

2025 HOUSE FINANCE AND TAXATION

HB 1388

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1388
2/11/2025

Relating to the marriage penalty credit; and to provide an effective date.
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9:01 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner,
Members Absent: Representative Toman

Discussion Topics:

- Tax rates
- Joint filing vs single filing

9:01 a.m. Representative Nels Christianson introduced the bill and submitted testimony #37036.

9:05 a.m. Matt Peyerl, ND Office of State Tax Commissioner, stood for questions and submitted neutral testimony #37037.

Additional written testimony:

John Phelan, Economist, American Experiment North Dakota, submitted testimony in favor #36940.

9:11 a.m. Chairman Headland closed the hearing.

Janae Pinks, Committee Clerk

February 10, 2025

Dear Members of the House Finance and Taxation Committee:

My name is John Phelan, and I am an Economist at American Experiment North Dakota. Thank you for the opportunity to provide comments on House Bill No. 1388. This bill would eliminate the penalty for marriage in North Dakota's tax code. I wish to testify in support of this proposal.

The Tax Foundation's 2024 State Business Tax Climate Indexⁱ ranks North Dakota 17th in the United States overall. While it scores well on the Property Tax (ranked 7th), Corporate Tax (10th), and Unemployment Insurance Tax (14th), its ranking on the Individual Income Tax — 21st — pulls that overall ranking down. One reason for that ranking is North Dakota's marriage tax penalty.

Under a graduated-rate income tax system such as North Dakota's, a taxpayer's marginal income is subject to progressively higher tax rates. When a state's standard deduction and tax brackets for married taxpayers filing jointly are less than double those for single filers, a "marriage tax penalty" is said to exist. In other words, married couples who file jointly under this scenario have a higher effective tax rate than they would if they filed as two single individuals with the same amount of combined income. North Dakota is one of fifteen states to have a marriage penalty built into its bracket structure.

A marriage tax penalty is not only discriminatory by penalizing marriage in the tax code, it also has negative economic consequences. Owners of passthrough businesses pay taxes on their business income under the individual income tax system. With a marriage tax penalty in place, married business owners are subject to higher effective tax rates on their business income than they would be otherwise. This is a real problem given that married couples dominate the top-earning 20 percent of taxpayers — they account for 85 percent of that category — and that same top-earning 20 percent also has the highest concentration of business owners of all income groups. Because of these concentrations, marriage penalties have the potential to affect a significant share of pass-through businesses.

In 2022, the Tax Foundation estimated that eliminating the marriage tax penalty would bump North Dakota up seven places on its Individual Income Tax rank and help the Overall ranking up two spots. It is an obvious measure to stop penalizing marriage and create a more business-friendly tax climate in the state.ⁱⁱ

Sincerely,

John Phelan,

Economist

American Experiment North Dakota

ⁱ <https://taxfoundation.org/wp-content/uploads/2023/10/2024-State-Business-Tax-Climate-Index-1.pdf>

ⁱⁱ <https://files.americanexperimentnd.org/wp-content/uploads/2022/12/ND-Marriage-Tax.pdf?v=1671114914>



North Dakota House of Representatives

STATE CAPITOL
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Representative Nels Christianson

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COMMITTEES:

Judiciary
Transportation

February 11, 2025

Chairman Headland and Members of the House Finance and Taxation Committee:

I am Nels Christianson, and I am honored to represent District 18, which includes central and northern Grand Forks and northeast Grand Forks County.

HB 1388 aims to correct a condition in North Dakota's tax code that is both fundamentally unfair and has negative economic consequences: the income tax marriage penalty.

Under North Dakota's graduated-rate income tax system, a taxpayer's marginal income is subject to progressively higher tax rates. The marriage penalty exists because the tax brackets for married taxpayers are less than double those for single tax filers. This means that married couples pay a higher effective tax rate than they would pay as single filers with the same combined income. North Dakota is one of only 16 states that has a marriage penalty in state income tax.

A marriage penalty presents negative consequences to many small- and medium-sized businesses. These enterprises often use business structures with pass-through taxation, so the owners pay personal rates of tax on their business income. The marriage penalty results in increased effective income tax rates on family-owned enterprises.

Section 1 of this bill lists each of the thresholds for rates. You can see that the updated rates are the same for single and married filing separately under the new table. The rate for married filing jointly is double that of the single rate. Also, the head of household rate is adjusted proportionately.

Section 2 is simple: it eliminates the marriage penalty adjustment under the tax code, because it will now be unnecessary with the new rates.

HB1388 relates to the fundamental issue of fairness in the tax code. Families, and family businesses, should not be required to pay a higher rate of income tax because they are married.

2025 Tax Rate Schedules

If your North Dakota taxable income is \$100,000 or more, use the tax rate schedule below for your filing status to calculate your tax.

