	26,549	29,649	58,044
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,395	1,379	1,789	2,199	2,633	3,284	3,484	3,501	3,717	4,151	8,126
HB1055 tax	164	374	422	479	613	668	809	1,005	1,395	1,379	1,789	2,199	2,633	3,284	3,484	3,501	3,717	4,151	8,126
HB1399 tax [1]	91	361	421	496	631	668	766	901	1,169	1,649	2,019	2,389	2,759	3,314	3,484	3,499	3,684	4,054	7,074
Difference	(73)	(13)	(1)	17	18	0	(43)	(104)	(226)	252	230	190	126	30	0	(2)	(33)	(97)	(1,052)

[1] **Assumptions used for federal tax calculations:**
- Standard deduction of $,000
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes the credit of $120 allowed for (1) proper , tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly [2]

Federal

Adjusted gross income	**20,000**	**30,000**	**40,000**	**50,000**	**55,000**	**58,500**	**60,000**	**62,500**	**64,000**	**65,000**	**70,000**	**80,000**	**90,000**	**100,000**	**109,950**	**110,000**	**120,000**	**130,000**	**140,000**
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,400	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,899	19,913	22,706	25,671	28,771

N. Dakota

Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,786	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,786	2,788	3,179	3,594	4,028
HB1399 tax [2]	0	69	339	609	744	839	879	947	987	1,014	1,149	1,419	1,689	1,959	2,228	3,144	3,514	3,884	4,254
Difference	(31)	(172)	(112)	(52)	(22)	0	8	21	2	(10)	(71)	(193)	(315)	(437)	(558)	356	335	290	226

Federal

Adjusted gross income	**150,000**	**160,000**	**170,000**	**175,000**	**180,000**	**190,000**	**200,000**	**250,000**	**500,000**
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757

N. Dakota

Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1399 tax [2]	4,624	4,994	5,364	5,549	5,734	6,104	5,499	7,514	17,988
Difference	162	98	34	2	(30)	(164)	(1,307)	(2,038)	(5,498)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350.
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable.
- 2 children claimed as dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax includes the credit of $120 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

Prepared by Joseph Becker
[illegible]
[illegible]

10529.tax2
Title.

Prepared by the Office of State Tax Commissioner
March 19, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1, and subsection 1 of section 57-38-34.4"

Page 1, line 2, after "return" insert ", the filing of composite returns by partnerships, and the requirement to report federal tax changes; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 6, after line 9, insert:

"**SECTION 2. AMENDMENT.** Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the <u>aggregate of the shares of</u> North Dakota ~~taxable~~ income <u>reportable to North Dakota by the partners or shareholders included in the composite return</u> by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ <u>three percent</u>.

SECTION 3. AMENDMENT. Subsection 1 of section 57-38-34.4 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person's <u>federal adjusted gross income</u>, federal taxable income or federal income tax liability for any taxable year is changed or corrected by the United States internal revenue service, or other competent authority, the person shall report the changes or corrections within ninety days after the date of the final determination of them by filing an amended state income tax return or other information as required by the tax commissioner.

SECTION 4. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [illegible] 2.8% on first $40,000* / 4.4% over $40,000* / 25% credit, [illegible]

Federal																			
Adjusted gross income	**15,000**	**25,000**	**27,250**	**30,000**	**35,000**	**36,400**	**40,000**	**45,000**	**50,000**	**55,000**	**65,000**	**75,000**	**85,000**	**100,000**	**105,000**	**110,000**	**120,000**	**200,000**	**500,000**
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	42,800	47,800	57,800	67,800	77,800	92,800	97,800	102,800	112,800	194,424	496,000
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	8,579	9,979	12,779	15,707	18,807	23,457	25,007	26,549	29,649	58,044	174,086
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1055 tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1399 tax [1]	93	373	436	513	653	693	793	933	1,118	1,338	1,778	2,218	2,658	3,318	3,538	3,758	4,198	7,790	21,059
Difference	(71)	(1)	14	34	40	25	(16)	(72)	(83)	(41)	(11)	19	25	34	37	41	47	(336)	(3,313)

[1] **Assumptions used for federal tax calculations:**
- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax includes a credit of $125 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

* Federal taxable income.

Prepared by Joseph Becker
ND Office of State Tax Commissioner
March [illegible], 2001

Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly[2] — 2.8% on first $80,000* / 4.4% over $80,000* / 25% credit, up to $250

Federal

Adjusted gross income	**20,000**	**30,000**	**40,000**	**50,000**	**55,000**	**58,500**	**60,000**	**62,500**	**64,000**	**65,000**	**70,000**	**80,000**	**90,000**	**100,000**	**110,000**	**120,000**	**130,000**	**140,000**
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,913	22,706	25,671	28,771
N. Dakota																		
Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1399 tax [2]	0	71	351	631	771	869	911	981	1,023	1,051	1,191	1,471	1,751	2,054	2,494	2,934	3,374	3,814
Difference	(31)	(170)	(100)	(30)	5	30	40	55	38	27	(29)	(140)	(253)	(342)	(294)	(245)	(220)	(214)

Federal

Adjusted gross income	**150,000**	**160,000**	**170,000**	**175,000**	**180,000**	**190,000**	**200,000**	**250,000**	**500,000**
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757
N. Dakota									
Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1399 tax [2]	4,254	4,694	5,134	5,354	5,574	6,014	6,483	8,880	20,147
Difference	(208)	(202)	(196)	(193)	(190)	(254)	(323)	(672)	(3,339)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $7,350
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable
- 2 children claimed as dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes the credit of $250 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

* Federal taxable income.

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [illegible] 2.78% on first $40,000* / 4.9% over $40,000* / 50% credit, up to $125

Federal																			
Adjusted gross income	15,000	25,000	27,250	30,000	35,000	36,400	40,000	45,000	50,000	55,000	65,000	75,000	85,000	100,000	105,600	110,000	120,000	200,000	500,000
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	42,800	47,800	57,800	67,800	77,800	92,800	97,800	102,800	112,800	194,424	496,000
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	8,579	9,979	12,779	15,707	18,807	23,457	25,007	26,549	29,649	58,044	174,086
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1055 tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1399 tax [1]	92	370	432	509	648	687	787	926	1,124	1,369	1,859	2,349	2,839	3,574	3,819	4,064	4,554	8,554	23,331
Difference	(72)	(4)	10	30	35	19	(22)	(79)	(77)	(10)	70	150	206	290	318	347	403	428	(1,041)

[1] **Assumptions used for federal tax calculations:**

- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax includes a credit of $125 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

* Federal taxable income.

Prepared by Joseph Becker
ND Office of State Tax Commissioner
March 21, 2001

Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly[2] [illegible] 2.78% on first $80,000* / 4.9% over $80,000* / 50% [illegible]

Federal																		
Adjusted gross income	**20,000**	**30,000**	**40,000**	**50,000**	**55,000**	**58,500**	**60,000**	**62,500**	**64,000**	**65,000**	**70,000**	**80,000**	**90,000**	**100,000**	**110,000**	**120,000**	**130,000**	**140,000**
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,913	22,706	25,671	28,771
N. Dakota																		
Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1399 tax [2]	0	68	346	624	763	861	902	972	1,014	1,041	1,180	1,458	1,736	2,045	2,535	3,025	3,515	4,005
Difference	(31)	(173)	(105)	(37)	(3)	22	31	46	29	17	(40)	(154)	(268)	(619)	(253)	(154)	(79)	(23)

Federal									
Adjusted gross income	**150,000**	**160,000**	**170,000**	**175,000**	**180,000**	**190,000**	**200,000**	**250,000**	**500,000**
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757
N. Dakota									
Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1399 tax [2]	4,495	4,985	5,475	5,720	5,965	6,455	6,978	9,647	22,194
Difference	33	89	145	173	201	187	172	95	(1,292)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable
- 2 children claimed as dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes the credit of $250 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence

* Federal taxable income.

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [1]

2.8% on first $40,000* / 4.8% over $40,000* / 25% credit, up to $125

Federal																			
Adjusted gross income	15,000	25,000	27,250	30,000	35,000	36,400	40,000	45,000	50,000	55,000	65,000	75,000	85,000	100,000	105,000	110,000	120,000	200,000	500,000
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	42,800	47,800	57,800	67,800	77,800	92,800	97,800	102,800	112,800	194,424	496,000
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	8,579	9,979	12,779	15,707	18,807	23,457	25,007	26,549	29,649	58,044	174,086
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1055 tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
% of AGI	1.1	1.5	1.5	1.6	1.8	1.8	2.0	2.2	2.4	2.5	2.8	2.9	3.1	3.3	3.3	3.4	3.5	4.1	4.9
HB1399 tax [1]	163	373	436	513	653	693	793	933	1,129	1,369	1,849	2,329	2,809	3,529	3,769	4,109	4,489	8,507	22,983
% of AGI	1.1	1.5	1.6	1.7	1.9	1.9	2.0	2.1	2.3	2.5	2.8	3.1	3.3	3.5	3.6	3.7	3.7	4.3	4.6
Difference	(1)	(1)	14	34	40	25	(16)	(72)	(72)	(10)	50	130	176	245	268	392	338	381	(1,389)

[1] **Assumptions used for federal tax calculations:**

- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax for a single individual includes a credit of 25% of the tax, up to a maximum of $125

* Federal taxable income.

Short fo[illegible] method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly [2]

2.8% on first $80,000* / 4.8% over $80,000* / 25% credit, up to $250

	20,000	30,000	40,000	50,000	55,000	58,500	60,000	62,500	64,000	65,000	70,000	80,000	90,000	100,000	110,000	120,000	130,000	140,000
Federal																		
Adjusted gross income	20,000	30,000	40,000	50,000	55,000	58,500	60,000	62,500	64,000	65,000	70,000	80,000	90,000	100,000	110,000	120,000	130,000	140,000
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,913	22,706	25,671	28,771
N. Dakota																		
Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,395	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,395	2,788	3,179	3,594	4,028
% of AGI	.16	.80	1.1	1.3	1.4	1.4	1.5	1.5	1.5	1.6	1.7	2.0	2.2	2.4	2.5	2.6	2.8	2.9
HB1399 tax [2]	31	241	451	661	771	869	911	981	1,023	1,051	1,191	1,471	1,751	2,060	2,540	3,020	3,500	3,980
% of AGI	.20	.80	1.1	1.3	1.4	1.5	1.5	1.6	1.6	1.6	1.7	1.8	1.9	2.1	2.3	2.5	2.7	2.8
Difference	0	0	0	0	5	30	40	55	38	27	(29)	(140)	(253)	(335)	(248)	(159)	(94)	(48)

	150,000	160,000	170,000	175,000	180,000	190,000	200,000	250,000	500,000
Federal									
Adjusted gross income	150,000	160,000	170,000	175,000	180,000	190,000	200,000	250,000	500,000
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757
N. Dakota									
Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
% of AGI	3.0	3.1	3.1	3.2	3.2	3.3	3.4	3.8	4.7
HB1399 tax [2]	4,460	4,940	5,420	5,660	5,900	6,380	6,892	9,507	21,797
% of AGI	3.0	3.1	3.2	3.2	3.3	3.4	3.4	3.8	4.4
Difference	(2)	44	90	113	136	112	86	(45)	(1,689)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $7,350
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable
- 2 children claimed as dependents
- 2000 tax rates used
- Calculation of HB 1399 tax for married persons filing jointly includes a credit of 25% of the tax, up to a maximum of $250

* Federal taxable income

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single Individual — 2.7% up to $55,000 / 3.7% for $55,000+ * Credit up to $120

Federal																			
Adjusted gross income	**15,000**	**25,000**	**27,250**	**30,000**	**35,000**	**36,400**	**40,000**	**45,000**	**54,900**	**55,000**	**65,000**	**75,000**	**85,000**	**100,000**	**104,600**	**105,000**	**110,000**	**120,000**	**200,000**
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	47,750	47,800	57,800	67,800	77,800	92,800	97,400	97,800	102,800	112,800	194,424
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	9,965	9,979	12,779	15,707	18,807	23,457	24,883	25,007	26,549	29,649	58,044
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,395	1,379	1,789	2,199	2,633	3,284	3,484	3,501	3,717	4,151	8,126
HB1055 tax	164	374	422	479	613	668	809	1,005	1,395	1,379	1,789	2,199	2,633	3,284	3,484	3,501	3,717	4,151	8,126
% of AGI	1.1	1.5	1.5	1.6	1.8	1.8	2.0	2.2	2.5	2.5	2.8	2.9	3.1	3.3	3.3	3.3	3.4	3.5	4.1
HB1399 tax [1]	91	361	421	496	631	668	766	901	1,169	1,649	2,019	2,389	2,759	3,314	3,484	3,499	3,684	4,054	7,074
% of AGI	.61	1.4	1.5	1.7	1.8	1.8	1.9	2.0	2.1	3.0	3.1	3.2	3.2	3.3	3.3	3.3	3.3	3.4	3.54
Difference	(73)	(13)	(1)	17	18	0	(43)	(104)	(226)	252	230	190	126	30	0	(2)	(33)	(97)	(1,052)

[1] **Assumptions used for federal tax calculations:**
- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax includes the credit of $120 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence.

