

2009 HOUSE FINANCE AND TAXATION

HB 1255

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1255**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: **January 20, 2009**

Recorder Job Number: 7280

Committee Clerk Signature



Minutes:

Chairman Belter opened the hearing of HB 1255.

Representative Craig Headland, District 29, introduced the bill. **(Attachment 1)** He also distributed **Attachment 2**.

Representative Weiler: The table on page 26 (Redbook), do you know how long that table has been in effect.

Representative Headland: I request someone from the Tax Department answer that.

Representative Kelsh: You mentioned the small mom and pop business. Do you know what the breakdown on these businesses—are they actually domiciled in ND, or headquartered out of state that would also be affected by this change.

Representative Headland: I cannot answer that either. I'd like you to keep in mind that when we set these levels, they don't hurting some large corporations, but they are helpful to the mom and pops across the state who maybe don't generate the type of income that the large ones do. That bodes toward the bill.

Representative Pinkerton: We appreciate your trying to help business, but aren't most business across the state the smaller ones that have under \$1million in gross income? Aren't those limited liability family partnerships? Because there is no corporate farming in ND,

wouldn't this put a shift of burden to the farms that have those same bigger income levels that are unable to take advantage of the corporate income structure?

Representative Headland: Farmers are able to incorporate in this state for tax purposes and they can take advantage of these rates so it would not be a burden on them.

Representative Pinkerton: Are there project farms that are incorporated?

Representative Headland: I cannot attest to the number of farm corporations in this state; however, I do believe from my personal conversation amongst my farm colleagues that a number have incorporated. That question would be better posed to the tax department.

Bill Shalhoob, representing the ND Chamber of Commerce, spoke in favor of the bill.

(Attachment 3)

Chairman Belter: This session, as well as past sessions, there have been numerous tax proposals that give a certain benefit to encourage you to buy equipment or hire employees and all types of things. Has your organization talked at all about looking at all these little individual tax credits and looked more closely at reducing or eliminating the corporate instead of having these programs to try to encourage business development?

Shalhoob: We have not looked at that. Individual credits have been set by the Legislature to target specific areas as a matter of policy that they would like to see grow: wind energy, green, biomass and things like that. The last session you gave a credit to oil producing in the Bakken. They target specific things. If the Legislature as matter of policy thinks this is a better way to target business growth, rather than achieve an individual result, that would be something to discuss.

Representative Weiler: You just said something that struck me. You said you also represent the EDND (Economic Development Association of ND). You said they have not

taken a position on this. If we lower taxes that's going to bring in more business into the state, how can the EDND not be on board with this?

Shalhoob: I don't know that they are not on board. They had not taken a position as I came in here. They have a full legislative agenda dealing with many of the tax credits that the Chairman was referring to—dealing with the Commerce Department, dealing with child care initiatives, dealing with affordable rural housing and all that. I did not ask them to take a position. It's just a fact that I haven't asked them.

Representative Kelsh: ND is, I think, one of only 6 states that are running a budget surplus right now and the economy is doing very well compared to what is going on nationally. Could you also make the argument that we're already doing the right thing and have a business friendly environment?

Shalhoob: We certainly have received the benefit of a unique set of circumstances. All of us wonder how long that will continue when we look at the spike in the prices of energy, the amount of new oil we developed coupled with the commodity prices that were unheard of. Are we doing something right? Yes, under the benefit of a set of circumstances that may change. Is now the time to send out a message that things are good in ND and when things are good we will take care of you. Again, Yes. This might be the time to market and really look to attract people when things are not so good in other places. Now is not the time to pull back our horns. Now is the time to use the money and spend it wisely and go after a little more business.

Representative Pinkerton: I know that you are not a tax expert as far as how businesses structure themselves. Most small business under a couple of million dollars have little advantage in being a C-Corp because no matter what the state does, you still have that big

federal C-Corp tax that you have to pay out. Most professional corporations take all of their earnings out before the end of the year. Am I wrong there?

Shalhoob: No, you are not wrong. Ninety-some percent of the businesses in ND would not fall under this tax. All businesses organized as subchapter S, where the income is passed through to the individual before taxes are paid so the taxes are paid on the individual side not on the corporation side. This only effects C-corps and that is about 7% of the business in ND, our best corporate citizens.

Representative Pinkerton: There are small C-corps out there that for whatever reason they do it but most are larger businesses that are really turning money. It's not easy to switch between being a pass-through organization and a C-Corp. There are rules and regulations on that. I hate paying taxes as much as anyone else so we spend a lot of time looking at what our best structure is and a C-Corp is a poor structure for most small businesses.

Robert Harms spoke in support of the bill. When I saw this come up, I wanted to speak in favor of the bill. I was kind of wondering why wouldn't want to lower our corporate income tax. Maybe we can't afford it today or at the end of biennium. The governor's budget projected an ending fund balance surplus close to \$1.26 billion. We have the money today so why wouldn't we want to do this? The other question is why we would want to. ND would do well to gird itself to enhance the private sector in the face of the national recession we are looking at. This provides more wages and more money to the private sector for new investment and equipment and buildings. It will make ND more competitive nationally. Right now we have the 17th highest tax rate in the nation. In the initiated measure that was supposed to be a 15% corporate tax reduction and that was to take us to the 7th lowest in the country. It would enhance ND's competitive structure nationwide in terms of attracting new business and new investment. Lastly, the corporate tax rate that we are looking at this morning really should be

part of a balanced tax reform within the state. Both the corporate tax rate that you have in front of you, the income tax reduction that the Governor has proposed, and the property tax bills that you will see, make a good comprehensive tax reform package for the State of ND. This would be a nice package to reduce the tax burden for the citizens of the state.

Representative Froelich: Where does this state rank in comparison to other states (tax wise)?

Harms: I don't know what this would do for our ranking if it passes. I know when we were looking at the initiated measure; ND was ranked as the 17th highest in corporate tax rates. If that measure passed it would have taken us to the 7th lowest. I don't know if the tax department has done an analysis of how this affects us.

Duane Sands testified in favor of the bill. I could address that last question. The research that the ND Taxpayer's Association did shows this bill would take us from 17th highest to the lowest corporate taxes of any state in America. I'd like to echo some of comments made by Mr. Harms. It's really not a question of is this the right thing to do. It's a question of what will this do. If you are looking at some one-time expenditure to do great things for the State of ND this is certainly one of them. I'll take a broader view and make an analogy between ND and SD to 45 years ago when the populations were relatively the same as was the gross state product. In the course of the last 40 years due to a lower overall tax structure in SD, they have grown their gross domestic product to \$6 billion more per year than the State of ND. They have increased in population by 128,000 people. That's just one state but a state somewhat similar to ND in geography, gross state product (before the taxes were reduced or eliminated), and similar climate. The bottom line is that wages are not the reason why corporations move around. They move around based on the tax structures of many states. We've been seeing this migration of people and businesses around America especially in the last 20 years

because many states have become very resourceful in lowering the overall tax burden. You will hear the opposition tell you something that is not well known but much less understood and that is that the cost of doing business in ND is among the lowest in the country. It's not known in that equation when they calculate that standing is that 50% of variable to calculate that statistic is that ND has some lowest wages in America. So if we want to bring higher wages to ND we need to bring businesses that have to compete for labor in ND. Since we have the 17th highest corporate taxes in America right now, that's not a really good thing to brag about. Low labor is nothing to brag about. If you want to raise labor and salaries, bring in more C-Corps with more competition and they will pay more money for that labor and the overall result will be growth. This is a one-time expenditure with a little bit of pain for a long-term gain. Bring more corporations to ND; protect the ones that are here in this uncertain time, grow the wages of North Dakotans by that investment in ND. ND will have the lowest taxes for businesses in the area they have to compete in.

Representative Froelich: Mr. Shalhoob said there are 20,000 businesses that paid WSI premiums in the state. Another comment was made that said 90% of businesses in ND do not fall in to this corporation bracket. If I do this math right there are only 2000 businesses in the state that would benefit from this.

Sands: If you do the math that works out. I'd like to add that small businesses are the backbone of any economy. ND has had the kind of investment from larger corporations that it could have and one of the reasons has got to be the 17th highest taxes in America. If we make the lowest, there will be some real incentive for corporations to move here and compete and you have more people paying those premiums in the future.

Eric Aasmunstatd, president of ND Farm Bureau, spoke in favor of the bill. We believe this is one of the best things we can do to bolster business climate in ND.

OPPOSITION:

Greg Burns, executive director of the NDEA: Everyone is talking about balance and sustainability. We need to be concerned about sustainability here. We support a balance between revenue and expenditures. Corporations have received tax relief in the last two sessions which is good. The Governor's budget addresses relief where it's most needed—property tax. There have been questions about whether or not that amount of relief is sustainable. We believe in a balance between relief and spending. Now is not the time to cut the revenue stream when such an ambitious experiment in property tax is taking place. We might be headed for some major problems in Washington this time. Voters overwhelmingly rejected the corporate tax cut in Measure 2 in this last election. We urge you not to pass this legislation.

Representative Headland: I assume your fear is that there will not be enough revenue for education.

Burns: My fear is long-term sustainability. We have a big concern about education funding; we hear that there is fear about the Governor's budget being sustainable. In light of that it seems to us that is not a good time to consider cutting revenue streams.

Representative Headland: Are you aware that in the past there have been several states that reduced their tax burdens on businesses and in every one of those examples revenues have increased by the growth of business and the economic stimulus that those tax reductions provided. Why wouldn't we want to increase our revenue in this state to help and aid providing for education purposes?

Burns: I have not seen that. It would be great if that exists and is the outcome of this. I haven't seen the fiscal impact statement on this. If it indicates an increase in revenue, I would be interested in looking at that.

Representative Headland: The only way to determine the fiscal impact of a bill such as this is to directly apply the reduction in revenue. There's no way to judge the economic impact that tax relief could provide. It's all speculation.

Representative Brandenburg: You commented about your concern for funding for education and what tax credits can do, I can give you a situation that has worked. You mentioned some of the tax credits we gave for wind energy in the last few sessions. In LaMoure County there was an \$80 million project. The school district gets \$186,000 a year for the next 25 years. In Dickey County there was a \$200 million project again about \$250,000 for the next 30 years to the schools along the river. That's just an example of some of the things we've done dealing with tax structures and what's come back for education. I would venture to say that those schools are very happy that they have those wind towers. I'm confused when you say we may not have funding for education. These schools have had a windfall. I think there are more windfalls coming if we would work in the same situation.

Burns: What I understand what you are telling me is a little bit different than my understanding of this bill. If I understand what you are saying it's a case where there is actually a quid pro quo in terms of an incentive for investment. I don't see it in the bill unless I missed it.

Representative Brandenburg: I guess it's more the concept. It worked for wind energy, it also worked for oil and gas or coal or whatever energy. We're an energy rich state.

Representative Headland: Of the 15 states that cut income taxes in the '90s by at least \$75 million, income tax revenues climbed in every one of them by at least 10% except for one where it fell but other tax revenue rose in that state as well. This study shows that there is no evidence that higher funding for schools have led to better education. The taxes we are talking about are not really relevant to what we are trying to accomplish in this bill.

Representative Weiler: Your opposition to this bill is because of your concern for sustainability. That's a valid reason. You question if now is the time to cut revenue—another good point. Do you also believe we need to look at the spending side as far as sustainability?

Burns: Yes.

Representative Pinkerton: Could the Tax Department give us a rough idea of what percentage of corporate taxes paid—such as do the top 100 pay 90%.

