2011 HOUSE FINANCE AND TAXATION

HB 1402

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1402
January 24, 2011
#13265

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to an individual income tax deduction for lower-income individuals; and to provide an effective date.

Minutes: *Please see attached testimony #1*

Representative J. Kelsh: Sponsor. Support. The reason for this bill is when the Governor gave his budget and state of the state address he talked about further income tax reductions and I thought that by continuing to lower all the rates it didn't make a lot of sense. Income tax is not really burdensome in North Dakota but there are a group at the bottom that need some relief. The state of North Dakota would probably benefit more from the relief. This bill reduces an individual's income tax to zero on the first $40,000; a couple on the first $50,000. Then there's a formula that continues after that. The intention of the bill is to give the lower income level people and working families across the state of North Dakota the tax break that the Governor proposed, not across the board tax break. I think those people would spend that money and it would quickly go back into the economy and it would cause a lot of economic activity.

Chairman Wesley R. Belter: Do you have a number of exactly how many filers would be affected?

Representative J. Kelsh: I don't have the number for that. I do have a fiscal note on the bill which I was very surprised at $165,400,000. I figured it would be below the $50 million that the Governor recommended. I think it just goes to show that the lower class people do pay a lot of income tax. If this fiscal note is accurate it would prove the opposite and that the lower class people do pay a pretty good chunk of income tax paid in the state of North Dakota. Lower income people not lower class, excuse me.

Representative Glen Froseth: The first bill we heard this morning offered a 60% reduction in income taxes and the second bill was 15% reduction across the board. There's no percentage on this but would you have any idea how those first two bills would compare to the percentage or reduction of this bill?

Representative J. Kelsh: This bill gives individuals making under $40,000 no tax. A couple filing jointly under $50,000 would have no tax. I think we all realize that if we have a

family of four living in Bismarck or Fargo $50,000 probably keeps them pretty well strapped to make a decent living especially if they have to buy their own insurance. The bill for a straight across the board would allow for a 60% tax reduction and 15% reduction but this bill doesn't do that. This bill gives that certain income group of people a tax break in North Dakota.

Representative Dave Weiler: Testified in support. I just wanted to take a second to come up here and commend Representative Kelsh on a very worthwhile tax cut. I don't know many tax cuts that I've ever opposed. I would stand in support of this piece of legislation.

Dustin Gawrylow, Executive Director of ND Taxpayers Association: Please refer to attached testimony #1.

Representative Shirley Meyer: In reading the fiscal note it indicates that it is what the bill states. That's what the fiscal impact would be.

Representative Lonny B. Winrich: The purpose of this bill is to pay particular attention to low income tax filers. A flat rate tax such as you're suggesting shifts the tax burden to low income tax filers. Seems to me this is contrary to the purposes or intent on the bill before us.

Dustin Gawrylow: It does not do that because with the $25,000 exemption on couples that wipes out entire first bracket which I believe goes to just over $30,000. You could play with the numbers and completely wipe out that first bracket which is roughly 1.8% on that first $30,000. You are cutting the bottom bracket by 100% after that the impact of the reduction is progressively less. As page 2 shows right now the effective current rate for the bottom bracket is at 1.9 or 1.8 range and the effect of rate for the top bracket is just over 4% and that takes into account deductions. So our rate is in the upper 4% range but after deductions the effective tax rate is just above 4%. We're only taking that top rate down to 3.2 so it's really not as substantial as it sounds. Because the fiscal note takes into account removing the $25,000 from every filer it actually is an overstatement of the impact because some of those are going to be single filers so some of those would be $12,500 rather than the $25,000. It would be the high end projection of how much it would cost. It still gives that benefit to the lower income but then it drastically reforms our code to simplify it but it also retains the current deductions. If you wanted to increase that exemption and bring more people into that exemption, say raise it to $50,000 you could roll back some of the deductions to neutralize some of the revenue impact.

Representative Lonny B. Winrich: In looking at your chart the four tax brackets there that beginning with $50,000-75,000 has a 1.9% and then 2.02 and 2.36 and 2.79 those would all see an increase in their tax rate, it would go up to 3.2. Those are the lower income levels in this chart so it does shift an increasing tax burden to lower income levels.