* Federal adjusted gross income.

Prepared by Joseph Becker
ND Office of State Tax Commissioner
March 22, 2001

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly[2] — 2.7% up to $110,000[*] / 3.7% for $110,000+[*] / Credit up to $240

Federal

2.7% of entire FTI — 3.7% of entire FTI

Adjusted gross income	**20,000**	**30,000**	**40,000**	**50,000**	**55,000**	**58,500**	**60,000**	**62,500**	**64,000**	**65,000**	**70,000**	**80,000**	**90,000**	**100,000**	**109,950**	**110,000**	**120,000**	**130,000**	**140,000**
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,400	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,899	19,913	22,736	25,671	28,771
N. Dakota																			
Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,786	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,786	2,788	3,179	3,594	4,028
% of AGI	.16	.80	1.1	1.3	1.4	1.4	1.5	1.5	1.5	1.6	1.7	2.0	2.2	2.4	2.5	2.5	2.6	2.8	2.9
HB1399 tax [2]	0	69	339	609	744	839	879	947	987	1,014	1,149	1,419	1,669	1,959	2,228	3,144	3,514	3,884	4,254
% of AGI	0	.23	.85	1.2	1.4	1.4	1.5	1.5	1.5	1.6	1.6	1.8	1.9	2.0	2.0	2.9	2.9	3.0	3.0
Difference	(31)	(172)	(112)	(52)	(22)	0	8	21	2	(10)	(71)	(193)	(315)	(437)	(558)	356	335	290	226

Federal

3.7% of entire FTI

Adjusted gross income	**150,000**	**160,000**	**170,000**	**175,000**	**180,000**	**190,000**	**200,000**	**250,000**	**500,000**
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757
N. Dakota									
Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
% of AGI	3.0	3.1	3.1	3.2	3.2	3.3	3.4	3.8	4.7
HB1399 tax [2]	4,624	4,994	5,364	5,549	5,734	6,104	5,499	7,514	17,988
% of AGI	3.1	3.1	3.2	3.2	3.2	3.2	2.7	3.0	3.6
Difference	162	98	34	2	(30)	(164)	(1,307)	(2,038)	(5,498)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $7,350
- Personal exemption of $2,800, phaseout at $193,400 applied, if applicable
- 2 children claimed as dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes the credit of $240 allowed for (1) property tax, (2) mobile home tax and lot rent, or (3) rent paid on property used as primary residence

[*] Federal adjusted gross income

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single Individual

Federal																			
Adjusted gross income	15,000	25,000	27,250	30,000	35,000	36,400	40,000	45,000	50,000	55,000	65,000	75,000	85,000	100,000	105,000	110,000	120,000	200,000	500,000
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	42,800	47,800	57,800	67,800	77,800	92,800	97,800	102,800	112,800	194,424	496,000
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	8,579	9,979	12,779	15,707	18,807	23,457	25,007	26,549	29,649	58,044	174,086
N. Dakota																			
Current law tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1055 tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
% of AGI	1.1	1.5	1.5	1.6	1.8	1.8	2.0	2.2	2.4	2.5	2.8	2.9	3.1	3.3	3.3	3.4	3.5	4.1	4.9
HB1399 tax [1]	108	370	432	509	648	687	787	926	1,124	1,369	1,859	2,349	2,839	3,574	3,819	4,064	4,554	8,554	23,331
% of AGI	.72	1.5	1.6	1.7	1.9	1.9	2.0	2.1	2.2	2.5	2.9	3.1	3.3	3.6	3.6	3.7	3.8	4.3	4.7
Difference	(56)	(4)	10	30	35	19	(22)	(79)	(77)	(10)	70	150	206	290	318	347	403	428	(1,041)

2.1% — 26,250 — 3.97% — 63,550

HB1399: 2.78% of first $40,000 of FTI*

HB1399: 4.9% of FTI over $40,000

[1] **Assumptions used for federal tax calculations:**

- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax for a single individual includes a credit of 50% of the tax, up to a maximum of $125.

* Federal taxable income.

Prepared by Joseph Becker
ND Office of State Tax Commissioner
March 22, 2001

Short fo[illegible]method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly[2] 2.78% on first $80,000* / 4.9% over $80,000* / 50% credit, up to $250

Federal

Adjusted gross income	20,000	30,000	40,000	50,000	55,000	56,500	60,000	62,500	64,000	65,000	70,000	80,000	90,000	100,000	110,000	120,000	130,000	140,000
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,913	22,706	25,671	28,771

2.78% of first $80,000 of FTI

N. Dakota

Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
% of AGI	.16	.80	1.1	1.3	1.4	1.4	1.5	1.5	1.5	1.6	1.7	2.0	2.2	2.4	2.5	2.6	2.8	2.9
HB1399 tax [2]	20	159	346	624	763	861	902	972	1,014	1,041	1,180	1,458	1,736	2,045	2,535	3,025	3,515	4,005
% of AGI	.10	.53	.87	1.2	1.4	1.5	1.5	1.6	1.6	1.6	1.7	1.8	1.9	2.0	2.3	2.5	2.7	2.9
Difference	(11)	(82)	(105)	(37)	(3)	22	31	46	29	17	(40)	(154)	(268)	(619)	(253)	(154)	(79)	(23)

Federal

Adjusted gross income	150,000	160,000	170,000	175,000	180,000	190,000	200,000	250,000	500,000
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757

4.9% of FTI over $80,000

N. Dakota

Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
% of AGI	3.0	3.1	3.1	3.2	3.2	3.3	3.4	3.8	4.7
HB1399 tax [2]	4,495	4,985	5,475	5,720	5,965	6,455	6,978	9,647	22,194
% of AGI	3.0	3.1	3.2	3.3	3.3	3.4	3.5	3.9	4.4
Difference	33	89	145	173	201	187	172	95	(1,292)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350.
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable.
- 2 children claimed as dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax for married persons filing jointly includes a credit of 50% of tax, up to a maximum of $250

* Federal taxable income.

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual — 2.8% on first $40,000* / 4.4% over $40,000* / 25% credit up to $125

Federal

Federal bracket markers: 2.1% / 26,250 / 3.92% / 63,550 / 4.34% / 132,600 / 5.04% / 288,350 / 5.54%

Adjusted gross income	15,000	25,000	27,250	30,000	35,000	36,400	40,000	45,000	50,000	55,000	65,000	75,000	85,000	100,000	105,000	110,000	120,000	200,000	500,000
Taxable income	7,800	17,800	20,050	22,800	27,800	29,200	32,800	37,800	42,800	47,800	57,800	67,800	77,800	92,800	97,800	102,800	112,800	194,424	496,000
Income tax	1,174	2,674	3,011	3,424	4,379	4,771	5,779	7,179	8,579	9,979	12,779	15,707	18,807	23,457	25,007	26,549	29,649	58,044	174,086

N. Dakota

HB1399: 2.8% of first $40,000 of FTI — HB1399: 4.4% of FTI over $40,000

Current law tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
HB1055 tax	164	374	422	479	613	668	809	1,005	1,201	1,379	1,789	2,199	2,633	3,284	3,501	3,717	4,151	8,126	24,372
% of AGI	1.1	1.5	1.5	1.6	1.8	1.8	2.0	2.2	2.4	2.5	2.8	2.9	3.1	3.3	3.3	3.4	3.5	4.1	4.9
HB1399 tax [1]	163	373	436	513	653	693	793	933	1,118	1,338	1,778	2,218	2,658	3,318	3,538	3,758	4,198	7,790	21,059
% of AGI	1.10	1.5	1.6	1.7	1.9	1.9	2.0	2.1	2.2	2.4	2.7	3.0	3.1	3.3	3.4	3.4	3.5	3.9	4.2
Difference	(1)	(1)	14	34	40	25	(16)	(72)	(83)	(41)	(11)	19	25	34	37	41	47	(336)	(3,313)

[1] **Assumptions used for federal tax calculations:**
- Standard deduction of $4,400.
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax for a single individual includes a credit of 25% of the tax, up to a maximum of $125.

* Federal taxable income.

Prepared by [illegible]
ND Office of State Tax Commissioner
March 22, 2001

Short form method for individuals (Form 37-S): Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly [2] — 2.8% on first $80,000 / 4.4% over $80,000 / 25% credit up to $250

Federal																		
Adjusted gross income	20,000	30,000	40,000	50,000	55,000	58,500	60,000	62,500	64,000	65,000	70,000	80,000	90,000	100,000	110,000	120,000	130,000	140,000
Taxable income	1,450	11,450	21,450	31,450	36,450	39,950	41,450	43,950	45,450	46,450	51,450	61,450	71,450	81,450	91,450	101,450	111,450	121,450
Income tax	219	1,721	3,221	4,721	5,471	5,996	6,221	6,613	7,033	7,313	8,713	11,513	14,313	17,113	19,913	22,706	25,671	28,771
N. Dakota						HB1399: 2.8% of first $80,000 of FTI								HB1399: 4.4% of FTI over $80,000				
Current law tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
HB1055 tax	31	241	451	661	766	839	871	926	985	1,024	1,220	1,612	2,004	2,396	2,788	3,179	3,594	4,028
% of AGI	.16	.80	1.1	1.3	1.4	1.4	1.5	1.5	1.5	1.6	1.7	2.0	2.2	2.4	2.5	2.6	2.8	2.9
HB1399 tax [2]	31	241	451	661	771	869	911	981	1,023	1,051	1,191	1,471	1,751	2,054	2,494	2,934	3,374	3,814
% of AGI	.20	.80	1.1	1.3	1.4	1.5	1.5	1.6	1.6	1.6	1.7	1.8	1.9	2.0	2.3	2.4	2.6	2.7
Difference	0	0	0	0	5	30	40	55	38	27	(29)	(140)	(253)	(342)	(294)	(245)	(220)	(214)

Federal									
Adjusted gross income	150,000	160,000	170,000	175,000	180,000	190,000	200,000	250,000	500,000
Taxable income	131,450	141,450	151,450	156,450	161,450	171,450	182,122	236,602	492,650
Income tax	31,871	34,971	38,071	39,621	41,171	44,771	48,612	68,225	167,757
N. Dakota			HB1399: 4.4% of FTI over $80,000						
Current law tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
HB1055 tax	4,462	4,896	5,330	5,547	5,764	6,268	6,806	9,552	23,486
% of AGI	3.0	3.1	3.1	3.2	3.2	3.3	3.4	3.8	4.7
HB1399 tax [2]	4,254	4,694	5,134	5,354	5,574	6,014	6,483	8,880	20,147
% of AGI	2.8	2.9	3.0	3.1	3.1	3.2	3.2	3.6	4.0
Difference	(208)	(202)	(196)	(193)	(190)	(254)	(323)	(672)	(3,339)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable
- 2 children claimed as dependents
- 2000 tax rates used.
- Calculation of HB 1399 tax for married persons filing jointly includes a credit of 25% of the tax, up to a maximum of $250

* Federal taxable income

Prepared by Joseph Becker
ND Office of State Tax Commissioner
March 2?, 2001

Short f[illegible] method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [1]