Mary Loftsgard, associate director, Tax Administration Division: We recently looked at the taxes for 2006 as that's the year for which we have the most complete data. There are about 700 corporate taxpayers that pay 95% of the corporate taxes—that's out of 10,000 corporate filers. For tax year 2006, of roughly 22,000, 11,000 file as partnerships and 11,000 file as S-Corps.

Chairman Belter: Could you put together that data so we could have a handout for the Committee.

Loftsgard: The two most recent changes to corporate income tax rates occurred in the 2003 legislative session. ND was one of the few states that has a federal tax deduction for corporations. In 2003 that deduction was removed and the tax rates were lowered. The top rate went from 10.5% to 7%. The next rate change occurred in 2006 when the top rate went to 6.5%. There are roughly 10,000 corporations that file with us.

Representative Headland: Could you provide us with the percentage of that 10,000 that are paying at the top rate.

Loftsgard: I will do that.

Chairman Belter closed the hearing of HB 1255.

Additional Testimony Attached:

4. Wayne Papke

5. Memo from Mary Loftsgard, associate director, Tax Administration

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1255**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 20, 2009

Recorder Job Number: 7336

Committee Clerk Signature

Minutes:

Vice Chairman Drovdal: I call the Finance and Tax Committee back to order. Let's look at HB1255 which we looked at this morning. It has to do with corporation tax cuts. Any discussion or comments?

Representative Froseth: My feelings are that at this stage of the session, with all the packages that are coming through, we don't know exactly what the end result will be. We have several property tax bills. I would like to see this bill sent to Appropriations for their consideration. I imagine they will hold it until the week before crossover before they can put their package together.

Vice Chairman Drovdal: Chairman Belter wanted us to see if there are any areas we can work on. He doesn't want to vote on these bills today, but he wants to have the committee's questions answered so that when we bring them back up, we don't have to put them on hold again. Is this the form we want this bill to pass out of our committee in or do we want to make changes in language or amendments?

Representative Headland: I do support the levels of reduction that I have placed in the bill for the simple reason that it gets us to a more equitable tax individuals pay. I understand that the largest 700 corporations in the state pay the brunt of the tax. However, I think he alluded

to 10,000 other C corporations, small mom and pop businesses across the state that really do have a dramatic impact on how ND's economy acts. Would I be friendly to making the numbers less burdensome on the revenue stream? I may be, but I think we are looking at policy here more than numbers. I think we could pass it though just as it is and when Appropriations gets a real understanding of the revenue stream, they can make a judgment. I guess I would like to pass the bill though as it is.

Vice Chairman Drovdal: (Inaudible). Any other comment on HB 1255?

Representative Pinkerton: This kind of bill is most applicable to very large corporations like the MDUs, the Bobcats, the Xcels; and I don't completely disagree with the gentleman who said we do have a need for some of those large corporations to come to the state. I don't really believe this applies to mom and pop kinds of operations because they said there are 700 corporations that harvest that money. Verizon and WalMart are also big players in this—those are the kinds of people that would be affected by this bill. I had a conversation with a person from the Chamber of Commerce. I just don't believe this is the vehicle to do this with. If I were to spend that kind of money, I would just as soon spend it on centers of excellence and I don't particularly like centers of excellence.

Vice Chairman Drovdal: (06:40) You don't need any clarity (difficult to understand) so when Representative Belter comes back, we will be ready to vote on this bill.

Representative Schmidt: I am not going to vote for this for the simple reason that there has been a study made in ND that says that when these corporations come in, their first concern is transportation, not tax. We have priorities right now in my area where people are crying to get their kids to school, crying for money for the townships. You ask them what is important and they don't say it is to give tax relief to corporations. They want relief. The \$100 million income tax bill is the same way. There are more important things. When I campaign, people never

mention that taxes are too high. It's property tax and not getting kids to school. We have to establish some priorities here. I don't think we have to worry about some of these corporations coming to ND if we don't have transportation. Right now I have hundreds of letters from township officers about people who can't get their kids to school because of snow. That's what is important. I am going to vote no. Don't send them to Appropriations. They might go through.

Representative Headland: I will try to respond to that. This past couple years Alec Laffert did a study of all the states and their policies to determine which states were winners and which were losers. In this study, it showed that 15 states in the 90s reduced their tax burden by at least \$75 million. In every one of those cases, except for one, revenue to the state increased by over 10%, every one. Tax reductions create the opportunities for new wealth and, in turn, create new revenues for the state. I don't understand the fear of trying to put the state in a more competitive place where maybe it will attract more business. The beauty about doing it legislatively is that if it doesn't work, we can change it.

Representative Froseth: I think you have some valid points. There is money needed for a number of projects across the state. My feeling is that this bill could become part of a mix that Appropriations will eventually come up with, along with the Governor's proposal, to return some of the surplus money back to the citizens of North Dakota, along with the property tax relief money and the income tax, school funding and all of that. This might be part of it too. I would just as soon see this kept alive and forwarded at this point. I don't know if these numbers are right; the fiscal note might be way off. But if we do a percent of what is in here, along with income tax relief bill, I would like to see this become part of that mix we might come up with in the final version.

Representative Drovdal: Any other comments on 1255? We will tell the chairman we are ready to vote when he comes back.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1255

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/04/09

Recorder Job Number: 8624

Committee Clerk Signature

Lori Engelson

Minutes:

Chairman Belter opened the hearing on HB 1255.

Rep. Headland: This amendment lowers the fiscal note to \$20,000,000. It replaces the "three" with a "five" and the "four" with a "six and one-tenth".

Chairman Belter: Corporate tax will reduce the revenue in the state of North Dakota by \$20,000,000 instead of \$90,000,000, is that correct?

Rep: That's correct.

Chairman Belter: Is there a motion to accept the amendments? Rep. Brandenburg. Is there a second?

Rep. Grande: Second.

Chairman Belter: Second by Rep. Grande. Comments? Discussion? Hearing no discussion, I will ask the clerk to take a roll call. No, we'll have a voice vote on the amendments on 1255. And the amendment number is .0101. All those in favor reply by saying aye. Opposed. Amendments carried. We have the bill 1255 as amended before us.

Rep. Headland: I move a do pass.

Rep. Brandenburg: The motion needs to be for a **do pass as amended**.

Chairman Belter: And rereferred to Appropriations. Is that the motion?

Rep. Brandenburg: That's the motion.

Rep. Grande: I second it.

Chairman Belter: Seconded by Rep. Grande. Discussion on HB 1255 as amended. Hearing no discussion, I'll ask the clerk to take a roll call on 1255.

The roll call was taken by the clerk.

8 yes, 5 no, 0 absent. Rep. Headland was assigned to carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/19/2009

Amendment to: Engrossed
HB 1255

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$6,200,000)			
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed HB 1255 with Senate Amendments eliminates two corporation income tax brackets and adjusts the remaining brackets and tax rates.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, the corporation income tax bracket and rate adjustments provided in Engrossed HB 1255 with Senate Amendments are expected to reduce state general fund revenues by an estimated \$6.2 million in the 2009-2011 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/20/2009

FISCAL NOTE
Requested by Legislative Council
02/06/2009

Amendment to: HB 1255

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$20,000,000)			
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed HB 1255 reduces the corporation income tax rates and eliminates two tax brackets.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, the rate reductions and bracket eliminations provided in Engrossed HB 1255 are expected to reduce state general fund revenues by an estimated \$20.0 million in the 2009-2011 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/10/2009

FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: HB 1255

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$90,800,000)			
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1255 reduces the corporation income tax rates and eliminates two tax brackets.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, the rate reductions and bracket eliminations provided in HB 1255 are expected to reduce state general fund revenues by an estimated \$90.8 million in the 2009-2011 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/17/2009

VK
2/4/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 13, replace "three" with "five"

Page 1, line 15, replace "four" with "six and one-tenth"

Renumber accordingly

Date: February 4, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1255

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0101

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Brandenburg Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovda			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Amendment Carried

Date: February 4, 2009

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 1255

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Brandenburg Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovdal	/		Representative Kelsh		/
Representative Brandenburg	/		Representative Pinkerton		/
Representative Froseth	/		Representative Schmidt		/
Representative Grande	/		Representative Winrich		/
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 8 No 5

Absent 0

Floor Assignment Headland

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

*Related to
Appropriations*

REPORT OF STANDING COMMITTEE

HB 1255: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 13, replace "three" with "five"

Page 1, line 15, replace "four" with "six and one-tenth"

Renumber accordingly

2009 SENATE FINANCE AND TAXATION

HB 1255

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1255

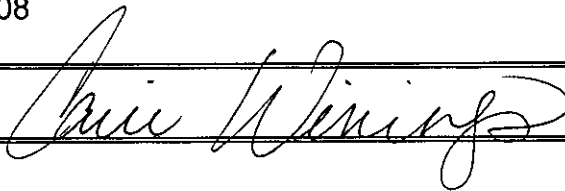
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/02/2009

Recorder Job Number: 9908

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on HB 1255.

Representative Craig Headland, District 29: See attachments #1 and #2 for testimony in support of the bill.

4.45 Senator Hogue: Can you estimate that if we eliminated the first bracket, how much of a fiscal impact would that have?

Representative Headland: I do not have that information with me. The tax department could probably answer that question. This bill in its present form was to minimize the fiscal impact.

Senator Oehlke: I noticed in the Red Book from the tax department that South Dakota has tax on many other items to make up the difference. Do you think that was their trade off and is that something you would be willing to do?

Representative Headland: I do not think that we need to make up the difference. We are overtaxing our citizens.

Senator Triplett: Referring to the chart, the ranking of 30th puts us below the halfway mark in ranking. I am curious why you characterize that as being high?

Representative Headland: It is high compared to our neighbors.

Senator Triplett: Do you think that we are competing with South Dakota and Wyoming in particular for business, or isn't it the case that we are all competing with the entire country and world?

Representative Headland: I can agree that we do compete with the entire world, however if you look at the time period since South Dakota eliminated their corporate income tax, their population has grown by 100,000 people and ours has remained stagnant.

9.59 Representative Mike Nathe, District 30: Testified as a sponsor and in support of the bill. I think that it would make North Dakota much more attractive to businesses and give current businesses a break. Companies will be looking for a business friendly place to be in the current economic times.

11.15 Robert Harms, Resident: Testified on own behalf in support of the bill. When we look at the current state of the country and the budgets of the states around, we would be wise at looking at what they are doing and look at what we need to do in response to that. We can see signs of North Dakota having the effects of the current declining economy. (Gives several examples) If we continue on the current path at the rate of spending we are, we will have increased the general fund spending by 50% in four years. I don't know that that is something we can sustain very long. I think that is something we should be mindful of. 1255 is a good part of a balanced tax policy for the state. This is a well thought out tax reduction bill. We can afford to do it. (Gives some figures)

16.05 Senator Dotzenrod: You mentioned a company that had a loss of so many cents per share, if we reduce the property tax and the sales tax it will be helpful, but if we reduce the corporate income tax for that company it won't make a difference will it?

Robert Harms: I think it will. I think reducing their costs will help them and is part of a good balanced tax policy that the legislature should embrace.

Senator Dotzenrod: They have to have profits in order for it to affect them.

Robert Harms: I think they will in the long term.

17.30 **Dustin Gawrylow, Executive Director, North Dakota Taxpayers' Association:** See Attachment #3 for testimony in support of the bill.

