

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2199

That the House recede from its amendments as printed on pages 1281-1284 of the Senate Journal and pages 1357-1360 of the House Journal and that Reengrossed Senate Bill No. 2199 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-38-01.29, 57-38-01.30, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit, a commercial property income tax credit, and corporate and individual income tax rates; to provide for a transfer; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.29 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.29. Homestead income tax credit - Rules.

1. In addition to any other credit or deduction allowed by law for a homeowner, an individual is entitled to a credit against the tax imposed under section 57-38-29 or 57-38-30.3 for taxable years ~~2007~~ 2009 and ~~2008~~ 2010 in the amount of ~~ten~~ thirty percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead in this state. For purposes of this section, "property taxes" does not include any special assessments.
2. For purposes of this section, "homestead" means the dwelling occupied by the individual as the individual's primary residence and, if that residence is in this state, any residential or agricultural property owned by that individual in this state.
3.
 - a. The amount of the credit under this section may not exceed one thousand five hundred dollars for married persons filing a joint return or ~~five hundred dollars~~ for a single individual or married individuals filing separate returns.
 - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability may be carried forward for up to five years or the taxpayer may request that the tax commissioner issue the taxpayer a certificate in the amount of the excess which may be used by the taxpayer against property or mobile home tax liability of the taxpayer during the ensuing taxable year by delivering the certificate to the county treasurer in which the taxable property or mobile home is subject to taxes. The county treasurer shall forward certificates redeemed in payment of a tax obligation under this section to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
5. Persons owning property together are entitled to only one credit for a parcel of property between or among them under this section. Persons

owning property together are each entitled to a percentage of the credit for a single individual under this section equal to their ownership interests in the property.

6. This section is not subject to subsection 1 or 2 of section 57-38-45.
7. The tax commissioner shall adopt rules to provide for filing and verification of claims of credits under this section and for issuance and redemption of tax certificates under subsection 4.
8.
 - a. ~~If, on November 15, 2008, the total amount of tax credits claimed under this section exceeds forty seven million dollars, the tax commissioner shall reduce the rate of the credit under subsection 1. The adjusted credit rate must be calculated by the tax commissioner as follows:~~
 - (1) ~~The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds forty seven million dollars.~~
 - (2) ~~The difference between the number one and the amount calculated under paragraph 1 multiplied by ten percent is the adjusted credit rate for the 2008 taxable year.~~
 - b. ~~The tax commissioner shall report any adjustment under this subsection to the budget section of the legislative council for review.~~

A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 2. AMENDMENT. Section 57-38-01.30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.30. Commercial property income tax credit - Rules.

1. In addition to any other credit or deduction allowed by law for a property owner, an individual or corporation is entitled to a credit against the tax imposed under section 57-38-29, 57-38-30, or 57-38-30.3 for taxable years ~~2007~~ 2009 and ~~2008~~ 2010 in the amount of ~~ten~~ thirty percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
 - a. The amount of the credit under this section may not exceed one thousand five hundred dollars for any taxpayer.
 - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
 - c. The amount of the credit under this section may not exceed one thousand five hundred dollars for married persons filing a joint return or ~~five hundred dollars~~ for a single individual or married individual filing separate returns.

2. The amount of the credit under subdivisions a and c of subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five years.
3. Persons owning property together are entitled to only one credit for property between or among them under this section. Persons owning property together are each entitled to a percentage of the credit equal to their ownership interests in the property. Married individuals owning property together are each entitled to a percentage of the credit for a single individual under this section equal to their ownership interests in the property.
4. This section is not subject to subsection 1 or 2 of section 57-38-45.
5. A passthrough entity entitled to the credit under this section shall allocate the amount of the credit allowed with respect to the entity's property at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
6. The tax commissioner shall adopt rules to provide for filing and verification of claims under this section.
7. ~~a. If, on November 15, 2008, the total amount of credits claimed under this section exceeds seven million dollars, the tax commissioner shall reduce the cap that applies to the credit under subsection 1. The adjusted credit cap must be calculated by the tax commissioner as follows:~~
 - ~~(1) The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds seven million dollars.~~
 - ~~(2) The difference between the number one and the amount calculated under paragraph 1 multiplied by the amount of the cap is the adjusted credit cap for the 2008 taxable year.~~
- ~~b. The tax commissioner shall report any proposed adjustment under this subsection to the budget section of the legislative council for approval.~~

SECTION 3. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~three~~ twenty-five thousand dollars of taxable income, at the rate of two and ~~six tenths~~ one-tenth percent.
- b. On all taxable income ~~above three~~ above three exceeding twenty-five thousand dollars and not ~~in excess of eight~~ exceeding fifty thousand dollars, at the rate of ~~four and one-tenth~~ five and twenty-five hundredths percent.
- c. On all taxable income ~~above eight~~ above eight exceeding fifty thousand dollars and not ~~in excess of twenty thousand dollars~~, at the rate of ~~five and six tenths~~ six and four-tenths percent.