2.8% on first $40,000 of FTI / 4.9% on FTI over $40,000 / 25% credit, up to $125

Federal																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	7,800	12,800	17,800	22,800	27,800	32,800	37,800	42,800	52,800	62,800	72,800	82,800	92,800	143,304	194,424	245,544	295,600	345,600	395,600
Income tax	1,174	1,924	2,674	3,424	4,379	5,779	7,179	8,579	11,379	14,179	17,257	20,357	23,457	39,640	58,044	76,447	94,728	114,528	134,328
N. Dakota																			
Current law tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985	2,416	2,850	3,284	5,550	8,125	10,703	13,262	16,034	18,806
HB1055 tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985	2,416	2,850	3,284	5,550	8,125	10,703	13,262	16,034	18,806
% of AGI	1.1	1.3	1.5	1.6	1.8	2.0	2.2	2.4	2.7	2.8	3.0	3.2	3.3	3.7	4.1	4.3	4.4	4.6	4.7
HB1399 tax [1]	163	268	373	513	653	793	933	1,132	1,622	2,112	2,602	3,092	3,582	6,057	8,662	11,167	13,619	16,069	18,519
% of AGI	1.1	1.3	1.5	1.7	1.9	2.0	2.1	2.3	2.7	3.0	3.3	3.4	3.6	4.0	4.3	4.5	4.5	4.6	4.6
Difference	(1)	(1)	(1)	34	40	(16)	(72)	(69)	29	127	186	242	298	507	536	464	357	35	(287)

Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	445,600	495,600	745,600
Income tax	154,128	173,928	272,928
N. Dakota			
Current law tax	21,578	24,350	38,210
HB1055 tax	21,578	24,350	38,210
% of AGI	4.8	4.9	5.0
HB1399 tax [1]	20,969	23,419	35,669
% of AGI	4.7	4.7	4.8
Difference	(609)	(931)	(2,541)

[1] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $4,400
- Personal exemption of $2,800, phaseout at $128,950 applied if applicable
- No dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes a credit of 25% of the tax up to a maximum of $125

Short f[illegible] method for individuals (Form 37-S): Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly [2]

2.8% on first $80,000 of FTI / 4.9% on FTI over $80,000 / 25% credit, up to $250

Federal																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	0	1,450	6,450	11,450	16,450	21,450	26,450	31,450	41,450	51,450	61,450	71,450	81,450	131,450	182,122	236,602	291,082	342,650	392,650
Income tax	0	219	971	1,721	2,471	3,221	3,971	4,721	6,221	8,713	11,513	14,313	17,113	31,871	48,612	68,225	87,936	106,357	128,157
N. Dakota																			
Current law tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
HB1055 tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
% of AGI	0	.16	.54	.80	1.0	1.1	1.2	1.3	1.5	1.7	2.0	2.2	2.4	3.0	3.4	3.8	4.1	4.3	4.5
HB1399 tax [2]	0	31	136	241	346	451	556	661	911	1,191	1,471	1,751	2,061	4,511	6,994	9,663	12,333	14,860	17,310
% of AGI	0	.20	.54	.80	1.0	1.1	1.2	1.3	1.5	1.7	1.8	1.9	2.0	3.0	3.5	3.9	4.1	4.2	4.3
Difference	0	0	0	0	0	0	0	0	40	(29)	(140)	(253)	(335)	49	188	111	22	(310)	(632)

Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	442,650	492,650	742,650
Income tax	147,957	167,757	266,757
N. Dakota			
Current law tax	20,714	23,486	37,346
HB1055 tax	20,714	23,486	37,346
% of AGI	4.6	4.7	5.0
HB1399 tax [2]	19,760	22,210	34,460
% of AGI	4.4	4.4	4.6
Difference	(954)	(1,276)	(2,886)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $7,350
- Personal exemption of $2,800 (phaseout at $[illegible] applied, if applicable)
- 2 dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes a credit of 25% of the tax, up to a maximum of $250

Items built into the federal income tax liability under current law that are not accounted for under House Bill 1399, as amended

If House Bill 1399 (as amended by the House) is passed without further change, the following items will cause a positive or negative fiscal impact as shown.

Description of item	Fiscal effect of not accounting for item under HB1399
1. Long-term capital gains	Positive
2. Federal income averaging rules for farmers	Positive
3. Lump-sum distribution from pension plan (but only if the federal 5- or 10-year income averaging rules are used)	Negative
4. Federal alternative minimum tax	Negative
5. Credit for prior year (alternative) minimum tax	Positive
6. Additional federal income taxes on:	
a. Early distributions from qualified pension plans, IRAs, annuities, etc.	Negative
b. Excess contributions to qualified pension plans, IRAs, annuities, etc.	Negative
c. Excess accumulations in qualified pension plans, IRAs, annuities, etc.	Negative
d. Excess distributions from qualified pension plans, IRAs, annuities, etc.	Negative
e. Accumulation distribution from a trust.	Negative
f. Excess benefits tax (under IRC section 72(m)(5).	Negative
7. Additional federal income tax on excess investment income of a dependent under age 14.	Negative
8. Alternative federal income tax calculation for parents who elect to report on their return the excess investment income of a dependent under age 14.	Negative

North Dakota Resident Filing Status
37-S Filers, 1999

Filing status	Number of returns filed
Single	125,768
Married Joint	122,059
Married Filing Separate	3,683
Head of Household	18,139
Qualifying Widow	187

Resident Returns Filed By Tax Bracket
(Single)
37-S Filers, 1999

Taxable income by bracket	Number of returns filed
0 thru 26,250	111,413
26,251 thru 63,550	12,395
63,551 thru 132,600	1,446
132,601 thru 288,350	307
Over 288,350	116

Resident Returns Filed By Tax Bracket
(Married Joint)
37-S Filers, 1999

Taxable income by bracket	Number of returns filed
[illegible]	86,868
[illegible]	29,472
[illegible]	2,921
[illegible]	1,765
[illegible]	981

Prepared by Donnita Wald
Office of state tax commissioner
March 22, 2001

Property Tax Credit of up to 25% of Tax or $230
Available if Property Tax or Rent Paid by Taxpayer
(Senator Wardner's Proposal)

10. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars, or one hundred fifteen dollars for married persons filing separate state income tax returns. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

    a. Paid property taxes under chapter 57-02 on property in this state, or

    b. Leased and paid rent for real property in this state, or

    c. Paid mobile home tax under chapter 57-55 and lot rent for a mobile home in this state.

Prepared by the Office of
State Tax Commissioner for
the Senate Finance and Tax Committee
REVISED March 29, 2001
1:42 PM

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", overstrike "percent of the individual's estate's , or" and insert immediately thereafter:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent."

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state" and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and remove "if the individual's estate's or trust's federal adjusted gross income"

Page 1, remove line 24

Page 2, remove lines 1 through 7

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income" remove "for purposes of this section" and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident" and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not" and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total" and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable" and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust as computed under the provisions of the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The"and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1954, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

Page 4, line 22, overstrike "A husband and wife" and insert immediately thereafter "Married persons"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 29, replace "up to" insert "twenty-five percent of the tax liability computed under subsection 2, not to exceed"

Page 5, line 30, replace "twenty" with "twenty-five", replace "forty" with "fifty" and replace "a husband and wife" with "married persons"

Page 6, line 1, replace ", based on payments by the taxpayer during the" with ". For nonresidents, the credit is limited to the ratio that a nonresident's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income."

Page 6, replace lines 2 through 9 with:

"11. a. A taxpayer is entiteld to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1.) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2.) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1.) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2.) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

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"a. The tax for an individual, estate, or trust is computed at the following rates:

1. On adjusted federal taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

2. On adjusted federal taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

1. On adjusted federal taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

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Page 1, remove line 24

Page 2, remove lines 1 through 7

Page 2, line 8, overstrike "The adjusted" and insert immediately thereafter "For purposes of this section, "adjusted", insert end quotes after "income", after "~~liability~~" insert "means", remove "for purposes of this section" and overstrike "for a"

Page 2, line 9, overstrike "resident", replace "or nonresident" with "the federal taxable income of an", overstrike "must be determined by" and insert immediately thereafter "as computed under the provisions of the Internal Revenue Code of 1986, as amended, adjusted as follows"

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Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1954, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

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Page 6, replace lines 2 through 9 with:

"11. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of credit attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for taxable years beginning before January 1, 2001. The credit is equal to fourteen percent of the unused federal credit for prior year minimum tax and may not exceed the taxpayer's tax liability for the taxable year. The taxpayer may carry forward any excess credit to subsequent taxable years. For nonresidents, the credit is limited to the ratio that a nonresident's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1) The tax computed under subsection 2 of this section on adjusted federal taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 of this section which would result if the adjusted federal taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. 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. "Elected farm income" means that portion of the adjusted federal taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

c. The reduction in the adjusted federal 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.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

Prepared for Senate Finance
and Taxation Committee by
Donnita Wald
Office of State Tax Commissioner
March 29, 2001, 1:43 PM

ENGROSSED HOUSE BILL 1399 WITH PROPOSED AMENDMENTS DATED MARCH 28, 2001

A BILL for an Act to amend and reenact sections 57-38-30.3 and 57-38-31.1 of the North Dakota Century Code, relating to determination of income tax liability on the short-form state income tax return and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return; and to provide an effective date.

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

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

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

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust.

   a. The tax for an individual, estate, or trust is computed at the following rates:

      (1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

      (2). On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.

3. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust, as computed under the provisions of 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 an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.

d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1954, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent the adjustment is attributable to income allocated and apportioned to North Dakota.

4. Married persons filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

5. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

   b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's federal adjusted gross income as reported on the taxpayer's federal income tax return.

6. 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.

7. The tax commissioner may prescribe procedure 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.

8. A taxpayer filing a return under this section is entitled to the credit provided under section 57-38-01.20.

9. A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 40-63-04, 40-63-06, and 40-63-07.

10. A taxpayer filing a return under this section is entitled to a credit of twenty-five percent of the tax liability computed under subsection 2, not to exceed one hundred twenty-five dollars, or two hundred fifty dollars for married persons filing a joint state income tax return. For nonresidents, the credit is limited to the ratio that a nonresident's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2000.

Prepared by the Office of
State Tax Commissioner for
the Senate Finance and Tax Committee
REVISED March 30, 2001
7:36 AM

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

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Page 2, line 12, overstrike "this state", remove "<u>from</u>", overstrike "the total" and remove "<u>federal</u>"

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Page 2, line 25, overstrike "An" and insert immediately thereafter "<u>Reduced by the</u>"

Page 2, after line 27, insert:

"<u>d.</u> <u>Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.</u>

<u>e.</u> <u>Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.</u>"

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

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Page 6, replace lines 2 through 9 with:

"11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1) The amount of the federal credit for prior year minimum tax attributable to federal alternative

minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2.) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1.) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2.) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the tables so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

Prepared for Senate Finance
and Taxation Committee by
Donnita Wald
Office of State Tax Commissioner
March 30, 2001, 7:36 AM

ENGROSSED HOUSE BILL 1399 WITH PROPOSED AMENDMENTS DATED MARCH 28, 2001

A BILL for an Act to amend and reenact sections 57-38-30.3 and 57-38-31.1 of the North Dakota Century Code, relating to determination of income tax liability on the short-form state income tax return and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return; and to provide an effective date.

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

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

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

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust.

    a. The tax for an individual, estate, or trust is computed at the following rates:

        (1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

        (2). On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.

3. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust, as computed under the provisions of 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 an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.

d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent the adjustment is attributable to income allocated and apportioned to North Dakota.

4. Married persons filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

5. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's federal adjusted gross income as reported on the taxpayer's federal income tax return.

6. 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.

7. The tax commissioner may prescribe procedure 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.

8. A taxpayer filing a return under this section is entitled to the credit provided under section 57-38-01.20.

9. A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 40-63-04, 40-63-06, and 40-63-07.

10. A taxpayer filing a return under this section is entitled to a credit of twenty-five percent of the tax liability computed under subsection 2, not to exceed one hundred twenty-five dollars, or two hundred fifty dollars for married persons filing a joint state income tax return. For nonresidents, the credit is limited to the ratio that a nonresident's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

11 a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the table so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2000.

Prepared for Senator Wardner
by OTC
April 2, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399
Includes Property Tax Credit for Taxpayers Paying Property Tax or Rent
Credit of 25% of Tax Liability or $230

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", overstrike "percent of the individual's estate's , or" and insert immediately thereafter:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent."