20.00 **Senator Triplett:** Referencing the chart again, it looks like 42 of the states are clumped together in the range between 4 and 6. The other 6 states that are above, including the 3 that have no corporate income tax, in short of going to no corporate income tax, I cannot see this bill to make a difference as to our ranking.

Dustin Gawrylow: That is an indexing formula. That is a way of taking into account the flatness of a structure, the rates themselves, where they take effect, and a few other factors. I don't know that businesses when they are looking at states really go by that indexing factor as much as they go by the actual rate they are going to be subject to. That indexing is a way for economists and policy gigs to quantify things beyond debating the rates themselves and all these other factors. It is a simplification method that probably is not the only thing they look at. I think that it is a way to look at the economic basis.

22.22 **Chairman Cook:** I see that on another chart that we are ranked 50th as far as property tax rates for corporation. We tax commercial property in North Dakota higher than any other property in the state. I certainly think property taxes are high and I wonder what factors they look at there.

Dustin Gawrylow: I believe that the tax foundation property tax ranking is actually based on the amount of the states property tax, but I could be wrong on that. I am not sure how they come to that ranking.

Chairman Cook: They don't take into account the local taxes?

Dustin Gawrylow: Right, that would be fairly difficult without making broad sweeping factors and then you would also have to factor in incentives like renaissance zones and all the incentives that the state provides.

24.04 Bill Shalhoob, North Dakota Chamber of Commerce: See Attachment #4 for testimony in support of the bill.

25.16 Dennis Boyd, MDU Resources Group: Testified in support of the bill. This bill will inject confidence in our economy. The amount is small and in our opinion we would like to see this happen. We will be profitable by the end of the year. We will be paying a large amount of taxes in state and local taxes and this would help us out.

28.06 John Risch, United Transportation Union: See Attachment # 5 for testimony in opposition to the bill.

29.23 Chairman Cook: You certainly hope that Burlington Northern is always profitable do you not?

John Risch: Absolutely. We generally feel that corporations should pay their share if the tax burden. We need to look at all of the bills that reduce taxes and it would be preferable to reduce personal income taxes and sales taxes. .

31.50 Josh Askvig, North Dakota Educators Association: Testified in opposition to the bill. Corporations have received tax relief in prior sessions. Now is not the time to reduce other revenue streams. We see that property taxes are a bigger burden than corporate taxes.

32.55 Chairman Cook: Any relationship between corporate profit and the teacher's retirement fund?

Josh Askvig: I will pass on that one.

Chairman Cook: Any further testimony? (no) Closed hearing on HB 1255.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1255

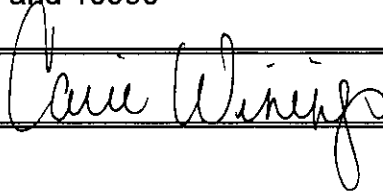
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/16/2009

Recorder Job Number: 10988 and 10990

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on HB 1255.

Vice Chairman Miller: See Attachment #1 and #2 for amendments proposed and figures.

Discussion: A discussion occurred between committee members on the impact of the

amendments and whether or not they are per biennium or year. The general consensus was that it would be \$12,000 per biennium, but Senator Miller said that he would check and get back to the committee.

7.10 **Chairman Cook:** Suspended Discussion.

Job 10990 starts here.

Chairman Cook: Discussion reopened.

Vice Chairman Miller: Comes back to committee with answers on figures, and discusses amendments proposed.

3.28 **Senator Hogue:** I think the amendments are an improvement to the bill, but I would like to wait until after the personal income tax bill.

Chairman Cook: We will hold this bill until after personal income tax.

Discussion closed.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1255

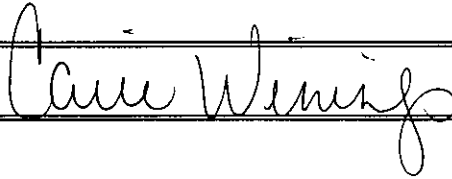
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/16/2009

Recorder Job Number: 11056

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on HB 1255.

Vice Chairman Miller: Moved amendments 90385.0202.

Senator Triplett: Seconded.

Chairman Cook: Further discussion?

Vice Chairman Miller: This would be a fiscal note of \$6.2 million per biennium.

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Motion passes.

Vice Chairman Miller: Moved a Do Pass As Amended and Re Refer to Appropriations.

Senator Hogue: Seconded.

Chairman Cook: Discussion? (no)

A Roll Call Vote was taken: Yea 4, Nay 3, Absent 0.

Senator Miller will carry the bill.

March 13, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1255

Page 1, line 10, remove the overstrike over "~~two and~~" and after "~~six tenths~~" insert "five-tenths"

Page 1, line 12, remove the overstrike over "~~four~~"

Page 1, line 13, remove the overstrike over "~~and~~" and replace "five" with "five-tenths"

Page 1, line 16, replace "one-tenth" with "five-tenths"

Renumber accordingly

Roll Call Vote #: 1

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Amendments

Legislative Council Amendment Number

90385 . 0202

Action Taken

☐ Do Pass☐ Do Not Pass☐ Amended

Motion Made By

Senator Miller

Seconded By

Senator Triplett

[illegible]

Total: Yes

No

Absent

Floor Assignment

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

Roll Call Vote #: 2

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Re-Referred to Appropriation

Action Taken

☒ Do Pass☐ Do Not Pass

☒ Amended ^{AS}

Motion Made By

Senator Miller

Seconded By

Senator Hogue

[illegible]

Total: Yes

No

Absent

Floor Assignment

Senator Miller

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

REPORT OF STANDING COMMITTEE

HB 1255, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~and~~" and after "~~six-tenths~~" insert "five-tenths"

Page 1, line 12, remove the overstrike over "~~four~~"

Page 1, line 13, remove the overstrike over "~~and~~" and replace "five" with "five-tenths"

Page 1, line 16, replace "one-tenth" with "five-tenths"

Renumber accordingly

2009 SENATE APPROPRIATIONS

HB 1255

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1255

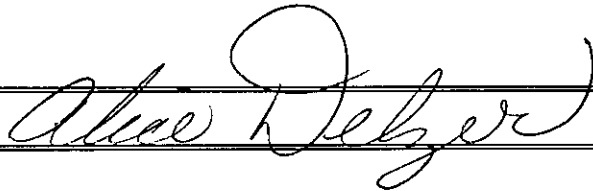
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-24-09

Recorder Job Number: 11148

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order at 9:15 am in reference to HB 1255 in regards to Relating to corporate income tax rates. (This is on the same job as HB 1418. It starts at 48.07 on the recorder.)

Senator Joe T. Miller, District 16 (50.03) testified in favor of HB 1255 and provided written testimony # 1 entitled 2007 Corporation Income Tax Statistics (Current) with Miller Amendments to 1255. What this bill does in the original form was to provide income tax relief for corporations. There are approximately 4 states that do not tax a corporation. There is quite a few states that are lower than us. About 33 states levy a flat tax and kind of what we already have right now. We are trying to provide a modest tax relief and try to update and get us a little closer to that reality of what corporate America is and so we have created 3 different tax brackets. As you can see the top rate doesn't really change. (he is referring to his handout) Your smaller businesses will benefit from this type of tax because of federal law. (53.33) If this appropriation committee wants to make further changes, I suggest make the state of ND a flat tax, similar to our other states. This is a corporation tax. I think if you were to go down the road to make any amendments I would suggest making some amendments in that fashion.

Senator Mathern I am just wondering are their requests for this. Who is asking for this? Are people in your district coming to you and saying lower the corporation tax.

Senator Miller I think any time you can write in a tax relief you are going to feel a benefit. Obviously the property tax is a burning issue in the whole state. In making the state of ND a more attractive business place, we need to provide some tax relief. If we do this it will be better for business and broaden who we will help. It is for small businesses. No one back home said we need to have a huge increase in higher ed spending. We do things all the time that people back home didn't ask for but we do it because we feel it is necessary, or we hear from different conversations, I think there are plenty of folks back home that would benefit from this. I know of several farmers that that never ask for it because they think they won't ever get it anyway so why ask for it. Here is our chance to give them something.

Chairman Holmberg We just have had 45 minutes of testimony about the critical need for childcare in North Dakota. We had testimony from businesses and I know working with the business congress that was one of the highest priorities in economic development in keeping businesses going in some communities they need quality child care. We just had a bill has 3 million dollars in here, but the 6 million that corporations would be saving would cover a large part of the costs of that particular program that we just heard about. How do you respond to the folks from the business community who say childcare is critical and we need the state to get involved in childcare if we want to continue our economic engine going?

Senator Miller In reality we should think about doing more than what is in this bill. It is important we promote a healthy corporate climate in North Dakota and we encourage businesses to grow and develop. Now childcare is a very important factor of that, how is that going to help the smaller operator. He won't benefit from childcare bills we create here, he'll have 2 or 3 employees, They're not going to benefit from that. You're out in rural North Dakota you will benefit from this program. He will benefit with some tax relief.(58.29)

Bill Shalhoob, North Dakota chamber of Commerce testified in favor of HB 1255 and provided written testimony # 2. He also provided written testimony # 2A, 2007 Corporation Income Tax Statistics by Current Taxable Income Brackets. To us the 3 tax packages taken together are the ones that makes sense. All of the taxpayers in North Dakota contributed to the surplus and that surplus today, even at the end of this biennium with the 20 some percent spending increases that we are talking about the programming, can be made a case for the fact that we can provide all three of these tax reliefs. (61.53)

Senator Robinson Your testimony really supports the fact that the corporations are doing well in businesses in North Dakota. I look at our state with the number of jobs that are open out there and to me that is nothing short of crises. If we don't address that it's going to be very difficult for us to move forward. Is there not something more to be said for quality of place? We hear that all the time. Roads, bridges, nursing homes, day care, our schools, our colleges. That to me is what is going to draw people to North Dakota. I think we should reduce our corporate rates to nothing. And I don't know if we have a big influx of corporations coming to North Dakota and even if they did there are no jobs. The employees want quality of life. I think at the level we are spending a lot of that is catch up. We've had years where we have done precious little. Our state employees are paid last. There is basis for that? I get concerned, we will be back in the 80's again in a hurry and people who have been around a long time are asking that very question, aren't we going back to where we were in the 1980's.

Bill Shalhoob Yes. North Dakota has been a wonderful place to do business since about 1992 or 1993. We have had a pretty good 15 year run here. Two things; most of the activity has been driven by business. It is not driven by government. Nothing happens in the world unless somebody sells something. No tax is generated. No jobs are generated. When you talk about a corporate tax in case I think you have to (inaudible 64.08) If the corporation is given a

tax relief they are free to reinvest that money because they aren't giving it to the state of North Dakota. They will reinvest that money into people, equipment, upgrades, or they will create more economic stimulus for the state or they're going to invest that money in hiring more people or paying people better with what we are talking about and then the 4th thing if they don't do any of those kinds of things because they are a C corporation they going to (64.41) go through the stockholders. (could not hear this completely as one of the Senators coughed at the time) Either way the money gets rotated around the state and put back into the economy. It's not like the money sits with the corporations it has to go somewhere. And all of the things that the corporations use the money for that doesn't pay taxes are good things. (65.06)

Senator Lindaas Would you agree that some of the money that the state puts towards various entities and endeavors in ND is an investment and not too much spending? We hear we are spending tax money, but I would suggest we are investing money and there is a return on that investment in the long run for the state of North Dakota.