Dustin Gawrylow: It's on a lesser taxable value and so we're reducing the overall dollars being taxed at those rates which will reduce the effect of tax rate overall.

Representative Lonny B. Winrich: The lesser tax overall is reduced far more for upper income brackets than it is for lower income brackets. That may be your philosophy but it is a shift of the tax burden to lower incomes.

Dustin Gawrylow: We'll just have to disagree. The bottom bracket would be reduced by 1.8% and the top bracket would be reduced by .8%. On a percentage basis the bottom bracket would get more benefit than the top.

Bill Shalhoob, ND Chamber of Commerce: Support. The total number on the fiscal note we think is very appropriate for personal income tax reduction in North Dakota. Somewhere around $150 million would be what we would think would be appropriate based on everything that we see in this level. We would support the bill as written. This bill would give $40,000 tax relief and $50,000 for joint return to every taxpayer of North Dakota. Our position on tax policy in general and going forward has been that relief should be given by percentage in terms of the amount taken off to every tax category. If it doesn't do that we would not support the bill as written. We think that lowering each category by 15 or 18% is more appropriate way to treat a reduction in income taxes.

Vice Chairman Craig Headland: I that there is some confusion on what the bill does. What I think the bill does is it exempts income for the first $50,000 for a married couple but once you go over that $50,000 for every dollar of income you have its taking away $2 of that exemption. So by the time you get to $75,000 income jointly you're not going to have any deduction left. Therefore, the higher brackets are not getting any tax relief, is that correct?

Bill Shalhoob: I will then go back to the first statement. We support the number of tax relief and we think that tax relief should be spread equally throughout the taxable brackets. We would then not support this bill the way it is given.

Vice Chairman Craig Headland: The way I see this bill working, the intent of it anyway, is that when you reach that $50,000 by the time you get to $75,000 they are taking away $2 for every dollar your income jumps. By the time you get halfway back, which is $75,000 for a couple filing jointly, your exemption and deduction is gone. Is that correct?

Nathan Bergman, ND Tax Department: That is my understanding of the bill too. The bill as its currently written does contain somewhat of a circular reference in that the amount of the deduction is based off of taxable income. Since federal taxable income is a starting point we have all the different deductions and additions and subtractions to get to the North Dakota taxable income. Anytime something is changed there if affects the taxable income. I would just ask that clarification be added to the bill to either have this deduction apply before all other deductions, essentially taking it at the federal taxable income level, or apply after all other deductions have been taken into account to eliminate that circular reference.

Representative J. Kelsh: Representative Headland is pretty much right on. What the bill would do for an individual making $40,001 it would be taxed as if their income was $2 and if they were making $50,000 it would be taxed as if it were $20 and if their income was $60,000 it would be taxed as if their income was $40 and an individual making $80,000 would be taxed as if their income was $80,000. I don't feel income tax rates in the state of

North Dakota are really high. I don't think there are very many people who think they are high. But if we're going to give this year or this biennium $150 million in income tax relief I think it should go to the people that really need that relief. I don't feel the bill should be turned into a flat tax bill. That's not my intention. My intention is to give the lower income families and individuals the opportunity to share in our wealth in the state of North Dakota.

Bill Shalhoob, ND Chamber of Commerce: Opposition to this method of tax relief. I had a misunderstanding of the bill when I testified earlier in support. As clarified we would oppose this bill. We think in tax policy those who get relief and everybody should be relieved in proportion and that a percentage basis is better tax policy than social engineering through the tax code.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1402.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1402
February 7, 2011
#14100

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an individual income tax deduction for lower-income individuals; and to provide an effective date.

Minutes: *No attachments.*

Chairman Wesley R. Belter: This bill made any income under $50,000 nontaxable and then as it goes up you got a tax break until $75,000. What are your wishes on this bill?

Representative Bette Grande: Made a motion for a DO NOT PASS.

Representative Mark S. Owens: Seconded.

A roll call vote was taken: YES 8 NO 6 ABSENT 0
MOTION CARRIED---DO NOT PASS.

Representative Bette Grande will carry HB 1402.