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state" and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and remove "if the individual's, estate's, or trust's federal adjusted gross income"

Page 1, remove line 24

Page 2, remove lines 1 through 7

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section" and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident" and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not" and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total" and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable" and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust as computed under the provisions of the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The"and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

Page 4, line 22, overstrike "A husband and wife" and insert immediately thereafter "Married persons"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, replace lines 29 and 30 with:

10. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2 not to exceed two hundred thirty dollars, or one hundred fifteen dollars for marrierd persons filing separate state income tax returns. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

a. Paid property taxes under chapter 57-02 on property in this state, or

b. Leased and paid rent for real property in this state, or

c. Paid mobile home tax under chapter 57-55 and lot rent for a mobile home in this state.

c. A married person filing a separate state income tax is entitled to a credit based on payments return, the credit

Page 6, replace lines 1 through 9 with:

"11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1.) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2.) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1.) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2.) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the tables so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest~~

~~federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

Property Tax Credit Calculated on Property Tax or Rent
Credit Maximum of 25% of Tax Liability or $230
(Senator Christmann's Proposal)

10. a. A taxpayer filing a return under this section is entitled to a credit based on payments made by the taxpayer during the taxable year, computed by adding the following:

(1.) Twenty percent of property taxes paid under chapter 57-02 by the taxpayer on property in this state.

(2.) Ten percent of rent paid by the taxpayer for real property in this state leased by the taxpayer.

(3.) Twenty percent of mobile home tax paid under chapter 57-55 and lot rent paid for a mobile home in this state.

b. The credit computed under subdivision a may not exceed twenty-five percent of the tax liability computed under subsection 2, or two hundred thirty dollars, whichever is less. For married persons filing separate state income tax returns, the credit may not exceed twenty-five percent of each taxpayer's tax liability computed under subsection 2, or one hundred fifteen dollars, whichever is less.

Prepared for Senator
Randy Christmann
By [illegible]
April 2, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399
Includes Senator Christmann Property Tax Credit
Based on Tax/Rent Paid, Not to Exceed 25% of Tax Liability or $230

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

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Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", overstrike "percent of the individual's estate's , or" and insert immediately thereafter:

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"d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

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(3.) Twenty percent of mobile home tax paid under chapter 57-55 and lot rent paid for a mobile home in this state.

b. The credit computed under subdivision a may not exceed twenty-five percent of the tax liability computed under subsection 2, or two hundred thirty dollars, whichever is less. For married persons filing separate state income tax returns, the credit may not exceed twenty-five percent of each taxpayer's tax liability computed under subsection 2, or one hundred fifteen dollars, whichever is less.

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(1.) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

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b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1.) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2.) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the tables so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest~~

~~federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [1] — 2.8% on first $40,000 of FTI / 4.9% on FTI over $40,000 / Credit up to $150

Federal										
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000
Taxable income	7,800	12,800	17,800	22,800	27,800	32,800	37,800	42,800	52,800	62,800
Income tax	1,174	1,924	2,674	3,424	4,379	5,779	7,179	8,579	11,379	14,179
N. Dakota										
Current law tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985
HB1055 tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985
% of AGI	1.1	1.3	1.5	1.6	1.8	2.0	2.2	2.4	2.7	2.8
HB1399 tax [1]	93	233	343	488	628	768	908	1,107	1,597	2,087
% of AGI	.62	1.2	1.4	1.6	1.8	1.9	2.0	2.2	2.7	3.0
Difference	(71)	(36)	(26)	9	15	(41)	(97)	(94)	4	102

Federal									
Adjusted gross income	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	72,800	82,800	92,800	143,304	194,424	245,544	295,600	345,600	395,600
Income tax	17,257	20,357	23,457	39,640	58,044	76,447	94,728	114,528	134,328
N. Dakota									
Current law tax	2,416	2,850	3,284	5,550	8,126	10,703	13,262	16,034	18,806
HB1055 tax	2,416	2,850	3,284	5,550	8,126	10,703	13,262	16,034	18,806
% of AGI	3.0	3.2	3.3	3.7	4.1	4.3	4.4	4.6	4.7
HB1399 tax [1]	2,577	3,067	3,557	6,032	8,637	11,142	13,594	16,044	18,494
% of AGI	3.2	3.4	3.6	4.0	4.3	4.5	4.5	4.6	4.6
Difference	161	217	273	482	511	439	332	10	(312)

Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	445,600	495,600	745,600
Income tax	154,128	173,928	272,928
N. Dakota			
Current law tax	21,578	24,350	38,210
HB1055 tax	21,578	24,350	38,210
% of AGI	4.8	4.9	5.0
HB1399 tax [1]	20,944	23,394	35,644
% of AGI	4.7	4.7	4.8
Difference	(634)	(956)	(2,566)

[1] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $4,400.
- Personal exemption of $2,800, phaseout at $128,950 applied, if applicable.
- No dependents.
- 2000 tax rates used
- Calculation of HB 1399 tax includes a tax credit based on a percentage of payments made for property tax, rent, and mobile home tax and lot rent. The tax credit is limited to $150. The maximum credit was assumed for this illustration.

Short form method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly[2] — 2.8% on first $80,000 of FTI / 4.9% on FTI over $80,000 / Credit up to $150

Federal																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	0	1,450	6,450	11,450	16,450	21,450	26,450	31,450	41,450	51,450	61,450	71,450	81,450	131,450	182,122	236,602	291,082	342,650	392,650
Income tax	0	219	971	1,721	2,471	3,221	3,971	4,721	6,221	8,713	11,513	14,313	17,113	31,871	48,612	68,225	87,936	108,357	128,157
N. Dakota																			
Current law tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
HB1055 tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
% of AGI	0	.16	.54	.80	1.0	1.1	1.2	1.3	1.5	1.7	2.0	2.2	2.4	3.0	3.4	3.8	4.1	4.3	4.5
HB1399 tax[2]	0	10	31	171	311	451	591	731	1,011	1,291	1,571	1,851	2,161	4,611	7,094	9,763	12,433	14,960	17,410
% of AGI	0	0	.12	.57	.89	1.1	1.3	1.5	1.7	1.8	2.0	2.1	2.2	3.1	3.5	3.9	4.1	4.3	4.4
Difference	0	(31)	(105)	(70)	(35)	0	35	70	140	71	(41)	(153)	(235)	149	288	211	122	(210)	(532)

Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	442,650	492,650	742,650
Income tax	147,957	167,757	266,757
N. Dakota			
Current law tax	20,714	23,486	37,346
HB1055 tax	20,714	23,486	37,346
% of AGI	4.6	4.7	5.0
HB1399 tax[2]	19,860	22,310	34,560
% of AGI	4.4	4.5	4.6
Difference	(854)	(1,176)	(2,786)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350.
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable.
- 2 dependents.
- 2000 tax rates used.
- Calculation of HB 1399 tax includes a tax credit based on a percentage of payments made for property tax, rent, and mobile home tax and lot rent. The tax credit is limited to $150. The maximum credit was assumed for this illustration.

Prepared by [illegible]
ND Office of State Tax Commissioner
April 2, 2001

Short [illegible] method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Single individual [1] — 2.8% on first $40,000 of FTI / 4.9% on FTI over $40,000 / 25% credit, up to $230

	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Federal																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	7,800	12,800	17,800	22,800	27,800	32,800	37,800	42,800	52,800	62,800	72,800	82,800	92,800	143,304	194,424	245,544	295,600	345,600	395,600
Income tax	1,174	1,924	2,674	3,424	4,379	5,779	7,179	8,579	11,379	14,179	17,257	20,357	23,457	39,640	58,044	76,447	94,728	114,528	134,328
N. Dakota																			
Current law tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985	2,416	2,850	3,284	5,550	8,126	10,703	13,262	16,034	18,806
HB1055 tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985	2,416	2,850	3,284	5,550	8,126	10,703	13,262	16,034	18,806
% of AGI	1.1	1.3	1.5	1.6	1.8	2.0	2.2	2.4	2.7	2.8	3.0	3.2	3.3	3.7	4.1	4.3	4.4	4.6	4.7
HB1399 tax [1]	163	268	373	478	583	688	828	1,027	1,517	2,007	2,497	2,987	3,477	5,952	8,557	11,062	13,514	15,964	18,414
% of AGI	1.1	1.3	1.5	1.6	1.7	1.7	1.8	2.1	2.5	2.9	3.1	3.3	3.5	4.0	4.3	4.4	4.5	4.6	4.6
Difference	(1)	(1)	(1)	(1)	(30)	(121)	(177)	(174)	(76)	22	81	137	193	402	431	359	252	(70)	(392)

Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	445,600	495,600	745,600
Income tax	154,128	173,928	272,928
N. Dakota			
Current law tax	21,578	24,350	38,210
HB1055 tax	21,578	24,350	38,210
% of AGI	4.8	4.9	5.0
HB1399 tax [1]	20,864	23,314	35,564
% of AGI	4.6	4.7	4.7
Difference	(714)	(1,036)	(2,646)

[1] **Assumptions used for federal tax calculations:** (2000 tax year amounts)
- Standard deduction of $4,400
- Personal exemption of $2,800; phaseout at $128,950 applied, if applicable
- No dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes a tax credit based on a percentage of payments made for property tax, rent, and mobile home tax and lot rent. The tax credit is limited to 25% of tax, up to $230

Prepared by [illegible]
ND Office of State Tax Commissioner
[illegible]

Short [illegible] method for individuals (Form 37-S):
Comparison of tax liability under current law with House Bills 1055 and 1399

Married individuals filing jointly [2] — 2.8% on first $80,000 of FTI / 4.9% on FTI over $80,000 / 25% credit, up to $230

	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Federal																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	0	1,450	6,450	11,450	16,450	21,450	26,450	31,450	41,450	51,450	61,450	71,450	81,450	131,450	182,122	236,602	291,082	342,650	392,650
Income tax	0	219	971	1,721	2,471	3,221	3,971	4,721	6,221	8,713	11,513	14,313	17,113	31,871	48,612	68,225	87,936	108,357	128,157
N. Dakota																			
Current law tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
HB1055 tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
% of AGI	0	.16	.54	.80	1.0	1.1	1.2	1.3	1.5	1.7	2.0	2.2	2.4	3.0	3.4	3.8	4.1	4.3	4.5
HB1399 tax [2]	0	31	136	241	346	451	511	651	931	1,211	1,491	1,771	2,081	4,531	7,014	9,683	12,353	14,880	17,330
% of AGI	0	.16	.54	.80	.99	1.1	1.1	1.3	1.6	1.7	1.9	2.0	2.1	3.0	3.5	3.9	4.1	4.3	4.3
Difference	0	0	0	0	0	0	(45)	(10)	60	(9)	(121)	(233)	(315)	69	208	131	42	(290)	(612)

	450,000	500,000	750,000
Federal			
Adjusted gross income	450,000	500,000	750,000
Taxable income	442,650	492,650	742,650
Income tax	147,957	167,757	266,757
N. Dakota			
Current law tax	20,714	23,486	37,346
HB1055 tax	20,714	23,486	37,346
% of AGI	4.6	4.7	5.0
HB1399 tax [2]	19,780	22,230	34,480
% of AGI	4.4	4.4	4.6
Difference	(934)	(1,256)	(2,866)

[2] **Assumptions used for federal tax calculations:** (2000 tax year amounts)

- Standard deduction of $7,350
- Personal exemption of $2,800; phaseout at $193,400 applied, if applicable
- 2 dependents
- 2000 tax rates used
- Calculation of HB 1399 tax includes a tax credit based on a percentage of payments made for property tax, rent, and mobile home tax and lot rent. The credit is limited to 25% of tax, up to $230

Historical and Forecasted Individual Income Tax Statistics

Total Income (AGI) and Tax Liability Reported on Returns:

Tax Year	Federal Adjusted Gross Income Claimed on Returns	State Tax Liability Claimed on Returns
1995	$ 8,414,097,727	$ 143,681,028
1996	8,872,329,454	154,381,688
1997	9,450,013,615	164,208,959
1998	10,002,142,575	174,241,008
1999	11,088,479,061	186,053,608
2000 Est.	11,361,348,000	See FY Forecast
2001 Est.	12,203,088,000	See FY Forecast
2002 Est.	12,967,584,000	See FY Forecast

Total Individual Income Taxes Collected:

Fiscal Year	Total Individual Income Tax Collected
1996	$ 152,016,072
1997	163,500,180
1998	177,493,716
1999	180,794,109
2000	197,101,325
2001 Est.	205,666,000
2002 Est.	219,077,000
2003 Est.	231,370,000

NOTE: The majority of tax revenue for a given tax year is collected in the following fiscal year (ie. Tax year 1995 revenues are primarily collected in FY 96).