Bill Shalhoob made comments concerning there are a lot of worthy programs in the state that benefit the state. (66.32)

Josh Askvig, North Dakota Education Association (NDEA) I am clearly on the opposition side of the bill and provided written testimony # 3 written by Dakota Draper, our President. I want to touch on the attachment on the back of this letter which is a slide presentation by economist Richard Simms of the Sierra Institute on Applied Economics entitled Do low business taxes lead to economic growth? He continued to talk about the slide presentation. In short this should be at the lower end of your priorities. We need to think about quality of place. Education as a tax payer is an investment. We ask to please vote a "Do Not Pass" on HB 1255. (70.32)

V. Chair Bowman you made a statement about education, when one is educated they want to go to a place where they can get an excellent job. And whatever company they go to work for to pay those high salaries takes profit. You don't pay high salaries when you are losing money. You pay them when you are making money. How do you justify putting all this money into education, but not allowing the companies to make profit to pay these higher salaries to these kids that are graduating? Where is your justification between those two scenarios?

Josh Askvig: I think two things. I think you are right. They do want a good paying job, and I can certainly agree with that. The charts show (#5) state corporate income tax rates are a very low percentage of their business costs. So reducing that certainly might help but I think it is a marginal assistance to that business and I think as they also say what businesses are looking for is proven in research not just from Mr. Sims but out there if you look it up. It's people looking for highly educated and skilled people to come into these jobs and they don't have the education to back it up. We are seeing that in the university system as they're expanding into, I am just thinking about BSC for instance, how they expanded to do the power plant management stuff, things of that nature. Our K-12 system has to continue to put out high quality graduates. (72.28)

Verk Reinicke: I am neutral in the bill. I just heard this morning that the supreme Court in the late 19th century in a case involving the railroad in the West declared that corporations can't (inaudible) (73.15) under the 14th amendment and I am concerned we've talked here about all kinds of people, there was testimony that everybody should be included. And I guess what I am asking is, is there as much concern for tax relief for the poorest among us as there is for the wealthiest of us.

Representative Craig Headland, District 29 Honestly I don't know what has happened to the bill over here on this side but I am here to go on the record that I do support whatever has

been done over here and I am sure that if this bill could be passed and we could come into agreement in conference.

Senator Robinson Yesterday on another bill, the Lieutenant Governor said that in terms of the governor's office, he pressed upon the issue of taxation policy and the number of tax break bills we have before us. I can't quote him directly but his reference to corporate income tax that would be way down on the priority list. How do you respond to that statement? Given the magnitude of tax break bills we have before us.

Representative Headland, Frankly, I am quite surprised and taken back by that response. I can't understand how this legislative body on both sides could actually spend the amount of money that we are attempting to spend provide property tax relief for all the citizens, and not consider giving a little break to businesses in these hard economic times. I think small business is the economic engine of the state. A lot of farmers, farm corporations, a lot of small businesses are corporations and I think they are the very drivers of this economy. I think if anybody should get a tax relief I think it is them because as statistics that show I think we rank very low as far as our business product compared to other states that surround us.(76.28)

Senator Robinson We are taking this bill in the context with several others and we just heard testimony from economic developers that corporate profits in North Dakota all but skyrocketed in the last few years, and earlier we had a bill calling for several million dollars for a high, high priority, daycare. We need it for workers and we are trying to sort through all these issues, what's more important, we can't do it all.(77.11)

Representative Headland My response would be what I believe in the citizens of North Dakota would prefer us to tighten our belts in the area of spending. The way to do that is allowing the citizens not to be overtaxed.

Chairman Holmberg hearing no further testimony the hearing on HB 1255 is closed.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1255

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-03-09

Recorder Job Number: 11718

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee to order at 8:00 am. Roll call was taken. All committee members were present. We are looking at the budget status summary.

Discussion followed regarding several reasons for the changes in the summary including Missouri River Detention building, corporate income tax and other issues.

The discussion on HB 1255 actually began at (4.28 in the tape)

SENATOR ROBINSON MOVED A DO NOT PASS. SECONDED BY SENATOR KREBSBACH.

Chairman Holmberg asked for discussion. There was none. He asked for a roll call vote.

A ROLL CALL VOTE ON A DO NOT PASS ON HB 1255 WAS TAKEN RESULTING IN 11 YEAS, 3 NAYS, AND 0 ABSENT. SENATOR WARDNER WILL CARRY THE BILL.

Chairman Holmberg closed the hearing on HB 1255.

Date: 4/3/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1255

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Robinson Seconded By Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer	✓		Senator Warner	✓	
Senator Christmann	✓	✓	Senator Robinson	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Bowman	✓		Senator Lindaas	✓	
Senator Kilzer	✓		Senator Mathern		✓
Senator Grindberg		✓	Senator Seymour	✓	
Senator Wardner	✓				
Chairman Holmberg	✓				

Total Yes 11 No 3

Absent _____

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
April 3, 2009 10:21 a.m.

Module No: SR-57-6098
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1255, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO NOT PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1255, as amended, was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1255

Testimony #1
January 20, 2009

Thank you Chairman Belter and members of the Finance and Tax committee.

For the record, my name is Rep Craig Headland. I represent District 29, which covers parts or all of the counties of Stutsman, Lamoure, Foster, and Eddy counties. I am here to introduce HB 1255 which will restructure the Corporate Income tax rates in ND.

The current corporate tax rates can be found on page 26 of your redbook, and as you can see, the income levels currently used in the five brackets start taxing at \$1 and ramp higher quite quickly, so the taxpayer reaches the top bracket at only \$30,000 of annual taxable income. The current rate table seems burdensome to thousands of mom and pop shops across this state as essentially all of them are paying at the top rate.

There are many reasons that business owners chose to incorporate. It could be to take advantage of federal tax rules or possibly to shield personal assets from liability. This bill simply addresses the inequity of current law. Please take a moment to look at the example I supplied with this testimony. As you can see a corporation set up in ND currently pays more than double the tax as individual taxpayers and shows the inequity of our current corporate tax.

Example no.2 shows the same example with the new rates. By cutting the no. of brackets, adjusting the income levels per bracket and incorporating the new rates for the new brackets, this bill makes the tax liability much more equitable and in line with individual taxpayers in the state. The cost of this bill will end up in the pockets of these business owners and flow directly into our economy providing economic stimulus and help get our state through this period of economic hardship.

Mr, Chairman, members of the committee, I ask for your support on HB 1255

House Bill to restructure the Corporate Income Tax Rates

- Many small “mom and pop” businesses are organized as corporations for liability and tax purposes
- Currently, the ND tax as a percentage of the Federal Tax for these small corporations is quite high.
 - Example
 - An individual with \$50,000 of taxable income would have federal tax of \$6,698 and ND tax of \$1,050. The ND tax rate at this level of income is 2.1%. **The ND tax is 15.7% of the federal tax.**
 - A corporation with \$50,000 of taxable income would have federal tax of 7,500 and ND tax of \$2,895. This taxpayer is in the ND tax rate of 6.5%. **The ND tax is 38.6% of the federal tax.**
- The proposed tax bill would bring the tax on these small “mom and pop” corporations more in line with the ND individual tax rates.
 - Same example with new rates
 - The same Corporation with \$50,000 of taxable income and federal tax of \$7,500 would have ND tax of \$1,250 using the new rates of 2% on the first \$25,000 of income and 3% on the next \$25,000 of income. **The ND tax is 16.7% of the federal tax.**



**Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1255
January 20, 2009**

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also representing eight local chambers with total membership over 4,560 members. A list of those associations is attached. As a group we stand in support of HB 1255 and urge a do pass from the committee on this bill.

Much of the pre session discussion centered around the enviable position we are in due the substantial budget surplus that was created in the current biennium. This body has the difficult task of deciding how much to keep in reserve, how much to spend and where to spend it. We have the opportunity to say in a real way to the rest of the country that North Dakota is open for business and business opportunity. We do that by creating a climate for business to succeed. What better message can we send than to lower corporate income taxes, visibly demonstrating that our actions back up our words when we tell corporations they will be welcome when they choose to do business in North Dakota. It is

HB 1255, Shalhoob, Page 1

THE VOICE OF NORTH DAKOTA BUSINESS

the best economic development tool we can use to support our other initiatives.

Thank you for the opportunity to appear before you today in support of HB 1255. I would be happy to answer any questions.

3



The following chambers are members of a coalition that support our 2009 Legislative Policy Statements:

Beulah Chamber of Commerce – 130 members

Chamber of Commerce of Fargo Moorhead – 1,800 members

Greater Bottineau Area Chamber of Commerce – 155 members

Hettinger Area Chamber of Commerce – 145 members

Jamestown Area Chamber of Commerce – 360 members

Kenmare Association of Commerce

Minot Chamber of Commerce – 700 members

North Dakota Chamber of Commerce – 1100 members

Oakes Area Chamber of Commerce – 170 members

Total Businesses Represented = 4,560 members

THE VOICE OF NORTH DAKOTA BUSINESS

PO Box 2639 BISMARCK, ND 58502 Toll-Free: 800-382-1405 Local: 701-222-0929 Fax: 701-222-1611
www.ndchamber.com ndchamber@ndchamber.com

Headland, Craig A.

Attachment 3

From: Citizens for Responsible Government [c4rgnd@bis.midco.net]
Sent: Monday, January 19, 2009 4:37 PM
To: Belter, Wesley R.; Drovdal, David O.; Brandenburg, Michael D.; Froelich, Rodney; Froseth, Glen A.; Grande, Bette B.; Headland, Craig A.; Kelsh, Scot R.; Pinkerton, Louis; Schmidt, Arlo E.; Weiler, Dave A.; Winrich, Lonny B.; Wrangham, Dwight R.
Subject: House bill 1255

Chairman Belter and members of House Finance and Taxation Committee.

I am writing on behalf of Citizens for Responsible Government. I apologize that I will be unable to attend the hearing, but please consider this my testimony.

On Tuesday, January 20th, you will be hearing HB 1255. It will restructure the corporate income tax. I am writing to ask you to vote "Do Pass" on this bill.

The current law is outdated, and by passing this law, not only will you simplify the corporate income tax, you will also update it to better reflect current rates of taxation.

As the law currently stands, the top bracket includes businesses that have only \$30,000 in taxable income. Even the smallest businesses nowadays can easily achieve that number.

Citizens for Responsible Government believes HB 1255 is very fair as written, and will be a great help to small business in North Dakota. Again, I ask you to vote "Do Pass"

Thank you for your time.

Mike Motschenbacher
Citizens for Responsible Government

Educating and advocating for good government

Chairman Belter and committee members.

I am sorry that conflicts do not allow me time to attend Tuesday mornings hearing on HB 1255. Please accept this as my commentary.

My name is Wayne Papke. I am a small business owner.. I am asking that you vote in support of HB 1255.

Corporate income tax has needed a restructuring for several years. It is very easy for even the smallest businesses to achieve the highest tax bracket with the current structure. For them to be paying taxes at the same pace as some of the biggest corporations in North Dakota is not in my mind a "business friendly" environment.

Low taxes are the best thing to do to attract new businesses to relocate in North Dakota. Lord knows they don't relocate here because the weather is beautiful.

I appreciate your time, and would appreciate your yes vote on HB1255.