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1402

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($165,400,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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 1402 creates an individual income tax deduction for lower-income individuals.

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.*

HB 1402 exempts from the individual income tax the income for individuals with less than $40,000 of taxable income ($50,000 for married joint filers). The exemption is phased-out for individuals with income up to $60,000 ($75,000 for married joint filers). Taxpayers with taxable income above this level are not affected by the bill.

If enacted, HB 1402 is expected to reduce state general fund revenues by an estimated $165.4 million for the 2011-13 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:**	01/21/2011

Date: 2-7-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1402

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Grande Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer		✓
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler		✓			
Dwight Wrangham		✓			

Total (Yes) 8 No 6

Absent Ø

Floor Assignment Rep. Grande

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

REPORT OF STANDING COMMITTEE

HB 1402: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1402 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1402

Testimony #1
p.1

NORTH DAKOTA
TAXPAYERS ASSOCIATION

Subject: Conceptual Amendments to HB 1402 **Bill: HB 1402**

Testimony Provided By: Dustin Gawrylow **Lobbyist #160**

Presented To: House Finance and Tax Committee **January 24th, 2011**

While this bill is well intended in its attempts to provide income tax relief to lower-income taxpayers, it leaves the tax code lopsided.

We would like to suggest the following changes to this bill:

- $25,000 exemption for all married filers.
- $12,500 exemption for all single filers.
- 3.2% flat rate on all income over exemptions.

If all current deductions are retained, the fiscal note would be roughly $120m-140m per biennium.

If current deductions are rolled back, the exemption level could be increased substantially for all taxpayers.

This proposal would substantially reform North Dakota's tax code, and should be added to the mix of tax reform and reduction proposals.

$25,000 Exemption for all Filers Computed to Estimate High-Side Impact

	Count	NDTxblIncome	TotalCredits	NetTaxLiability	Current Effective Rate	New Rate	Taxable Income		Liability
01) $0 - $10,000	51,875	18,239,977.83	746,903.12	347,706.58	0.0191	0.00%			$ -
02) $10,000 - $25,000	65,141	356,984,781.15	456,224.04	6,482,729.23	0.0182	0.00%			$ -
03) $25,000 - $50,000	72,210	1,445,298,996.45	825,004.41	26,492,604.22	0.0183	0.00%	$ (359,951,003.55)		$ -
04) $50,000 - $75,000	45,682	1,819,857,943.17	832,321.77	35,440,054.10	0.0195	3.20%	$ 677,807,943.17		$ 21,689,854
05) $75,000 - $100,000	29,946	1,818,455,252.02	1,394,507.20	36,819,379.10	0.0202	3.20%	$ 1,069,805,252.02		$ 34,233,768
06) $100,000 - $150,000	20,905	1,873,314,027.31	2,377,338.81	44,125,023.09	0.0236	3.20%	$ 1,350,689,027.31		$ 43,222,049
07) $150,000 - $250,000	7,805	1,159,308,160.11	1,883,256.96	32,332,642.21	0.0279	3.20%	$ 964,183,160.11		$ 30,853,861
08) $250,000 - $500,000	3,177	900,516,947.06	1,579,333.63	30,272,062.60	0.0336	3.20%	$ 821,091,947.06		$ 26,274,942
09) $500,000 - $750,000	725	374,357,149.67	699,349.96	14,491,235.67	0.0387	3.20%	$ 356,232,149.67		$ 11,399,429
10) $750,000 - $1,000,000	222	160,505,235.00	439,387.00	6,498,215.27	0.0405	3.20%	$ 154,955,235.00		$ 4,958,568
11) $1,000,000 - $2,000,000	292	314,448,234.37	1,748,373.00	12,752,343.00	0.0406	3.20%	$ 307,148,234.37		$ 9,828,743
12) Over $2,000,000	115	435,532,439.00	3,203,242.00	17,500,505.00	0.0402	3.20%	$ 432,657,439.00		$ 13,845,038
Total	298,095	10,676,819,143	16,185,242	263,554,500	0	0	5,774,619,384		$ 196,306,252
								- Annual Impact	$ 67,248,248

Testimony #1 p. 2