The Individual Income Tax Forecast contains a forecast of adjusted gross income and a forecast of total fiscal year collections.

Prepared by: *Office of Tax Commissioner*
Kathryn L. Strombeck
4/2/01

Prepared for Senator
Randy Christmann
By OTC
April 2, 2001

ENGROSSED HOUSE BILL 1399 WITH PROPOSED AMENDMENTS DATED MARCH 28, 2001 Including Sen. Christmann's Property Tax Credit

A BILL for an Act to amend and reenact sections 57-38-30.3 and 57-38-31.1 of the North Dakota Century Code, relating to determination of income tax liability on the short-form state income tax return and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return; and to provide an effective date.

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

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

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

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust.

   a. The tax for an individual, estate, or trust is computed at the following rates:

      (1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

      (2). On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.

3. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust, as computed under the provisions of 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 an amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.

d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax, provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent the adjustment is attributable to income allocated and apportioned to North Dakota.

4. Married persons filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

5. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

   b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's federal adjusted gross income as reported on the taxpayer's federal income tax return.

6. 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.

7. The tax commissioner may prescribe procedure 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.

8. A taxpayer filing a return under this section is entitled to the credit provided under section 57-38-01.20.

9. A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 40-63-04, 40-63-06, and 40-63-07.

10. a. A taxpayer filing a return under this section is entitled to a credit based on payments made by the taxpayer during the taxable year, computed by adding the following:

(1.) Twenty percent of property taxes paid under chapter 57-02 by the taxpayer on property in this state.

(2.) Ten percent of rent paid by the taxpayer for real property in this state leased by the taxpayer.

(3.) Twenty percent of mobile home tax paid under chapter 57-55 and lot rent paid for a mobile home in this state.

b. The credit computed under subdivision a may not exceed one hundred fifty dollars, or seventy five dollars for married persons filing separate state income tax returns.

11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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 proscribe rules, procedures, or guidelines necessary to administer this subsection.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the tables so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2000.

Prepared forSenator
Randy Christmann
By OTC
April 2, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399
(Includes Senator Christmann Property Tax Credit)

Page 1, line 1, replace "section" with "sections", after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", overstrike "percent of the individual's estate's , or" and insert immediately thereafter:

"a. The tax for an individual, estate, or trust is computed at the following rates:

(1.) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married persons filing a joint return is computed at the following rates:

(1.) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2.) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent."

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state" and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and remove "if the individual's, estate's, or trust's federal adjusted gross income"

Page 1, remove line 24

Page 2, remove lines 1 through 7

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section" and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident" and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not" and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total" and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable" and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust as computed under the provisions of the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The"and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

"d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for such year, as computed for purposes of the Internal Revenue Code of 1986, as amended.

e. Increased by the amount of any interest and dividends from foreign securities and from securities of states and their political subdivisions exempt from federal income tax; provided, that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included."

f. 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; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

h. For nonresidents, reduced by the taxable income that is not taxable to this state.

Provided, however, that with the exception of subdivision h, each adjustment in the above subdivisions is allowed only to the extent that the adjustment is attributable to income allocated and apportioned to North Dakota."

Page 4, line 22, overstrike "A husband and wife" and insert immediately thereafter "Married persons"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, replace lines 29 and 30 with:

10. a. A taxpayer filing a return under this section is entitled to a credit based on payments made by the taxpayer during the taxable year, computed by adding the following:

(1.) Twenty percent of property taxes paid under chapter 57-02 by the taxpayer on property in this state.

(2.) Ten percent of rent paid by the taxpayer for real property in this state leased by the taxpayer.

(3.) Twenty percent of mobile home tax paid under chapter 57-55 and lot rent paid for a mobile home in this state.

b. The credit computed under subdivision a may not exceed one hundred fifty dollars, or seventy five dollars for married persons filing separate state income tax returns.

Page 6, replace lines 1 through 9 with:

"11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means:

(1.) The amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001.

(2.) Reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year shall be equal to the sum of the following:

(1.) The tax computed under subsection 2 of this section on North Dakota taxable income reduced by elected farm income.

(2.) The increase in tax imposed by subsection 2 of this section 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. 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. "Elected farm income" means that portion of North Dakota taxable income for the taxable year that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

13. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2. In the tables so prescribed, the amounts of the computed tax must be based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, these tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota ~~taxable~~ income reportable to North Dakota by the partners or shareholders included in the composite return by ~~the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3~~ four and nine-tenths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Renumber accordingly

Prepared March 28, 2001 daw

Comparison of HB1055 and HB1399

Representative Lonny Winrich -- District 18

Both HB1055 and HB1399 are "decoupling" bills that would change the way North Dakotans compute their state income tax obligation. Instead of computing state income tax as 14% of one's federal tax obligation, as is currently done, state income tax would be computed as a percentage of federal taxable income.

HB1055 decouples transparently by constructing a state tax table where all the rates are 14% of current federal rates. Tax bills would not change and the state would collect the same revenue it does currently. Only the computation procedure would change. Tax rates under HB1055 range from 2.1% of taxable income, for income less than $27,050 for a single taxpayer ($45,200 for a married couple filing jointly), to 5.54% of taxable income over $297,300.

HB1399 creates a two level flat rate system with a standard tax credit for each taxpayer. Taxpayers with adjusted gross incomes of less than $55,000 ($110,000 for married couples) would be taxed at a rate of 2.7% of taxable income with a tax credit of $120 ($240 for married couples). Taxpayers with adjusted gross incomes of $55,000 or more ($110,000 for married couples) would be taxed at a rate of 3.7% of taxable income with the same tax credits. HB1399 produces roughly the same amount of revenue for the state but it does so by raising the income tax for some and lowering it for others.

The general effect of HB1399 is that for the group of taxpayers with adjusted gross incomes of less than $55,000 ($110,000 for married couples), taxes for those at the low end and at the high end of the bracket would decrease but middle income taxpayers would have their taxes increased. For taxpayers with adjusted gross incomes of $55,000 or more ($110,000 for married couples), HB1399 would raise tend to raise taxes for those at the low end of the bracket and give larger and larger tax breaks for the wealthiest taxpayers. In assessing these differences, it is important to note that the number of taxpayers who fall in the middle income range is much larger than the number at the ends of the income scale. Data from the Tax Commissioner's Office shows that the low end effect of the tax credits would remove some 41,000 taxpayers from the tax rolls. There are approximately 9,000 taxpayers with adjusted gross incomes of $55,000 or more ($110,000 for married couples) and there are about 171,000 taxpayers whose adjusted gross incomes are less than $55,000 ($110,000 for married couples). The fiscal effects of HB1399 on these groups is summarized in the following table.

Group	Number	Fiscal Effect
Tax Reduced to Zero	41,000	- $2.0 Mill
Income below $55,000 ($110,000)	171,000	$2.8 Mill
Income $55,000 or more ($110,000)	9,000	- $ .6 Mill

Thus the overall effect on state revenues is unchanged but with a significant tax increases for a group of 171,000 citizens and major tax cuts for some 9,000 of the wealthiest taxpayers.

Tax Co[illegible]n Examples – HB1399 & HB1055
Representative Lonny Winrich – District 18

Single Taxpayer – No Dependents

Adj. Gross Inc.	$25,000	$30,000	$35,000	$40,000	$54,999	$55,000	$60,000	$150,000
St. Deduction	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)	(4,400)
Exemptions	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,296)
Taxable Inc.	17,800	22,800	27,800	32,800	47,799	47,800	52,800	143,304
X HB1399 Rate	481	616	751	886	1,291	1,769	1,954	5,302
Less Tax Credit	(120)	(120)	(120)	(120)	(120)	(120)	(120)	(120)
HB1399 Tax	361	496	631	766	1,171	1,649	1,834	5,182
HB1055 Tax	374	478	597	793	1,381	1,381	1,860	5,498
Difference	(13)	18	34	(27)	(210)	268	(26)	(316)

Married Couple – Two Children

Adj. Gross Inc.	$50,000	$60,000	$65,000	$70,000	$100,000	$109,999	$110,000	$150,000
St. Deduction	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)	(7,350)
Exemptions	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)	(11,200)
Taxable Inc.	31,450	41,450	46,450	51,450	81,450	91,449	91,450	131,450
X HB1399 Rate	849	1,119	1,254	1,389	2,199	2,469	3,384	4,864
Less Tax Credit	(240)	(240)	(240)	(240)	(240)	(240)	(240)	(240)
HB1399 Tax	609	879	1,014	1,149	1,959	2,229	3,144	4,624
HB1055 Tax	660	870	998	1,194	2,370	2,762	2,762	4,423
Difference	(51)	9	16	(50)	(411)	(533)	382	201

Couple #1: No Children
Couple #2: One Child

			Couple #1	Couple #2
Adj. Gross Inc.	$200,000	$500,000	$109,000	$111,000
St. Deduction	(7,350)	(7,350)	(7,350)	(7,350)
Exemptions	(10,528)	0	(5,600)	(8,400)
Taxable Inc.	182,122	492,650	96,050	95,250
X HB1399 Rate	6,739	18,228	2,593	3,524
Less Tax Credit	(240)	(240)	(240)	(240)
HB1399 Tax	6,499	17,988	2,353	3,284
HB1055 Tax	6,732	23,360	2,943	2,911
Difference	(233)	(5,372)	(590)	373

HOUSE BILL 1399 & 1055 COMPARISSON

SINGLE REPORTING

Fed. Taxable Income	$15,000.00	$20,000.00	$30,000.00	$40,000.00	$50,000.00	$54,950.00	$55,000.00	$75,000.00	$95,000.00	$97,500.00	$100,000.00
1040 Tax	$2,254.00	$3,004.00	$4,995.00	$7,795.00	$10,595.00	$11,981.00	$11,995.00	$17,939.00	$24,139.00	$24,914.00	$25,681.00
37S - HB 1055[1]	**$315.56**	**$420.56**	**$699.30**	**$1,091.30**	**$1,483.30**	**$1,677.34**	**$1,679.30**	**$2,511.46**	**$3,379.46**	**$3,487.96**	**$3,595.34**
HB 1399[2]	$405.00	$540.00	$810.00	$1,080.00	$1,350.00	$1,483.65	$2,035.00	$2,775.00	$3,515.00	$3,607.50	$3,700.00
1399 Single Credit[3]	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00	$120.00
1399 Tax[4]	**$285.00**	**$420.00**	**$690.00**	**$960.00**	**$1,230.00**	**$1,363.65**	**$1,915.00**	**$2,555.00**	**$3,395.00**	**$3,487.50**	**$3,580.00**
Difference	**($30.56)**	**($0.56)**	**($9.30)**	**($131.30)**	**($253.30)**	**($313.69)**	**$235.70**	**$143.54**	**$15.54**	**($0.46)**	**($15.34)**

MARRIED FILING JOINTLY

Fed. Taxable Income	$20,000.00	$30,000.00	$40,000.00	$41,000.00	$42,500.00	$45,000.00	$46,000.00	$47,500.00	$55,000.00	$60,000.00	$75,000.00
1040 Tax	$3,004.00	$4,504.00	$6,004.00	$6,154.00	$6,379.00	$6,907.00	$7,187.00	$7,607.00	$9,707.00	$11,107.00	$15,307.00
37S - HB 1055[1]	**$420.56**	**$630.56**	**$840.56**	**$861.56**	**$893.06**	**$966.98**	**$1,006.18**	**$1,064.98**	**$1,358.98**	**$1,554.98**	**$2,142.98**
HB 1399[2]	$540.00	$810.00	$1,080.00	$1,107.00	$1,147.50	$1,215.00	$1,242.00	$1,262.50	$1,485.00	$1,620.00	$2,025.00
1399 Joint Credit[3]	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00
1399 Tax[4]	**$300.00**	**$570.00**	**$840.00**	**$867.00**	**$907.50**	**$975.00**	**$1,002.00**	**$1,042.50**	**$1,245.00**	**$1,380.00**	**$1,785.00**
Difference	**($120.56)**	**($60.56)**	**($0.56)**	**$5.44**	**$14.44**	**$8.02**	**($4.18)**	**($22.48)**	**($113.98)**	**($174.98)**	**($357.98)**

Fed. Taxable Income	$80,000.00	$90,000.00	$100,000.00	$109,500.00	$110,000.00	$120,000.00	$150,000.00	$155,000.00	$156,725.00	$160,000.00
1040 Tax	$16,707.00	$19,507.00	$22,299.50	$25,066.00	$25,221.00	$28,321.00	$37,621.00	$39,171.00	$39,705.75	$40,721.00
37S - HB 1055[1]	**$2,338.98**	**$2,730.98**	**$3,121.93**	**$3,509.24**	**$3,530.94**	**$3,964.94**	**$5,266.94**	**$5,483.94**	**$5,558.81**	**$5,700.94**
HB 1399[2]	$2,160.00	$2,430.00	$2,700.00	$2,956.50	$4,070.00	$4,440.00	$5,550.00	$5,735.00	$5,798.83	$5,920.00
1399 Joint Credit[3]	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$240.00	$251.00
1399 Tax[4]	**$1,920.00**	**$2,190.00**	**$2,460.00**	**$2,716.50**	**$3,830.00**	**$4,200.00**	**$5,310.00**	**$5,495.00**	**$5,558.83**	**$5,669.00**
Difference	**($418.98)**	**($540.98)**	**($661.93)**	**($792.74)**	**$299.06**	**$235.06**	**$43.06**	**$11.06**	**$0.02**	**($31.94)**

[1] 14% of Federal Income Tax Liability

[2] 2.7% of Federal Taxable Income for Singles and Joint Filer's below $55,000 & $110,000 respectively, and 3.7% above.