Sincerely,

Wayne Papke



#5

STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

Memorandum

To: Chairman Wes Belter and Members of the House Finance and Taxation Committee

From: Mary Loftsgard, Associate Director, Tax Administration

Date: January 21, 2009

Subject: House Bill 1255

As requested, I am providing the following information to summarize my responses to a number of questions from committee members during the January 20, 2009 hearing on House bill 1255. The responses to questions 2 and 3 are based on returns filed for tax year 2006, the most current year for which we have the most complete information. (Because many taxpayers have a fiscal year end, rather than a calendar year end, the 2007 tax year data is not as comprehensive as that for tax year 2006.)

1. Changes over time to the corporation income tax structure.

Attached is a complete listing of the corporation income tax brackets and tax rates from the inception of the tax to the present. (For future reference, this information is on page 32 of the 2008 edition of the Red Book, and is also maintained on the Tax Department's website at <http://www.nd.gov/tax/business/taxrates.pdf>.)

2. Number of tax returns filed by various types of business entities.

- Corporations filing (including those with no liability) – 10,500
- S corporations filing – 10,854
- Partnerships filing – 10,461

3. Amount of tax liability paid by corporations.

- Corporations paid a total of \$ 115.2 Million in income tax.
- 95% of the total corporation income tax was paid on 673 returns by 1,305 taxpayers.
- The top 20 taxpayers paid \$ 62.3 Million in tax, or 53.7% of the total tax paid.
- There were 2,636 corporations (25.1%) that paid tax at the highest corporate tax rate (i.e., 7%).

There were two additional questions that I was not directly asked to speak to:

1. How many corporate farms exist in North Dakota?

This information can be obtained from the Office of the Secretary of State, which registers entities doing business in North Dakota.

2. How do North Dakota's corporate income tax rates rank in comparison to other states?

Page 33 of the 2008 edition of the Red Book contains a chart entitled "Comparison of State Corporation Income Tax Rates". A review of the chart indicates that, of the 46 states that impose a corporate income tax, 13 have a tax rate lower than North Dakota's. However, as is noted on page 31 of the Red Book "...a comparison of corporation income tax obligations would need to consider, in addition to tax rates, complex variables such as different state definitions of taxable income and circumstances of each corporation."

Should there be any question about this information, please contact me by telephone at 328-2045 or by email at mloftsgard@nd.gov.



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

North Dakota Corporation Income Tax Brackets and Rates

For taxable years beginning on or after January 1, 2007 -

North Dakota taxable income:	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	2.60% of North Dakota taxable income
	\$3,000	\$8,000	\$78 + 4.10% of the amount over \$3,000
	\$8,000	\$20,000	\$283 + 5.60% of the amount over \$8,000
	\$20,000	\$30,000	\$955 + 6.40% of the amount over \$20,000
	Over \$30,000		\$1,595 + 6.50% of the amount over \$30,000

If a corporation elects to use the water's edge method to apportion its income, the corporation will be subject to an additional 3.5% surtax on their North Dakota taxable income.

For taxable years beginning on or after January 1, 2004 and prior to January 1, 2007

North Dakota taxable income	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	2.60% of North Dakota taxable income
	\$3,000	\$8,000	\$78 + 4.10% of the amount over \$3,000
	\$8,000	\$20,000	\$283 + 5.60% of the amount over \$8,000
	\$20,000	\$30,000	\$955 + 6.40% of the amount over \$20,000
	Over \$30,000		\$1,595 + 7.00% of the amount over \$30,000

If a corporation elects to use the water's edge method to apportion its income, the corporation will be subject to an additional 3.5% surtax on their North Dakota taxable income.

For taxable years beginning on or after January 1, 1983 and prior to January 1, 2004

North Dakota taxable income	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	3.00% of North Dakota taxable income
	\$3,000	\$8,000	\$90 + 4.50% of the amount over \$3,000
	\$8,000	\$20,000	\$315 + 6.00% of the amount over \$8,000
	\$20,000	\$30,000	\$1,035 + 7.50% of the amount over \$20,000
	\$30,000	\$50,000	\$1,785 + 9.00% of the amount over \$30,000
	\$50,000		\$3,585 + 10.50% of the amount over \$50,000

For taxable years beginning on or after January 1, 1981 and prior to January 1, 1983

North Dakota taxable income:	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	2.00% of North Dakota taxable income
	\$3,000	\$8,000	\$60 + 3.00% of the amount over \$3,000
	\$8,000	\$20,000	\$210 + 4.00% of the amount over \$8,000
	\$20,000	\$30,000	\$690 + 5.00% of the amount over 20,000
	\$30,000	\$50,000	\$1,190 + 6.00% of the amount over \$30,000
	\$50,000		\$2,390 + 7.00% of the amount over \$50,000

For taxable years beginning on or after January 1, 1978 and prior to January 1, 1981

North Dakota taxable income:	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	3.00% of North Dakota taxable income
	\$3,000	\$8,000	\$90 + 4.00% of the amount over \$3,000
	\$8,000	\$15,000	\$290 + 5.00% of the amount over \$8,000
	\$15,000	\$25,000	\$640 + 6.00% of the amount over \$15,000
	\$25,000		\$1,240 + 8.50% of the amount over \$25,000

For taxable years beginning on or after January 1, 1937 and prior to January 1, 1978

North Dakota taxable income:	<u>over</u>	<u>but not over</u>	
	\$0	\$3,000	3.00% of North Dakota taxable income
	\$3,000	\$8,000	\$90 + 4.00% of the amount over \$3,000
	\$8,000	\$15,000	\$290 + 5.00% of the amount over \$8,000
	\$15,000		\$640 + 6.00% of the amount over \$15,000

For taxable years beginning on or after January 1, 1923 and prior to January 1, 1937

The state's corporation income tax rate was 3.0% on North Dakota taxable income

#1

Thank you Chairman Cook, Members of the Senate finance and tax committee.

For the record, I'm Rep. Craig Headland, I represent district 29 and I am here to introduce HB 1255, a bill to reduce and reform our state's corporate income tax.

This is what the bill does.

1. It reduces the number of brackets from 5 to 3.
2. It raises the income levels in each bracket and moves the income level in the top bracket from \$30,000 of income to \$ 50,000 income.
3. It changes the top marginal rate from 6.5% to 6.1%. The second bracket is placed at 5% and the lowest marginal tax rate will be just 2%

This bill was amended in the house to lessen the fiscal impact, but it still moves the state in the right direction as far as taxation of our states businesses.

There are many reasons that I can sight to pass this bill, but it is my desire to let the business community to voice these to committee.

Thank you Mr. Chairman, Members of the committee, I ask for your support on passage of HB1255.

Thank you.

rate sub-index is computed by assessing two key areas: the gross receipts tax rate, and whether the gross receipts rate is an alternative assessment or a generally applicable tax. The latter variable was

included so that the states that levy a gross receipts tax as an alternative to the corporate income tax are not unduly penalized.

Table 3
Corporate Tax Index, 2006 – 2009

State	FY 2009 State Business Tax Climate Index		FY 2008 State Business Tax Climate Index		Change from 2008 to 2009		FY 2007 State Business Tax Climate Index		FY 2006 State Business Tax Climate Index	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank
U.S.	5.00	–	5.00	–	5.00	–	5.00	–	5.00	–
Alabama	5.26	21	5.26	21	–0.01	0	5.21	21	5.22	22
Alaska	5.03	27	5.03	26	–0.01	–1	5.00	27	5.01	28
Arizona	5.12	24	5.13	24	–0.01	0	5.08	24	5.09	25
Arkansas	4.60	34	4.60	34	–0.01	0	4.56	36	4.57	37
California	4.28	45	4.29	45	–0.01	0	4.45	40	4.46	40
Colorado	5.59	15	5.59	16	–0.01	1	5.63	15	5.64	15
Connecticut	5.27	18	5.27	18	–0.01	0	4.99	28	5.34	18
Delaware	3.77	49	3.77	48	0.00	–1	4.04	48	4.05	47
Florida	5.75	13	5.76	14	–0.01	1	5.71	14	5.71	14
Georgia	5.93	8	5.94	9	–0.01	1	5.99	6	6.00	6
Hawaii	5.81	11	5.81	12	–0.01	1	5.86	9	5.87	9
Idaho	5.29	17	5.29	17	–0.01	0	5.26	19	5.27	20
Illinois	4.98	28	4.99	28	–0.01	0	4.95	30	4.96	30
Indiana	5.19	23	5.20	22	–0.01	–1	5.16	22	5.17	23
Iowa	4.28	46	4.28	46	–0.01	0	4.26	46	4.27	43
Kansas	4.56	37	4.57	38	–0.01	1	4.53	38	4.53	39
Kentucky	4.51	38	4.51	39	–0.01	1	4.39	43	4.89	33
Louisiana	5.26	19	5.27	19	–0.01	0	5.33	18	5.33	19
Maine	4.40	43	4.41	43	–0.01	0	4.37	44	4.38	42
Maryland	5.59	14	5.98	7	–0.39	–7	5.93	7	5.94	7
Massachusetts	4.17	47	4.18	47	–0.01	0	4.15	47	4.15	45
Michigan	4.06	48	3.29	49	0.78	1	3.47	49	3.47	49
Minnesota	4.33	44	4.34	44	–0.01	0	4.31	45	4.23	44
Mississippi	5.83	10	5.94	10	–0.11	0	5.88	8	5.89	8
Missouri	6.27	5	6.28	5	–0.01	0	5.83	10	5.84	10
Montana	5.44	16	5.64	15	–0.20	–1	5.59	16	5.60	16
Nebraska	4.68	32	4.70	31	–0.03	–1	4.66	34	4.67	35
Nevada	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
New Hampshire	2.95	50	2.99	50	–0.04	0	2.88	50	3.56	48
New Jersey	4.48	39	4.48	40	–0.01	1	4.45	41	3.01	50
New Mexico	4.59	35	4.60	35	–0.01	0	4.55	37	4.56	38
New York	5.22	22	5.13	23	0.08	1	5.09	23	5.10	24
North Carolina	5.05	26	5.06	25	–0.01	–1	5.01	25	5.02	26
North Dakota	4.93	30	4.83	30	0.11	0	4.98	29	4.99	29
Ohio	4.64	33	4.58	36	0.06	3	4.48	39	4.14	46
Oklahoma	5.96	7	5.97	8	–0.01	1	5.72	13	5.73	13
Oregon	5.26	20	5.27	20	–0.01	0	5.22	20	5.23	21
Pennsylvania	4.43	41	4.43	41	–0.01	0	4.40	42	4.41	41
Rhode Island	4.46	40	4.63	33	–0.18	–7	4.60	35	4.60	36
South Carolina	5.87	9	5.88	11	–0.01	2	5.82	11	5.83	11
South Dakota	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
Tennessee	5.79	12	5.80	13	–0.01	1	5.75	12	5.76	12
Texas	4.42	42	4.43	42	–0.01	0	5.35	17	5.36	17
Utah	6.04	6	6.05	6	–0.01	0	6.24	4	6.25	4
Vermont	4.78	31	4.68	32	0.10	1	4.95	31	4.96	31
Virginia	6.33	4	6.34	4	–0.01	0	6.18	5	6.19	5
Washington	4.57	36	4.57	37	–0.01	1	4.84	33	4.85	34
West Virginia	5.05	25	5.00	27	0.05	2	5.01	26	5.02	27
Wisconsin	4.93	29	4.94	29	–0.01	0	4.90	32	4.91	32
Wyoming	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
D.C.	4.59	–	4.59	–	–0.01	–	3.97	–	3.98	–

Note: The higher the score, the more favorable a state's tax system is for business. All scores are for fiscal years.