- d. ~~On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of six and four tenths percent.~~
 - e. ~~On all taxable income above thirty thousand dollars, at the rate of six and one half percent.~~
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 4. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

If North Dakota taxable income is:	The tax is equal to:
Not over \$27,050 <u>\$33,950</u>	2.10% <u>1.84%</u>
Over \$27,050 <u>\$33,950</u> but not over \$65,550 <u>\$82,250</u>	\$568.05 <u>\$624.68</u> plus 3.92% <u>3.44%</u> of amount over \$27,050 <u>\$33,950</u>
Over \$65,550 <u>\$82,250</u> but not over \$136,750 <u>\$171,550</u>	\$2,077.25 <u>\$2,286.20</u> plus 4.34% <u>3.81%</u> of amount over \$65,550 <u>\$82,250</u>
Over \$136,750 <u>\$171,550</u> but not over \$297,350 <u>\$372,950</u>	\$5,167.33 <u>\$5,688.53</u> plus 5.04% <u>4.42%</u> of amount over \$136,750 <u>\$171,550</u>
Over \$297,350 <u>\$372,950</u>	\$13,261.57 <u>\$14,590.41</u> plus 5.54% <u>4.86%</u> of amount over \$297,350 <u>\$372,950</u>

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$45,200 <u>\$56,750</u>	2.10% <u>1.84%</u>
Over \$45,200 <u>\$56,750</u> but not over \$109,250 <u>\$137,050</u>	\$949.20 <u>\$1,044.20</u> plus 3.92% <u>3.44%</u> of amount over \$45,200 <u>\$56,750</u>
Over \$109,250 <u>\$137,050</u> but not over \$166,500 <u>\$208,850</u>	\$3,459.96 <u>\$3,806.52</u> plus 4.34% <u>3.81%</u> of amount over \$109,250 <u>\$137,050</u>
Over \$166,500 <u>\$208,850</u> but not over \$297,350 <u>\$372,950</u>	\$5,944.64 <u>\$6,542.10</u> plus 5.04% <u>4.42%</u> of amount over \$166,500 <u>\$208,850</u>
Over \$297,350 <u>\$372,950</u>	\$12,539.45 <u>\$13,795.32</u> plus 5.54% <u>4.86%</u> of amount over \$297,350 <u>\$372,950</u>

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over \$22,600 <u>\$28,375</u>	2.10% <u>1.84%</u>
Over \$22,600 <u>\$28,375</u> but not over \$54,625 <u>\$68,525</u>	\$474.60 <u>\$522.10</u> plus 3.92% <u>3.44%</u> of amount over \$22,600 <u>\$28,375</u>
Over \$54,625 <u>\$68,525</u> but not	\$1,729.98 <u>\$1,903.26</u> plus 4.34% <u>3.81%</u>

over ~~\$83,250~~ \$104,425
Over ~~\$83,250~~ \$104,425 but not
over ~~\$148,675~~ \$186,475
Over ~~\$148,675~~ \$186,475

of amount over ~~\$54,625~~ \$68,525
~~\$2,972.34~~ \$3,271.05 plus ~~5.04%~~ 4.42%
of amount over ~~\$83,250~~ \$104,425
~~\$6,269.73~~ \$6,897.66 plus ~~5.54%~~ 4.86%
of amount over ~~\$148,675~~ \$186,475

d. Head of household.

If North Dakota taxable income is:

Not over ~~\$36,250~~ \$45,500
Over ~~\$36,250~~ \$45,500 but not
over ~~\$93,650~~ \$117,450
Over ~~\$93,650~~ \$117,450 but not
over ~~\$151,650~~ \$190,200
Over ~~\$151,650~~ \$190,200 but not
over ~~\$297,350~~ \$372,950
Over ~~\$297,350~~ \$372,950

The tax is equal to:

~~2.10%~~ 1.84%
~~\$761.25~~ \$837.20 plus ~~3.92%~~ 3.44%
of amount over ~~\$36,250~~ \$45,500
~~\$3,011.33~~ \$3,312.28 plus ~~4.34%~~ 3.81%
of amount over ~~\$93,650~~ \$117,450
~~\$5,528.53~~ \$6,084.06 plus ~~5.04%~~ 4.42%
of amount over ~~\$151,650~~ \$190,200
~~\$12,871.84~~ \$14,161.61 plus ~~5.54%~~ 4.86%
of amount over ~~\$297,350~~ \$372,950

e. Estates and trusts.

If North Dakota taxable income is:

Not over ~~\$1,800~~ \$2,300
Over ~~\$1,800~~ \$2,300 but not
over ~~\$4,250~~ \$5,350
Over ~~\$4,250~~ \$5,350 but not
over ~~\$6,500~~ \$8,200
Over ~~\$6,500~~ \$8,200 but not
over ~~\$8,900~~ \$11,150
Over ~~\$8,900~~ \$11,150

The tax is equal to:

~~2.10%~~ 1.84%
~~\$37.80~~ \$42.32 plus ~~3.92%~~ 3.44%
of amount over ~~\$1,800~~ \$2,300
~~\$133.84~~ \$147.24 plus ~~4.34%~~ 3.81%
of amount over ~~\$4,250~~ \$5,350
~~\$231.49~~ \$255.83 plus ~~5.04%~~ 4.42%
of amount over ~~\$6,500~~ \$8,200
~~\$352.45~~ \$386.22 plus ~~5.54%~~ 4.86%
of amount over ~~\$8,900~~ \$11,150

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

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

g. For taxable years beginning after December 31, ~~2004~~ 2009, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

SECTION 5. TRANSFER. During the biennium beginning July 1, 2009, and ending June 30, 2011, the state treasurer shall transfer \$295,000,000 from the permanent oil tax trust fund to the general fund.

SECTION 6. EFFECTIVE DATE. Sections 1 through 4 of this Act are effective for taxable years beginning after December 31, 2008."

Renumber accordingly