[3] $120 State Income Tax Credit for Singles and $240 for Joint Filers

[4] Total State Income Taxes Payable under 1399

NORTH DAKOTA
HOUSE OF REPRESENTATIVES

Representative Kim Koppelman
District 13
513 First Avenue Northwest
West Fargo, ND 58078-1101

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 60505-0360

COMMITTEES:
Appropriations

Testimony on House Bill 1399
by Rep. Kim Koppelman
before the Senate Finance and Tax Committee

Good Morning, Mr. Chairman and Members of the House Finance and Tax Committee. For the record, I am Rep. Kim Koppelman and I represent District 13.

Although this is my fourth session in the North Dakota House of Representatives, I believe this is the first time I have testified before your committee, so it's a privilege to be here.

I appear here today to ask your support of House Bill 1399, a bill which will both simplify and improve North Dakota's income tax system.

When we considered a tax decoupling bill in the Legislature, I voted against it, probably for the same reasons many legislators did. We feared that it would tamper with the simplicity of our income tax forms and the ease of filing taxes in North Dakota. I believe most of us shared the attitude "If it's not broke, don't fix it."

Mr. Chairman and members of the committee, I've since become convinced that "it is broke", if not in reality, at least in perception. Our income tax system in North Dakota has two flaws: the absence of self determination and the problem of perception.

Because our income tax calculation is currently tied to a taxpayer's federal income tax liability, we are at the mercy of any changes in the federal income tax. While some have noted that this could reduce revenues for state government, if there is a tax cut in Washington, DC, I am personally even more worried about the potential, at some point, for the people of North Dakota to be subjected to a "stealth" state income tax increase, not as a result of anything their elected legislators do, but as a result of what Congress does.

Passing the buck for state tax policy-making to Washington, I believe, ignores our responsibility to the people of our state and gives more power to a federal government which, many would argue, already has too much power, as it is.

I've also become convinced that there is, indeed, a perception problem. People outside our state believe our tax is higher than it is. "Aren't business people and economic development experts smart enough to figure out that our tax is calculated on the *federal tax obligation* and not on the taxpayer's income?", you may ask. Yes, they're smart enough but, too often, they simply don't pay enough attention.

Too often a terse overview of economic, business or tax conditions in North Dakota can and does leave the impression that we have a 14% income tax and that hastily-formed perception alone may be enough to remove us from consideration, in today's competetive economic development climate among states. We can't afford the continuation of that myth or the perpetuation of the confusion.

For these reasons, I was prepared to introduce legislation to correct this problem and was in the process of drafting such a bill, when I discovered Rep. Carlson's bill. I concluded that it was so similar to my idea, that I chose to sign on as a co-sponsor of his bill, instead of introducing another.

House Bill 1399 not only corrects the problems I've described, it also creates a fairer, flatter tax, while retaining many federal deductions, and eliminates the "marriage penalty" for North Dakota state income tax payers, as well.

Mr. Chairman and members of the committee, I urge your favorable consideration of this bill and I'd be glad to attempt to answer any questions you may have.

Joe Becker
HB 1399

STATE INDIVIDUAL INCOME TAXES

(Tax rates for tax year 2001 -- as of January 1, 2001)

	TAX RATE RANGE (in percents) Low	High	Number of Brackets	INCOME BRACKETS Lowest	Highest	PERSONAL EXEMPTIONS Single	Married	Dependents	FEDERAL INCOME TAX DEDUCTIBLE
ALABAMA	2.0	5.0	3	500 (b)	3,000 (b)	1,500	3,000	300	*
ALASKA	No State Income Tax								
ARIZONA	2.87	5.04	5	10,000 (b)	150,000 (b)	2,100	4,200	2,300	
ARKANSAS	1.0	7.0 (e)	6	2,999	25,000	20 (c)	40 (c)	20 (c)	
CALIFORNIA (a)	1.0	9.3	6	5,454 (b)	35,792 (b)	72 (c)	142 (c)	227 (c)	
COLORADO	4.63		1	-----Flat rate-----		------------None------------			
CONNECTICUT	3.0	4.5	2	10,000 (b)	10,000 (b)	12,000 (f)	24,000 (f)	0	
DELAWARE	2.2	5.95	7	5,000	60,000	110 (c)	220 (c)	110 (c)	
FLORIDA	No State Income Tax								
GEORGIA	1.0	6.0	6	750 (g)	7,000 (g)	2,700	5,400	2,700	
HAWAII (h)	1.5	8.5	8	2,000 (b)	40,000 (b)	1,040	2,080	1,040	
IDAHO	2.0	8.2	8	1,000 (i)	20,000 (i)	2,900 (d)	5,800 (d)	2,900 (d)	
ILLINOIS	3.0		1	-----Flat rate-----		2,000	4,000	2,000	
INDIANA	3.4		1	-----Flat rate-----		1,000	2,000	1,000	
IOWA (a)	0.36	8.98	9	1,162	52,290	40 (c)	80 (c)	40 (c)	*
KANSAS	3.5	6.45	3	15,000 (b)	30,000 (b)	2,250	4,500	2,250	
KENTUCKY	2.0	6.0	5	3,000	8,000	20 (c)	40 (c)	20 (c)	
LOUISIANA	2.0	6.0	3	10,000 (b)	50,000 (b)	4,500 (j)	9,000 (j)	1,000 (j)	*
MAINE (a) (k)	2.0	8.5	4	4,150 (b)	16,500 (b)	2,850	5,700	2,850	
MARYLAND (a)	2.0	4.8	4	1,000	3,000	2,100	4,200	2,100	
MASSACHUSETTS	5.6		1	-----Flat rate-----		4,400	8,800	1,000	
MICHIGAN (a)	4.2 (l)		1	-----Flat rate-----		2,800	5,600	2,800	
MINNESOTA (a)	5.35	7.85	3	17,570 (m)	57,710 (m)	2,900 (d)	5,800 (d)	2,900 (d)	
MISSISSIPPI	3.0	5.0	3	5,000	10,000	6,000	12,000	1,500	
MISSOURI	1.5	6.0	10	1,000	9,000	2,100	4,200	2,100	* (u)
MONTANA (a)	2.0	11.0	10	2,100	73,000	1,610	3,220	1,610	*
NEBRASKA (a)	2.51	6.68	4	2,400 (n)	26,500 (n)	91 (c)	182 (c)	91 (c)	
NEVADA	No State Income Tax								
NEW HAMPSHIRE	State Income Tax is Limited to Dividends and Interest Income Only.								
NEW JERSEY	1.4	6.37	6	20,000 (o)	75,000 (o)	1,000	2,000	1,500	
NEW MEXICO	1.7	8.2	7	5,500 (p)	65,000 (p)	2,900 (d)	5,800 (d)	2,900 (d)	
NEW YORK	4.0	6.85	5	8,000 (b)	20,000 (b)	0	0	1,000	
NORTH CAROLINA	6.0	7.75	3	12,750 (q)	60,000 (q)	2,500 (q)	5,000 (q)	2,500 (q)	
NORTH DAKOTA	2.67	12.0 (r)	8	3,000	50,000	2,900 (d)	5,800 (d)	2,900 (d)	* (r)
OHIO (a)	0.691	6.980 (s)	9	5,000	200,000	1,050 (s)	2,100 (s)	1,050 (s)	
OKLAHOMA	0.5	6.75 (t)	8	1,000	10,000	1,000	2,000	1,000	* (t)
OREGON (a)	5.0	9.0	3	2,350 (b)	5,850 (b)	132 (c)	264 (c)	132 (c)	* (u)
PENNSYLVANIA	2.8		1	-----Flat rate-----		------------None------------			
RHODE ISLAND	25.5% Federal tax liability (v)				---	---	---	---	
SOUTH CAROLINA (a)	2.5	7.0	6	2,310	11,550	2,900 (d)	5,800 (d)	2,900 (d)	
SOUTH DAKOTA	No State Income Tax								
TENNESSEE	State Income Tax is Limited to Dividends and Interest Income Only.								
TEXAS	No State Income Tax								
UTAH	2.30	7.0	6	750 (b)	3,750 (b)	2,175 (d)	4,350 (d)	2,175 (d)	* (w)
VERMONT	24.0% Federal tax liability (x)				---	---	---	---	
VIRGINIA	2.0	5.75	4	3,000	17,000	800	1,600	800	
WASHINGTON	No State Income Tax								
WEST VIRGINIA	3.0	6.5	5	10,000	60,000	2,000	4,000	2,000	
WISCONSIN	4.6	6.75 (y)	4	1,500	112,500	700	1,400	400	
WYOMING	No State Income Tax								
DIST. OF COLUMBIA	5.0	9.0 (z)	3	10,000	30,000	1,370	2,740	1,370	

Note: Even FTA doesn't post the 14% of FTL like it ~~does~~ does for Rhode Island & Vermont.

Tax dept HB 1399

Worksheet for calculating your North Dakota income tax under the provisions of House Bill 1399, as passed by the Senate

1	Enter your federal taxable income	1 ______
2	Addback adjustments—see **Note A** below	2 ______
3	Balance (*Add lines 1 and 2*)	3 ______
4	Subtract adjustments—see **Note B** below	4 ______
5	North Dakota taxable income (*Subtract line 4 from line 3*)	5 ______
6	Tax—To calculate your tax, use: • **Table 1**, if your filing status is single, head of household, qualifying widow(er), or married filing separately; or • **Table 2**, if your filing status is married filing jointly.	6 ______
7	If you paid real property tax, mobile home tax, rent, or lot rent for a mobile home, enter the lesser of 25% of line 6 or $230 ($115, if married filing separately. If not applicable, enter -0- on this line	7 ______
8	Subtract line 7 from line 6. **This is your tax under the provisions of HB1399, as passed by the Senate.** (*See Note C below*)	8 ______

Table 1—Single, Head of Household, Qualifying Widow(er), or Married Filing Separately

If your North Dakota taxable income is: Over	But not over	Your tax is:
$ 0	$40,000	2.8% of North Dakota taxable income
$40,000		$1,120 plus 4.9% of excess over $40,000

Table 2—Married Filing Jointly

If your North Dakota taxable income is: Over	But not over	Your tax is:
$ 0	$80,000	2.8% of North Dakota taxable income
$ 80,000		$2,240 plus 4.9% of excess over $80,000

Note A—Addback adjustments

The following items must be added to federal taxable income to determine North Dakota taxable income. If you have any of these items, enter them on line 2 of the worksheet.