Source: Tax Foundation

#3

North Dakota Taxpayers' Association

March 2nd, 2009 – Senate Finance and Tax Committee

Mr. Chairman, Members of the Committee,

I am here today to testify in favor of House Bill 1255. I have passed out copies of data that I will reference.

As you know, this bill does three key things to reform North Dakota's corporate income tax structure.

It reduces the number of tax brackets from 5 to 3, it increases the taxable income levels those brackets take effect, and it reduces the rates of all brackets but specifically reduces the top rate from 6.5% to 6.1%.

While this was not the original intent of the bill, it originally reduced the top rate to 4%, it is definitely a step in the right direction.

These three reforms will go a long way to improving North Dakota's national ranking when it come to business tax climate.

Currently, the non-profit/non-partisan Tax Foundation ranks North Dakota as 30th in the nation when it comes to Business Tax Climate. It is safe to say that with all the economic development programs that have been put in place over the last decade that we should strive to have a Business Tax Climate much higher than 30th place.

Opponents of reducing corporate income tax rates often say our tax rates aren't that bad. As the attached documents show, we are in the middle of the pack. But in a low population state, middle of the pack just is not good enough.

By recommending a Do Pass on HB 1255, this committee can send a message that in a time of record surpluses and revenue windfall, the state can and must do all it can to buffer its citizens from the national economic turmoil.

By passing this bill, the legislature as a whole can send a message to businesses around the world that North Dakota is ready to move forward and become a more competitive place to start or relocate a business.

Mr. Chairman, Members of the Committee, thank you for your time.

-Dustin Gawrylow, Executive Director (Lobbyist #198)

Charts and Figures from the Tax Foundations' Report on Business Tax Climate

From: <http://www.taxfoundation.org/files/bp581.pdf>

Figure 1

State Business Tax Climate Index, Fiscal Year 2009

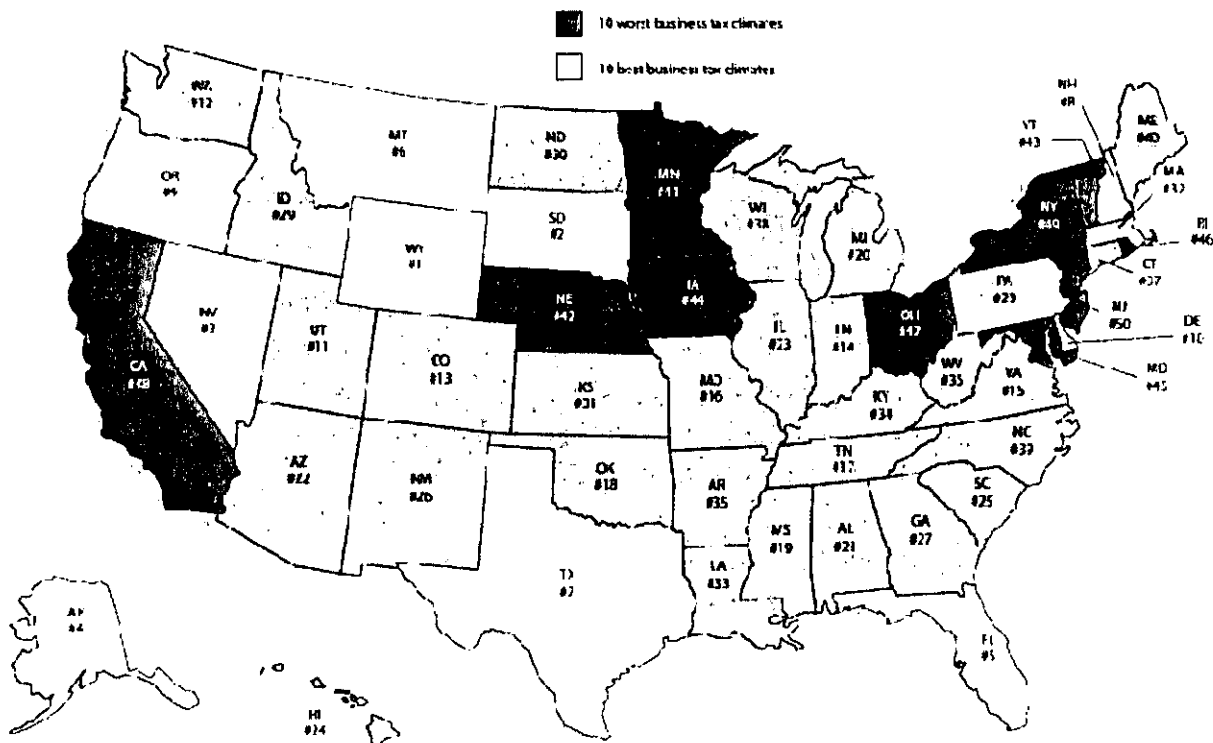


Table 1
State Business Tax Climate Index, 2006 – 2009

State	FY 2009 State Business Tax Climate Index		FY 2008 State Business Tax Climate Index		Change from 2008 to 2009		FY 2007 State Business Tax Climate Index		FY 2006 State Business Tax Climate Index	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank
U.S.	5.00	—	5.00	—	5.00	—	5.00	—	5.00	—
Alabama	5.33	21	5.30	20	-0.05	—	5.40	19	5.01	15
Alaska	7.33	4	7.28	4	0.05	0	7.30	3	7.37	3
Arizona	5.27	22	5.30	21	-0.03	—	5.22	27	5.24	28
Arkansas	4.90	35	4.90	37	0.00	2	4.84	37	4.81	37
California	4.15	48	3.99	48	0.16	0	4.03	47	4.08	46
Colorado	5.93	13	5.94	12	-0.01	—	5.86	11	5.88	12
Connecticut	4.84	37	4.95	36	-0.11	—	4.88	36	4.71	39
Delaware	6.02	10	6.05	10	-0.03	0	6.12	8	6.15	8
Florida	6.93	5	6.93	5	0.00	0	6.81	5	6.86	5
Georgia	5.19	27	5.21	26	-0.02	—	5.30	22	5.31	23
Hawaii	5.24	24	5.28	22	-0.02	-2	5.24	25	5.33	22
Idaho	5.12	29	5.19	29	-0.07	0	5.11	30	5.15	30
Illinois	5.27	23	5.23	23	0.04	0	5.28	23	5.27	24
Indiana	5.91	14	5.99	11	-0.08	-3	5.84	13	5.92	11
Iowa	4.37	44	4.42	45	-0.05	—	4.57	43	4.64	43
Kansas	5.10	31	5.03	33	0.07	2	5.07	31	5.02	33
Kentucky	4.98	34	4.97	34	0.01	0	4.76	39	4.72	38
Louisiana	5.01	33	4.95	35	0.06	2	5.04	33	5.06	32
Maine	4.71	40	4.68	40	0.03	0	4.73	40	4.65	42
Maryland	4.33	45	6.23	24	0.00	21	6.14	20	6.24	27
Massachusetts	5.03	32	5.05	3	-0.02	—	4.98	34	4.97	34
Michigan	5.34	20	5.22	25	0.12	5	5.20	28	5.26	25
Minnesota	4.64	41	4.68	41	-0.04	0	4.64	41	4.67	41
Mississippi	5.34	19	5.39	19	-0.04	0	5.50	17	5.50	18
Missouri	5.60	16	5.61	15	-0.01	—	5.46	18	5.48	19
Montana	6.29	6	6.32	6	-0.03	0	6.17	7	6.14	9
Nebraska	4.58	42	4.53	43	0.06	—	4.40	45	4.47	45
Nevada	7.38	3	7.38	3	-0.01	0	7.26	4	7.26	4
New Hampshire	6.17	8	6.27	7	-0.10	—	6.02	10	6.27	7
New Jersey	3.92	50	3.34	50	0.00	0	4.08	46	3.76	48
New Mexico	5.19	26	5.19	28	0.00	2	5.26	24	5.26	26
New York	4.02	49	4.06	47	-0.03	-2	3.97	48	3.59	49
North Carolina	4.76	39	4.64	42	0.12	3	4.60	42	4.56	44
North Dakota	5.10	30	5.03	32	0.07	2	5.06	32	5.12	31
Ohio	4.16	47	4.11	46	0.05	—	3.95	49	3.93	47
Oklahoma	5.44	18	5.41	18	0.02	0	5.39	20	5.36	20
Oregon	6.06	9	6.06	9	0.01	0	6.09	9	6.06	10
Pennsylvania	6.17	28	6.18	30	0.01	2	6.30	21	6.36	21
Rhode Island	4.20	46	3.98	40	0.23	3	3.72	50	3.67	50
South Carolina	5.24	25	5.20	27	0.04	2	5.23	26	5.23	29
South Dakota	7.51	2	7.51	2	0.00	0	7.48	2	7.46	2
Tennessee	5.47	17	5.49	17	-0.02	0	5.50	16	5.50	17
Texas	6.28	7	6.21	8	0.08	—	6.47	6	6.43	6
Utah	5.98	11	5.53	16	0.45	5	5.67	15	5.74	14
Vermont	4.55	43	4.44	44	0.10	—	4.55	44	4.70	40
Virginia	5.73	15	5.78	14	-0.05	—	5.70	14	5.59	16
Washington	5.94	12	5.91	13	0.03	—	5.85	12	5.85	13
West Virginia	4.30	30	4.34	38	0.04	2	4.95	35	4.94	35
Wisconsin	4.79	30	4.76	39	0.03	—	4.02	38	4.01	30
Wyoming	7.33	1	7.34	—	-0.11	0	7.70	—	7.68	1
D.C.	4.55	—	4.49	—	0.06	—	4.40	—	4.39	—

Notes: The higher the score, the more favorable a state's tax system is for business. All scores are for fiscal years.
Source: Tax Foundation

Table 2**Major Components of the State Business Tax Climate Index, FY 2009**

State	Overall Rank	Individual		Unemployment		Property Tax Index Rank
		Corporate Tax Index Rank	Income Tax Index Rank	Sales Tax Index Rank	Insurance Tax Index Rank	
Alabama	21	21	17	33	14	13
Alaska	4	27	1	4	47	27
Arizona	22	24	23	45	2	4
Arkansas	35	34	31	35	23	18
California	48	45	49	43	16	15
Colorado	13	15	14	12	19	6
Connecticut	37	18	25	25	21	49
Delaware	10	49	28	2	7	8
Florida	5	13	1	21	3	19
Georgia	27	8	30	16	20	36
Hawaii	24	11	38	29	11	9
Idaho	29	17	32	32	45	3
Illinois	23	28	10	39	43	41
Indiana	14	23	11	19	13	7
Iowa	44	46	46	26	35	33
Kansas	31	37	21	17	8	32
Kentucky	34	38	36	7	48	20
Louisiana	33	19	24	46	10	22
Maine	40	43	40	8	40	40
Maryland	45	14	50	10	31	34
Massachusetts	32	47	16	9	49	44
Michigan	20	48	15	11	46	25
Minnesota	41	44	39	40	38	17
Mississippi	19	10	18	34	5	29
Missouri	16	5	27	22	4	11
Montana	6	16	22	3	18	10
Nebraska	42	32	33	42	12	48
Nevada	3	1	1	44	42	16
New Hampshire	8	50	9	1	39	39
New Jersey	50	39	48	41	24	50
New Mexico	26	35	19	47	17	1
New York	49	22	43	49	44	45
North Carolina	39	26	37	38	6	37
North Dakota	30	30	35	27	34	5
Ohio	47	33	47	36	15	46
Oklahoma	18	7	26	31	1	23
Oregon	9	20	34	5	30	14
Pennsylvania	28	41	12	24	26	47
Rhode Island	46	40	42	30	50	43
South Carolina	25	9	29	13	41	26
South Dakota	2	1	1	37	37	12
Tennessee	17	12	8	48	32	38
Texas	7	42	7	28	9	30
Utah	11	6	13	23	27	2
Vermont	43	31	45	15	22	42
Virginia	15	4	20	6	29	28
Washington	12	36	1	50	36	21
West Virginia	36	25	41	20	33	24
Wisconsin	38	29	44	18	25	31
Wyoming	1	1	1	14	28	35

Note: Rankings do not average across to total. States without a given tax rank equally as number 1.