- Interest from state and local obligations, i.e., municipal bonds, of states other than North Dakota.
- Amount of a lump-sum distribution from a pension plan for which the federal 10-year averaging method was used to calculate the federal income tax on the distribution.
- Loss from a partnership, S corporation, or other pass-through entity that is subject to North Dakota's financial institution tax (under N.D.C.C. ch. 57-35.3).

Note B—Subtract adjustments

The following items must be subtracted from federal taxable income to determine North Dakota taxable income. If you have any of these items, enter them on line 4 of the worksheet.

- Interest from U.S. obligations (including the portion of dividends from a mutual fund attributable to the fund's investment in U.S. obligations).
- 30% of the excess of net long-term capital gains over net short-term capital losses.
- Income of a nonresident not taxable in North Dakota.
- U.S. Railroad Retirement Board retirement, unemployment, and sick pay benefits.
- Income of a Native American who lives and works on the reservation where enrolled as a member.
- Income from a partnership, S corporation, or other pass-through entity that is subject to North Dakota's financial institution tax (under N.D.C.C. ch. 57-35.3).

Note C—Other special adjustments that may apply

- ***3-year income averaging method for eligible farmers.*** HB1399 includes a provision for a 3-year income averaging method for farm income that is similar to the 3-year income averaging method under federal income tax law. If eligible, the tax calculated using the 3-year income averaging method may be lower than the tax calculated using the worksheet. ***The details of the 3-year income averaging calculation have not yet been determined by the Office of State Tax Commissioner.***
- **Unused federal credit for prior year minimum tax.** HB1399 includes a provision that allows for the recovery of any federal credit for prior year minimum tax that remains unused as of the beginning of the tax year for which HB1399 first takes effect. This applies only with respect to the portion of the federal credit for prior year minimum tax that is attributable to the amount of federal alternative minimum tax that was included in the taxpayer's federal income tax liability for purposes of Form 37-S for tax years prior to the tax year for which HB1399 first takes effect. In general, the recovery will be allowed in the form of a tax credit equal to 14% of the unused federal credit for prior year minimum tax that is actually claimed on the taxpayer's federal income tax return. ***The details of this calculation have not yet been determined by the Office of State Tax Commissioner.***

Tax dept
HB 1399

North Dakota Resident Filing Status
37-S Filers, 1999

Filing status	Number of returns filed
[illegible]	125,768
[illegible]	122,059
[illegible]	3,683
[illegible]	18,139
[illegible]	187

Resident Returns Filed By Tax Bracket
(Single)
37-S Filers, 1999

Taxable income by bracket	Number of returns filed
[illegible]	111,413
[illegible]	12,395
[illegible]	1,446
[illegible]	307
[illegible]	116

Resident Returns Filed By Tax Bracket
(Married Joint)
37-S Filers, 1999

Taxable income by bracket	Number of returns filed
[illegible]	86,868
[illegible]	29,472
[illegible]	2,921
[illegible]	1,765
[illegible]	981

Prepared by Donnita Wald
Office of state tax commissioner
March 22, 2001

Sen [illegible]

Short fo[illegible] method for individuals (Form 37-S): Comparison of tax liability under current law with Engrossed House Bill 1399 (as amended and passed by the Senate)

These charts only represent the approximate income tax liabilities that would be calculated under current law and HB 1399 for persons with income that is primarily wages. Persons having any of the items listed under **important** in the gray box below will have liabilities that differ from those shown here.

Single individual with no dependents

Federal [1]

Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000
Taxable income	2.8% bracket 7,800	12,800	17,800	22,800	27,800	32,800	37,800	4.9% bracket 42,800	52,800	62,800
Income tax	1,174	1,924	2,674	3,424	4,379	5,779	7,179	8,579	11,379	14,179
N. Dakota										
Current law tax	164	269	374	479	613	809	1,005	1,201	1,593	1,985
% of AGI	1.1	1.3	1.5	1.6	1.8	2.0	2.2	2.4	2.7	2.8
HB1399 tax [2]	163	268	373	478	583	688	828	1,027	1,517	2,007
% of AGI	1.1	1.3	1.5	1.6	1.7	1.7	1.8	2.1	2.5	2.9
Difference	(1)	(1)	(1)	(1)	(30)	(121)	(177)	(174)	(76)	22

Adjusted gross income	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Taxable income	72,800	82,800	92,800	143,304	194,424	245,544	295,600	345,600	395,600
Income tax	17,257	20,357	23,457	39,640	58,044	75,447	94,728	114,529	134,328
N. Dakota									
Current law tax	2,416	2,850	3,284	5,550	8,126	10,703	13,262	16,034	18,806
% of AGI	3.0	3.2	3.3	3.7	4.1	4.3	4.4	4.6	4.7
HB1399 tax [2]	2,497	2,987	3,477	5,952	8,457	10,962	13,414	15,864	18,314
% of AGI	3.1	3.3	3.5	4.0	4.2	4.4	4.5	4.5	4.6
Difference	81	137	193	402	331	259	152	(170)	(492)

Federal [1]

Adjusted gross income	450,000	500,000	750,000
Taxable income	4.9% bracket 445,600	495,600	745,600
Income tax	154,128	173,928	272,928
N. Dakota			
Current law tax	21,578	24,350	38,210
% of AGI	4.8	4.9	5.0
HB1399 tax [2]	20,764	23,214	35,464
% of AGI	4.6	4.6	4.7
Difference	(814)	(1,136)	(2,746)

Assumptions used in this illustration

1 Federal taxable income was calculated by subtracting the following amounts from federal adjusted gross income: (*based on 2000 tax year amounts*)

- Standard deduction of $4,400.
- Exemption amount of $2,800 (phase out at $128,950 applied, if applicable).

The federal tax rates for the 2000 tax year were used to calculate the federal tax.

2 The HB1399 tax was calculated at the following tax rates:

If North Dakota taxable income is: Over	But not over	The tax is:
$ 0	$40,000	2.8% of ND taxable income
$ 40,000		$1,120 plus 4.9% of excess over $40,000

Calculation of HB 1399 tax includes a reduction for a tax credit equal to 25% of the tax calculated using the 2.8% and 4.9% tax rates, up to a maximum of $230. This credit is allowed if the taxpayer paid real property tax, mobile home tax, rent, or lot rent for a mobile home. For this illustration, it was assumed that the taxpayer qualified for the credit.

Important

HB1399 includes the following adjustments not accounted for in this illustration:

- Deduction for 30% of net long-term capital gains.
- Addition of out-of-state municipal interest.
- 3-year income averaging for farm income.
- Deduction for income from a pass-through entity subject to North Dakota's financial institution tax.
- Deduction for income that federal law exempts from state income tax, e.g., U.S. obligation interest, U.S. Railroad Retirement Board benefits, and certain income of Native Americans.
- Deduction for income of a nonresident that is not taxable in North Dakota.
- Credit for unused federal credit for prior year minimum tax.

Short fo method for individuals (Form 37-S): Comparison of tax liability under current law with Engrossed House Bill No. 1399 (as amended and passed by the Senate)

These charts only represent the approximate income tax liabilities that would be calculated under current law and HB 1399 for persons with income that is primarily wages. Persons having any of the items listed under **Important** in the gray box below will have liabilities that differ from those shown here.

Married individuals filing jointly with two children

	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
Federal [3]																			
Adjusted gross income	15,000	20,000	25,000	30,000	35,000	40,000	45,000	50,000	60,000	70,000	80,000	90,000	100,000	150,000	200,000	250,000	300,000	350,000	400,000
	2.8% bracket												4.9% bracket						
Taxable income	0	1,450	6,450	11,450	16,450	21,450	26,450	31,450	41,450	51,450	61,450	71,450	81,450	131,450	182,122	236,602	291,082	342,650	392,650
Income tax	0	219	971	1,721	2,471	3,221	3,971	4,721	6,221	8,713	11,513	14,313	17,113	31,871	48,612	68,225	87,936	108,357	128,157
N. Dakota																			
Current law tax	0	31	136	241	346	451	556	661	871	1,220	1,612	2,004	2,396	4,462	6,806	9,552	12,311	15,170	17,942
% of AGI	0	.16	.54	.80	1.0	1.1	1.2	1.3	1.5	1.7	2.0	2.2	2.4	3.0	3.4	3.8	4.1	4.3	4.5
HB1399 tax [4]	0	31	136	241	346	451	556	661	931	1,211	1,491	1,771	2,081	4,531	7,014	9,683	12,353	14,880	17,330
% of AGI	0	.16	.54	.80	.99	1.1	1.2	1.3	1.6	1.7	1.9	2.0	2.1	3.0	3.5	3.9	4.1	4.3	4.3
Difference	0	0	0	0	0	0	0	0	60	(9)	(121)	(233)	(315)	69	208	131	42	(290)	(612)

	450,000	500,000	750,000
Federal [3]			
Adjusted gross income	450,000	500,000	750,000
	4.9% bracket		
Taxable income	442,650	492,650	742,650
Income tax	147,957	167,757	266,757
N. Dakota			
Current law tax	20,714	23,486	37,346
% of AGI	4.6	4.7	5.0
HB1399 tax [4]	19,780	22,230	34,480
% of AGI	4.4	4.4	4.6
Difference	(934)	(1,256)	(2,866)

Assumptions used in this illustration

[3] Federal taxable income was calculated by subtracting the following amounts from federal adjusted gross income: *(based on 2000 tax year amounts)*

- Standard deduction of $7,350.
- Exemption amount of $2,800 (phase out at $193,400 applied, if applicable); 4 personal / dependency exemptions assumed.

The federal tax rates for the 2000 tax year were used to calculate the federal tax.

[4] The HB1399 tax was calculated at the following tax rates:

If North Dakota taxable income is: Over	But not over	The tax is:
$ 0	$80,000	2.8% of ND taxable income
$ 80,000		$2,240 plus 4.9% of excess over $80,000

Calculation of HB 1399 tax includes a reduction for a tax credit equal to 25% of the tax calculated using the 2.8% and 4.9% tax rates, up to a maximum of $230. This credit is allowed if the taxpayer paid real property tax, mobile home tax, rent, or lot rent for a mobile home. For this illustration, it was assumed that the taxpayer qualified for the credit.

Important

HB1399 includes the following adjustments **not** accounted for in this illustration:

- Deduction for 30% of net long-term capital gains.
- Addition of out-of-state municipal interest.
- 3-year income averaging for farm income.
- Deduction for income from a pass-through entity subject to North Dakota's financial institution tax.
- Deduction for income that federal law exempts from state income tax, e.g., U.S. obligation interest, U.S. Railroad Retirement Board benefits, and certain income of Native Americans.
- Deduction for income of a nonresident that is not taxable in North Dakota.
- Credit for unused federal credit for prior year minimum tax

MEMORANDUM

TO: Chairmen Carlson and Wardner
And Members of the Conference Committee
On HB 1399

FR: Kathryn L. Strombeck
Research Analyst

RE: Fiscal Impact of HB 1399 with Conference Committee Amendments

DT: April 23, 2001

Your conference committee has adopted amendments to grandfather-in the taxation of municipal bond interest from out-of-state sources allowing all bonds purchased before July 1, 2001 to remain tax-exempt.

The fiscal impact of fully-taxed municipal bond interest from out-of-state sources is estimated at \$1.6 million per year, or \$3.2 million per biennium. Assuming that 10% of the tax generated each year is due to new investments, we would anticipate the grandfathering clause to effectively expire sometime in tax year 2010 or later.

Of more immediate concern is the fiscal impact relative to the 01-03 biennium. Assuming taxpayers do not drastically change behavior and load up on municipal bonds between now and July 1, approximately 95% of the tax from out-of-state sources would remain tax-exempt in FY 02, and 85% in FY 03. Therefore the estimated fiscal impact of the grandfathering provision is -\$2.88 million for the 01-03 biennium.

The committee also adopted amendments to add a line to the individual income tax return on which taxpayers can estimate and pay use tax on Internet and catalog purchases. While this provision is certainly revenue positive, we cannot estimate the likely fiscal impact with any degree of certainty.

Additionally, the Tax Department will incur administrative costs estimated at \$912,000 to establish the new income tax system provided for in HB 1399.

April 23, 2001
(Underscored language indicates
conference committee amendment)

ENGROSSED HOUSE BILL 1399 WITH CONFERENCE COMMITTEE AMENDMENTS

A BILL for an Act to create and enact a new subsection to section 57-38-31 of the North Dakota Century Code, relating to space on income tax returns to report and remit use taxes; to amend and reenact sections 57-38-30.3 and 57-38-31.1 of the North Dakota Century Code, relating to determination of income tax liability on the short-form state income tax return and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return; and to provide an effective date.

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

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

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

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust.

   a. The tax for an individual, estate, or trust is computed at the following rates:

      (1) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.

      (2) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.

b. The tax for married individuals filing a joint return is computed at the following rates:

(1) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.

(2) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.

c. For a nonresident individual, estate or trust, the tax determined under subdivision a or b, whichever applies, must be multiplied by a fraction in which:

(1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources, increased by the addition in subdivision e of subsection 3; and

(2) The denominator is the individual's federal adjusted gross income from all sources, increased by the addition in subdivision e of subsection 3, and reduced by the net income from the amounts specified in subdivisions a and b of subsection 3."

3. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, and trust, as computed under the provisions of 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 chapter 57-35.3.

d. Reduced by thirty percent of 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.

e. Increased by the amount of any income exempt from federal income tax which consists of interest and dividends from foreign securities or interest from securities of states and political subdivisions that are purchased after June 30, 2001, except that interest upon obligations of the state of North Dakota or any of its political subdivisions may not be included."

f. 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 receives the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.

g. 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 chapter 57-35.3.

4. Each adjustment in subsection 3, except under subdivision h, may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state.

5. Married individuals filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

6. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's federal adjusted gross income as reported on the taxpayer's federal income tax return.

7. 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.

8. The tax commissioner may prescribe procedure 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.

9. A taxpayer filing a return under this section is entitled to the credit provided under section 57-38-01.20.

10. A taxpayer filing a return under this section is entitled to the exemptions or credits provided under sections 40-63-04, 40-63-06, and 40-63-07.

11. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars for any return filed under this section. The credit for married individuals filing separate state income tax returns is limited to one hundred fifteen dollars for each spouse, unless separate returns are required under subsection 2 of section 57-38-31. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:

    a. Paid property taxes under chapter 57-02 on property in this state;

    b. Leased and paid rent for real property in this state;

    c. Paid mobile home tax under chapter 57-55 or lot rent for a mobile home in this state; or

    d. Occupied housing in this state as a primary resident which was provided by the taxpayer's employer as part of the employment relationship.

12. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative

minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001 reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

b. The credit is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability for the taxable year. For a nonresident taxpayer, the credit is limited to the ratio that the nonresident taxpayer's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.

13. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 of this section for the taxable year must be equal to the sum of the following:

(1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.

(2) The increase in tax imposed by subsection 2 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. 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 that is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].

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.

14. The tax commissioner may prescribe tax tables to be used in lieu of computing the tax according to subsection 2 if the amounts of the computed tax are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

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

Reporting and remitting use taxes on income tax returns. The tax commissioner shall include on each individual return a space for reporting use taxes on purchases by the taxpayer from out-of-state retailers during the taxable year. The commissioner shall include in the individual income tax returns instructions for reporting, computing, and remitting use tax liability under chapter 57-40.2. The commissioner shall keep separate records of use tax collections under this section and those collections must be allocated as provided in chapter 57-39.2. The provisions of chapter 57-39.2 govern the administration of this subsection.

SECTION 3. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota income reportable to North Dakota by the partners or shareholders included in the composite return by four and nine-tenths percent.

SECTION 4. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2000.

Strombeck, Kathy L.

From: Strombeck, Kathy L.
Sent: Wednesday, April 25, 2001 3:18 PM
To: Carlson, Al H.
Subject: Simplicity of 5-rate system

Rep. Carlson;

The five rate system that is being considered by the Conference Committee on HB 1399 will be simple for the vast majority of taxpayers. We estimate 90% to 95% of all taxpayers will simply pull their federal taxable income off the appropriate line on their federal return, go to the state tax table, and identify their tax amount.

The tax computation will be somewhat less simple for the estimated 16,000 taxpayers who have net long-term capital gains and/or the 12,000 taxpayers - many of whom are the same taxpayers - who have municipal bond interest. These taxpayers will be directed to a separate adjustment schedule to recompute their taxable income. A very small group of taxpayers will have special adjustments for lump sum distributions, farmer's income averaging, and/or credit for prior year's alternative minimum tax, and will also be directed to a separate schedule.

Taxpayers who are non-residents, have interest from US obligations, pay taxes in another state, or have other types of income not subject to taxation will have no additional complexities under the five-rate system than under the current system.

The form itself will be straightforward and simple; any computations will occur on a separate schedule(s) which can be ignored by the vast majority of taxpayers.

Kathryn Strombeck
Research Analyst
8-3402

Reps - Kip Grosz

HOUSE BILL 1399

SINGLE REPORTING

Fed. Taxable Income	$5,000.00	$7,500.00	$10,000.00	$15,000.00	$18,500.00	$20,000.00	$24,000.00	$25,000.00	$27,500.00	$30,000.00	$32,000.00	$35,000.00	$40,000.00
1040 Tax	$750.00	$1,125.00	$1,500.00	$2,250.00	$2,775.00	$3,000.00	$3,600.00	$3,750.00	$4,183.50	$4,683.50	$5,443.50	$6,283.50	$7,683.50
Current Tax Law	$105.00	$157.50	$210.00	$315.00	$388.50	$420.00	$504.00	$525.00	$585.69	$683.69	$762.09	$879.69	$1,075.69
HB 1399	$102.50	$155.00	$207.50	$315.00	$392.00	$425.00	$513.00	$535.00	$622.50	$710.00	$792.00	$915.00	$1,120.00
1399 Tax	$102.50	$155.00	$207.50	$315.00	$392.00	$425.00	$513.00	$535.00	$622.50	$710.00	$792.00	$915.00	$1,120.00
Difference	($2.50)	($2.50)	($2.50)	$0.00	$3.50	$5.00	$9.00	$10.00	$36.81	$26.31	$29.91	$35.31	$44.31
% Incr Or Decr	-2.38%	-1.59%	-1.19%	0.00%	0.90%	1.19%	1.79%	1.90%	6.28%	3.85%	3.92%	4.01%	4.12%

Fed. Taxable Income	$48,500.00	$50,000.00	$55,000.00	$60,000.00	$65,000.00	$75,000.00	$95,000.00	$100,000.00	$110,000.00	$120,000.00	$130,000.00	$140,000.00	$150,000.00
1040 Tax	$10,063.50	$10,483.50	$11,883.50	$13,283.50	$14,683.50	$17,767.00	$23,967.00	$25,517.00	$28,517.00	$31,717.00	$34,817.00	$38,079.50	$41,679.50
Current Tax Law	$1,408.89	$1,467.69	$1,663.69	$1,859.69	$2,055.69	$2,487.38	$3,355.38	$3,572.38	$4,006.38	$4,440.38	$4,874.38	$5,331.13	$5,835.13
1399 Deduction	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
HB 1399	$1,468.50	$1,530.00	$1,735.00	$1,940.00	$2,160.00	$2,600.00	$3,540.00	$3,775.00	$4,305.00	$4,835.00	$5,365.00	$5,895.00	$6,425.00
1399 Tax	$1,468.50	$1,530.00	$1,735.00	$1,940.00	$2,160.00	$2,600.00	$3,540.00	$3,775.00	$4,305.00	$4,835.00	$5,365.00	$5,895.00	$6,425.00
Difference	$59.61	$62.31	$71.31	$80.31	$104.31	$112.62	$184.62	$202.62	$298.62	$394.62	$490.62	$563.87	$589.87
% Incr Or Decr	4.23%	4.25%	4.29%	4.32%	5.07%	4.53%	5.50%	5.67%	7.45%	8.89%	10.07%	10.58%	10.11%

MARRIED FILING JOINTLY

Fed. Taxable Income	$7,500.00	$10,000.00	$15,000.00	$20,000.00	$33,000.00	$40,000.00	$41,000.00	$43,850.00	$46,000.00	$47,500.00	$50,000.00	$55,000.00	$60,000.00
1040 Tax	$1,125.00	$1,500.00	$2,250.00	$3,000.00	$4,950..	$6,000.00	$6,150.00	$6,577.50	$7,004.00	$7,424.00	$8,124.00	$9,524.00	$10,924.00
Current Tax Law	$157.50	$210.00	$315.00	$420.00	$693.00	$840.00	$861.00	$920.85	$980.56	$1,039.36	$1,137.36	$1,333.36	$1,529.36
HB 1399	$153.75	$205.00	$310.00	$415.00	$696.00	$850.00	$872.00	$934.70	$982.00	$1,015.00	$1,070.00	$1,245.00	$1,420.00
1399 Tax	$153.75	$205.00	$310.00	$415.00	$696.00	$850.00	$872.00	$934.70	$982.00	$1,015.00	$1,070.00	$1,245.00	$1,420.00
Difference	($3.75)	($5.00)	($5.00)	($5.00)	$3.00	$10.00	$11.00	$13.85	$1.44	($24.36)	($67.36)	($88.36)	($109.36)
% Incr Or Decr	-2.38%	-2.38%	-1.59%	-1.19%	0.43%	1.19%	1.28%	1.50%	0.15%	-2.34%	-5.92%	-6.63%	-7.15%

Fed. Taxable Income	$70,000.00	$80,000.00	$90,000.00	$100,000.00	$105,950.00	$120,000.00	$150,000.00	$155,000.00	$160,000.00	$180,000.00	$200,000.00	$250,000.00	$285,000.00
1040 Tax	$13,724.00	$16,524.00	$19,324.00	$22,124.00	$23,790.00	$28,046.50	$37,346.50	$38,896.50	$40,446.50	$47,321.50	$54,521.50	$72,521.50	$85,121.50
Current Tax Law	$1,921.36	$2,313.36	$2,705.36	$3,097.36	$3,330.60	$3,926.51	$5,228.51	$5,445.51	$5,662.51	$6,625.01	$7,633.01	$10,153.01	$11,917.01
HB 1399	$1,830.00	$2,240.00	$2,650.00	$3,060.00	$3,303.95	$3,880.00	$5,200.00	$5,435.00	$5,670.00	$6,610.00	$7,550.00	$10,200.00	$12,055.00
1399 Tax	$1,830.00	$2,240.00	$2,650.00	$3,060.00	$3,303.95	$3,880.00	$5,200.00	$5,435.00	$5,670.00	$6,610.00	$7,550.00	$10,200.00	$12,055.00
Difference	($91.36)	($73.36)	($55.36)	($37.36)	($26.65)	($46.51)	($28.51)	($10.51)	$7.49	($15.01)	($83.01)	$46.99	$137.99
% Incr Or Decr	-4.75%	-3.17%	-2.05%	-1.21%	-0.80%	-1.18%	-0.55%	-0.19%	0.13%	-0.23%	-1.09%	0.46%	1.16%

Single	Married	Rates	Single	Married
$0	$0	2.05%		
$5,000	$10,000	2.10%	$102.50	$205.00
$10,000	$20,000	2.15%	$207.50	$415.00
$15,000	$30,000	2.20%	$315.00	$630.00
$25,000	$50,000	3.50%	$535.00	$1,070.00
$30,000	$60,000	4.10%	$710.00	$1,420.00
$60,000	$120,000	4.40%	$1,940.00	$3,880.00
$75,000	$150,000	4.70%	$2,600.00	$5,200.00
$100,000	$200,000	5.30%	$3,775.00	$7,550.00
$150,000	$300,000	5.50%	$6,425.00	$12,850.00
$200,000	$400,000	5.80%	$9,175.00	$18,350.00

Variables

Credits		$0.00	$0.00	25%
Deductions - Single		$0.00		
Deductions - Married		$0.00		
Old Tax Rate	14%	14%		

Single	Married	Rates	Single	Married
$0	$0	15.00%	[illegible]	[illegible]
$27,050	$45,200	28.00%	[illegible]	$6,780.00
$65,550	$109,250	31.00%	[illegible]	$24,714.00
$138,750	$166,500	36.00%	[illegible]	$42,461.50
$297,350	$297,350	39.60%	$84,725.50	$89,557.50

Fiscal Effect - Mike's Rough Estimate

Single	$1,854,221
Married	($1,031,476)
Total	$822,746