Source: Tax Foundation

Table 3
Corporate Tax Index: 2006 - 2009

State	FY 2009 State Business Tax Climate Index		FY 2008 State Business Tax Climate Index		Change from 2008 to 2009		FY 2007 State Business Tax Climate Index		FY 2006 State Business Tax Climate Index	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank
U.S.	5.00	—	5.00	—	5.00	—	5.00	—	5.00	—
Alabama	5.26	21	5.26	21	-0.01	0	5.21	21	5.22	22
Alaska	5.03	27	5.03	26	-0.01	-1	5.00	27	5.01	28
Arizona	5.12	24	5.13	24	-0.01	0	5.08	24	5.09	25
Arkansas	4.60	34	4.60	34	-0.01	0	4.56	36	4.57	37
California	4.28	45	4.29	45	-0.01	0	4.45	40	4.46	40
Colorado	5.58	15	5.59	16	-0.01	1	5.63	15	5.64	15
Connecticut	5.27	18	5.27	18	-0.01	0	4.99	28	5.34	18
Delaware	3.77	49	3.77	48	0.00	-1	4.04	48	4.05	47
Florida	5.75	13	5.76	14	-0.01	1	5.71	14	5.71	14
Georgia	5.93	8	5.94	9	-0.01	1	5.99	6	6.00	6
Hawaii	5.81	11	5.81	12	-0.01	1	5.86	9	5.87	9
Idaho	5.29	17	5.29	17	-0.01	0	5.26	19	5.27	20
Illinois	4.98	28	4.99	28	-0.01	0	4.95	30	4.96	30
Indiana	5.19	23	5.20	22	-0.01	-1	5.16	22	5.17	23
Iowa	4.28	46	4.28	46	-0.01	0	4.26	46	4.27	43
Kansas	4.56	37	4.57	38	-0.01	1	4.53	38	4.53	39
Kentucky	4.61	38	4.61	30	0.01	1	4.30	42	4.80	33
Louisiana	5.26	19	5.27	19	0.01	0	5.33	18	5.33	10
Maine	4.40	43	4.41	43	0.01	0	4.37	44	4.38	42
Maryland	5.58	14	5.90	7	-0.39	-7	5.83	7	5.94	7
Massachusetts	4.17	47	4.18	47	-0.01	0	4.15	47	4.15	45
Michigan	4.06	48	3.29	49	0.76	1	3.47	49	3.47	49
Minnesota	4.33	44	4.34	44	-0.01	0	4.31	45	4.23	44
Mississippi	5.83	10	5.94	10	-0.11	0	5.88	8	5.89	8
Missouri	6.27	5	6.28	5	-0.01	0	5.83	10	5.84	10
Montana	5.44	16	5.64	15	-0.20	-1	5.59	16	5.60	16
Nebraska	4.66	32	4.70	31	-0.03	-1	4.66	34	4.67	35
Nevada	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
New Hampshire	2.95	50	2.99	50	-0.04	0	2.88	50	3.36	48
New Jersey	4.48	39	4.48	40	-0.01	1	4.45	41	3.01	50
New Mexico	4.55	35	4.60	35	-0.01	0	4.55	37	4.56	38
New York	5.22	22	5.13	23	0.08	1	5.09	23	5.10	24
North Carolina	5.05	26	5.06	25	-0.01	-1	5.01	25	5.02	26
North Dakota	4.93	30	4.83	30	0.11	0	4.98	29	4.99	29
Ohio	4.64	33	4.58	36	0.06	3	4.48	39	4.14	46
Oklahoma	5.96	7	5.97	8	-0.01	1	5.72	13	5.73	13
Oregon	5.26	20	5.27	20	-0.01	0	5.22	20	5.23	21
Pennsylvania	4.43	41	4.43	41	-0.01	0	4.40	42	4.41	41
Rhode Island	4.46	40	4.63	33	-0.18	-7	4.60	35	4.60	36
South Carolina	5.87	9	5.88	11	-0.01	2	5.82	11	5.83	11
South Dakota	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
Tennessee	5.76	12	5.80	13	-0.01	1	5.75	12	5.76	12
Texas	4.42	42	4.43	42	-0.01	0	5.35	17	5.36	17
Utah	6.04	6	6.05	6	-0.01	0	6.24	4	6.25	4
Vermont	4.78	31	4.68	32	0.10	1	4.95	31	4.96	31
Virginia	6.33	4	6.34	4	-0.01	0	6.18	5	6.19	5
Washington	4.57	36	4.57	37	-0.01	1	4.04	30	4.85	34
West Virginia	5.00	25	5.00	27	0.05	2	5.01	26	5.02	27
Wisconsin	4.93	29	4.94	29	-0.01	0	4.90	32	4.91	32
Wyoming	10.00	1	10.00	1	0.00	0	10.00	1	10.00	1
D.C.	4.58	—	4.59	—	-0.01	—	3.97	—	3.98	—

Note: The higher the score, the more favorable a state's tax system is for business. All scores are for fiscal years.
Source: Tax Foundation

#4



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1255
March 2, 2009

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce development organizations, convention and visitors bureaus and public sector organizations. As a group we stand in support of HB 1255 and urge a do pass from the committee on this bill.

Much of the pre session discussion centered around the enviable position we are in due the substantial budget surplus that was created in the current biennium. This body has the difficult task of deciding how much to keep in reserve, how much to spend and where to spend it. We have the opportunity to say in a real way to the rest of the country that North Dakota is open for business and business opportunity. We do that by creating a climate for business to succeed. What better message can we send than to lower corporate income taxes, visibly demonstrating that our actions back up our words when we tell corporations they will be welcome when they choose to do business in North Dakota. It is the best economic development tool we can use to support our other initiatives.

Thank you for the opportunity to appear before you today in support of HB 1255. I would be happy to answer any questions.

THE VOICE of NORTH DAKOTA BUSINESS



JOHN RISCH
North Dakota Legislative Director

united
transportation
union

750 Augsburg Avenue
Bismarck, ND 58504-7009
Office: 701-223-0061
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E-mail: utu@bis.midco.net

Testimony of John Risch
Before the Senate Committee on Finance and Taxation
Opposing HR 1255
March 2, 2009

Mr. Chairman and members of the committee, my name is John Risch. I am the elected Legislative Director of the United Transportation Union in North Dakota. The UTU is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen, and yardmasters. The UTU opposes HR 1255 for a number of good reasons.

Reducing the state corporate income tax would grant tax relief only to "profitable" corporations. Struggling corporations would not benefit because struggling businesses pay little or no income tax. The beauty of our current income tax system is that it is self-adjusting. When a business hits a downturn, it pays little or even no income tax in a given year. When things improve, a business's taxes increase along with its prosperity. The positive aspects of a business's tax liability being based on its ability to pay cannot be overstated.

North Dakota's corporate income tax is levied primarily on large corporations, because most smaller businesses are pass through entities. So this bill is really targeted to bring tax relief to the BNSF railroad, Monsanto and other big corporations, who are not even asking for the relief.

Of all the tax proposals introduced this session, reducing the corporate income tax makes the least amount of sense. It grants tax breaks to established businesses without any obligation to reinvest any of that money in our state or create new jobs.

When you think about North Dakota's current economy, there are segments that are in trouble. Certainly low-wage workers struggle, but what good would it do them to reduce the taxes Wal-Mart and McDonald's pay?

If passed HB 1255 would make our overall tax system less fair and equitable, shifting our tax burden from large corporations to individuals. For these reasons, the UTU urges this committee to recommend a "DO NOT PASS" on HB 1255



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1255
March 23, 2009

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce development organizations, convention and visitors bureaus and public sector organizations. As a group we stand in support of HB 1255 and urge a do pass from the committee on this bill.

Much of the pre session discussion centered around the enviable position we are in due the substantial budget surplus that was created in the current biennium. This body has the difficult task of deciding how much to keep in reserve, how much to spend and where to spend it. We have the opportunity to say in a real way to the rest of the country that North Dakota is open for business and business opportunity. We do that by creating a climate for business to succeed. What better message can we send than to lower corporate income taxes, visibly demonstrating that our actions back up our words when we tell corporations they will be welcome when they choose to do business in North Dakota. It is one of the best economic development tool we can use to support our other initiatives.

We believe a corporate tax reduction also goes to an equity issue. The combination of reductions in property tax, personal income tax and corporate income tax will touch all the North Dakotans who have contributed to our current surplus. As a review we have noted personal income tax collections have increased from 214 million in 2004 to 348 million, adjusted for the property tax credit, in 2008, a 62.6% increase. By contrast corporate tax collections have increased from 40 million in 2004 to 140 million in 2008, a 250% increase. I would also point out that the increases were posted despite the fact that in 2005 the highest corporate rate was reduced from 7.0% to 6.5% when North Dakota eliminated the deduction for the federal production tax credit.

Attached is a worksheet provided by the tax department for form year 2007. It shows 99.23% of all corporate taxes were paid by the top bracket. To give equitable tax relief we would this committee would consider returning to the version that came out of the House.

Thank you for the opportunity to appear before you today in support of HB 1255. I would be happy to answer any questions.

THE VOICE OF NORTH DAKOTA BUSINESS

2A

**2007 Corporation Income Tax Statistics
By Current Taxable Income Brackets**

Taxable Income Brackets			Count of Returns	Tax Liability
\$0	to	3,000	1,234	\$ 30,339.20
3,000	to	8,000	548	97,156.55
8,000	to	20,000	652	386,685.60
20,000	to	30,000	330	428,681.83
Over		30,000	2,107	122,409,239.13
			4,871	\$ 123,352,102.31

\$4 Total

Form Year 2007 -

2007 Corporation Income Tax Statistics (Current)

From Senator Miller

Taxable Income Brackets		Count of Returns	Tax Liability	Rate	Taxable Revenue
\$0	to 3,000	1,234	\$ 30,339.20	0.026	\$ 1,166,892.31
3,000	to 8,000	548	\$ 97,156.55	0.041	\$ 2,369,671.95
8,000	to 20,000	652	\$ 386,685.60	0.056	\$ 6,905,100.00
20,000	to 30,000	330	\$ 428,681.83	0.064	\$ 6,698,153.59
Over	30,000	2,107	\$ 122,409,239.13	0.065	\$ 1,883,219,063.54
<u>Totals</u>		4,871	\$ 123,352,102.31		\$ 1,900,358,881.39

Miller Amendments to 1255

Taxable Income Brackets		Count of Returns	Estimated Tax Liability	Rate	Estimated Taxable Revenue
0	to 25,000	2,500	\$ 75,000.00	0.025	\$ 3,000,000.00
25,001	to 50,000	1,000	\$ 7,200,000.00	0.045	\$ 160,000,000.00
Over	50,001	1,371	\$ 112,928,327.29	0.065	\$ 1,737,358,881.39
<u>Totals</u>		4,871	\$ 120,203,327.29		\$ 1,900,358,881.39
					\$ 6,297,550.04 Per Biennium
					\$ 3,148,775.02 Per Year

HB 1255
from Sen Miller

HB 1255

2007 Corporation Income Tax Statistics (Current)

Taxable Income Brackets	Count of Returns	Tax Liability	Rate	Taxable Revenue
\$0 to 3,000	1,234	\$ 30,339.20	0.026	\$ 1,166,892.31
3,000 to 8,000	548	\$ 97,156.55	0.041	\$ 2,369,671.95
8,000 to 20,000	652	\$ 386,685.60	0.056	\$ 6,905,100.00
20,000 to 30,000	330	\$ 428,681.83	0.064	\$ 6,698,153.59
Over 30,000	2,107	\$ 122,409,239.13	0.065	\$ 1,883,219,063.54
	4,871	\$ 123,352,102.31		

Miller Amendments to 1255

Taxable Income Brackets	Count of Returns	Estimated Tax Liability	Rate	Taxable Revenue
0 to 25,000	2,500	\$ 336,041.61	0.025	\$ 13,441,664.26
25,001 to 50,000	1,000	\$ 13,050,000.00	0.045	\$ 290,000,000.00
Over 50,001	1,371	\$ 103,689,239.13	0.065	\$ 1,595,219,063.54
	4,871	\$ 117,075,280.74		
		Difference	\$	6,276,821.57



North Dakota Education Association

3

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March 24, 2009

Dear Senate Appropriations Committee Member:

I am writing on behalf of the members of the NDEA to express our concern with HB 1255, which calls for a reduction in corporate income taxes. I want to make clear that our opposition is not based upon any animus toward the growth of business in North Dakota. We fully realize that economic development is vital to our state's future. But it is in the name of economic development that we urge you not to pass this bill.

I have attached copies of slides that are from a recent presentation by economist Richard Sims of the Sierra Institute on Applied Economics. Among the most important points that Mr. Sims makes are the following: there is no demonstrable correlation between low business taxes and economic growth; the corporate tax rate comes in a distant fourth in the considerations of businesses when it comes to relocating; and finally, and most important from our perspective, is that the key to economic development is education.

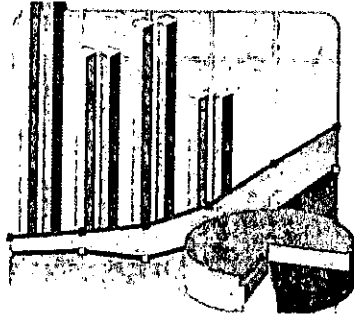
Furthermore, in this time when policy makers are legitimately concerned about the sustainability of programs both current and proposed, it does not make economic sense to reduce the revenue stream. This bill has a fiscal note of \$6,500,000 that will not only be gone for the coming biennium, but also for future biennia. And we all know how difficult it is to raise a tax after it has been reduced. The corporate tax has been reduced in recent legislative sessions. Voters rejected the notion of reduced corporate income taxes in the last election. We do not believe that now is the time for any further reduction in the corporate income tax rate.

Please vote "Do Not Pass" on HB 1255.

Sincerely,

Dakota Draper

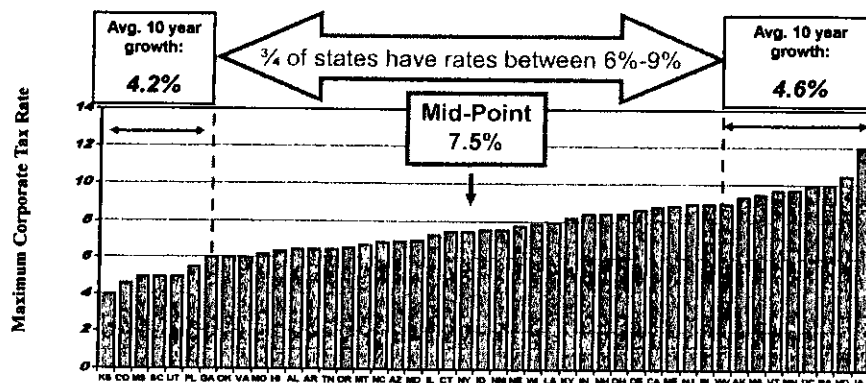
President



Do low
business taxes
lead to
economic
growth?

Richard G. Sims
Sierra Institute on Applied Economics

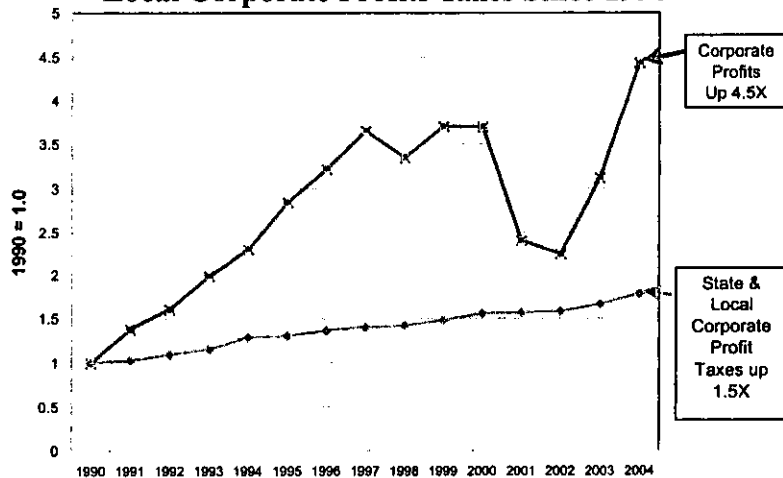
State Corporate Income Tax Rates



The 45 States with a Corporate Income Tax

Federation of Tax Administrators

Growth of Corporate Profits and State and Local Corporate Profits Taxes Since 1990



Source: Data from IRS *Statistics of Income Bulletin*, Spring 2008; chart by Richard Sims.

Business Climate Rankings

According to the November 2008 issue of *Site Selection* magazine

Top 10

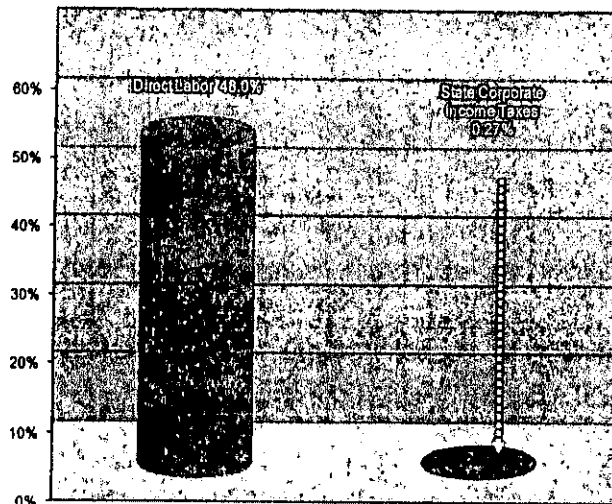
"Best Business Climate" Rank	Avg. Growth 2003-07
1 North Carolina	36
2 Tennessee	39
T3 Alabama	18
T3 Texas	14
5 Indiana	49
6 Florida	12
7 Ohio	48
8 Virginia	25
9 Illinois	29
10 Georgia	50
11 New York	9
T12 Kentucky	42
T12 Missouri	47
14 South Carolina	35
15 Pennsylvania	28
16 Michigan	51
17 Mississippi	17
18 Iowa	33
T19 Maryland	16
T19 Minnesota	34
21 Kansas	23
22 Louisiana	2
23 Arizona	30
24 Oklahoma	5
25 California	19

► Of the top 10 ranked states, zero were among the 10 fastest growing states—but three were among the slowest 10.

► Of the top 25 "Best Business Climate" states, Only 10 grew as fast as the 50 state average.

► Of the top 25 "Best Business Climate" states were among the 10 worst performing states.

Shares of Total Business Costs



Source: U.S. Department of Commerce, National Income and Product Accounts, 2003.

Richard G. Sims
Sierra Institute on Applied Economics

Firms Say Labor Their Major Cost Considerations When Expanding or Relocating a Business

Cost Factor	Manufacturing (%)	Office (%)
Labor	36	72
Transportation	35	0
Utilities	17	8
Occupancy	8	15
Taxes	4	5
Total	100	100

Source: Robert M. Ady, "The Effects of State and Local Public Services on Economic Development," *New England Economic Review*, Federal Reserve of Boston, March/April, 1997.

Richard G. Sims
Sierra Institute on Applied Economics

**From the previous article by the
*Federal Reserve Bank of Boston:***

*"In summary, site selection data do not suggest any correlation between **low taxes and positive economic growth**, or between **high taxes and slow growth**. The location requirements are too many, the process too complicated, and other factors too important to justify a strong relationship."*

*"The single most important factor in site selection today is the **quality of the available work force**. Companies locate and expand in communities that can demonstrate that the indigenous work force has the necessary skills required by the company or that have the training facilities to develop those skills for the company."*

**Top Reasons Businesses Give for
Choosing One City Over Another**

- 1. Education, Education, Education.**
- 2. Speeding up the Permitting Process and Simplifying the Bureaucracy.**
- 3. The (Un)Importance of Tax Incentives.**

Source: Natalie Cohen, American Capital Access, in "Business Location Decision-Making and the City: Bringing Companies Back," published by the Brookings Institute, 2000.

*Richard G. Sims
Sierra Institute on Applied Economics*

The World Bank

A July 2008 study of the causes of growth in the 7 fastest growing countries in the world from 1960 to 2006 concluded there is—
“a robust relationship between public spending and GDP per capita growth.”

Assessing the Impact of Public Spending on Growth: An Empirical Analysis for Seven Fast Growing Countries, the World Bank, July 2008.

“The best approach (to helping workers move up the economic ladder) is to give people access to first-rate education so they can acquire the skills needed to advance.”

Treasury Secretary Henry Paulson

Richard G. Sims
Sierra Institute on Applied Economics

The Wall Street Journal agrees-

**An article rural communities called
local schools --
*"the Best Business in Town"***

**The Economic Development
Administration**

***"In the New Economy, knowledge,
rather than natural resources, is the raw
material of business."***

**From: *The importance of Quality of Life in the Location
Decisions of New Economy Firms*, U.S. Economic
Development Administration, 2002.**

A study of major nations over the last 200 years

"Contrary to traditional beliefs, the net national costs of government social programs are virtually zero... Contrary to the intuition of many economists and the ideology of many politicians, social spending has contributed to, rather than inhibited, economic growth."

Peter H. Lindert, Distinguished Professor of Economics, University of California, Davis,
Growing Public: Social Spending and Economic Growth since the Eighteenth Century.

Education as a taxpayer investment

*Taxpayer's return on investment in public
education exceeds returns generated by
the stock market*

Long-term return on common stocks:* 6.3%

Public return on investment in education:** 14.3%

*Includes dividends and price changes.

**Elementary and Secondary, includes additional taxes and reductions in social service outlays.

Sources: Stockmarket evaluations from a literature survey reported in "Long-term Returns," by Victor Niederhoffer and Alex Castaldo, April 2004; education information from "Returns to Investment in Education: A Further Update," by George Psacharopoulos and Harry Patrinos, World Bank, 2006