Single

If North Dakota
taxable income is:

Your tax is equal to:

Over	But not over				
\$ 0	\$ 48,475	.....	0.00%	of North Dakota taxable income	
48,475	244,825	.....	\$ -	1.95%	of amount over \$ 48,475
244,825		.....	3,828.83	+	2.50% of amount over 244,825

Married filing jointly and

If North Dakota
taxable income is:

Your tax is equal to:

Over	But not over				
\$ 0	\$ 80,975	.....	0.00%	of North Dakota taxable income	
80,975	298,075	.....	\$ -	1.95%	of amount over \$ 80,975
298,075		.....	4,233.45	+	2.50% of amount over 298,075

Married filing separately

If North Dakota
taxable income is:

Your tax is equal to:

Over	But not over				
\$ 0	\$ 40,475	.....	0.00%	of North Dakota taxable income	
40,475	149,025	.....	\$ -	1.95%	of amount over \$ 40,475
149,025		.....	2,116.73	+	2.50% of amount over 149,025

Head of household

If North Dakota
taxable income is:

Your tax is equal to:

Over	But not over				
\$ 0	\$ 64,950	.....	0.00%	of North Dakota taxable income	
64,950	271,450	.....	\$ -	1.95%	of amount over \$ 64,950
271,450		.....	4,026.75	+	2.50% of amount over 271,450

Estates and Trusts

If North Dakota
taxable income is:

Your tax is equal to:

Over	But Not Over				
\$ 0	\$ 3,250	.....	0.00%	of North Dakota taxable Income	
3,250	11,650	.....	-	1.95%	of amount over \$ 3,250
11,650		.....	163.80	+	2.50% of amount over 11,650

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1388
2/19/2025

Relating to the marriage penalty credit; and to provide an effective date.
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9:10 a.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Dockter, Dressler, Foss, Grueneich, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Members Absent: Representatives D. Anderson, Ista.

Discussion Topics:

- Proposed amendment
- Total cost

9:11 a.m. Representative Dressler suggested an amendment to remove the upper tax bracket entirely and would remain at 1.29 percent for the other bracket.

9:13 a.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1388
2/19/2025

Relating to the marriage penalty credit; and to provide an effective date.
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4:38 p.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Nehring, Porter, Steiner, Toman
Members Absent: Representative J. Olson, Motschenbacher

Discussion Topics:

- Committee action

4:38 p.m. Representative Dockter moved a Do Pass.

4:38 p.m. Representative Porter seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	AB
Representative Dennis Nehring	Y
Representative Jeremy Olson	AB
Representative Todd Porter	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y
Representative Austin Foss	Y
Representative Zachary Ista	Y

4:39 p.m. Motion passed 12-0-2.

4:39 p.m. Representative Dockter will carry the bill.

4:40 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1388 ([25.1052.01000](#))

Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). HB 1388 was placed on the Eleventh order on the calendar.

2025 SENATE FINANCE AND TAXATION

HB 1388

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1388
3/10/2025

Relating to income tax rates for individuals, estates, and trusts and the marriage penalty credit; to repeal section 57-38-01.28 of the North Dakota Century Code, relating to the marriage penalty credit; and to provide an effective date.

11:00 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Powers, Senator Walen

Members absent: Senator Patten

Discussion Topics:

- Married filing joint tax benefits
- Quantity of filers in bottom, middle, and top joint tax brackets
- Tax impact of widening brackets

11:00 a.m. Representative Christianson, District 24, introduced HB 1388, testified in favor and submitted testimony #39973.

11:04 a.m. Matt Peyerl, Auditor, Office of ND Tax Commissioner, testified neutral and submitted testimony #39972.

11:13 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

2025 Forms ND-1 and ND-EZ Tax Rate Schedules

Single

If North Dakota
taxable income is:

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48,475	244,825 0.00 + 1.95% of amount over \$ 48,475
244,825	 3,828.83 + 2.50% of amount over 244,825

Married filing jointly and Qualifying surviving spouse

If North Dakota
taxable income is:

Over	But not over	Your tax is:
\$ 0	\$ 80,975	\$ 0.00 + 0.00% of North Dakota taxable income
80,975	298,075 0.00 + 1.95% of amount over \$ 80,975
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Married filing separately

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271,450	 4,026.75 + 2.50% of amount over 271,450



North Dakota House of Representatives

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COMMITTEES:

Judiciary
Transportation

March 10, 2025

Chairman Weber and Members of the Senate Committee on Finance and Taxation:

I am Nels Christianson, and I am honored to represent District 18, which includes central and northern Grand Forks and northeast Grand Forks County.

HB 1388 aims to correct a condition in North Dakota's tax code that is both fundamentally unfair and has negative economic consequences: the income tax marriage penalty. Under North Dakota's graduated-rate income tax system, a taxpayer's marginal income is subject to progressively higher tax rates. The marriage penalty exists because the tax brackets for married taxpayers are less than double those for single tax filers. This means that married couples pay a higher effective tax rate than they would pay as single filers with the same combined income. North Dakota is one of only 16 states that has a marriage penalty in state income tax.

A marriage penalty presents negative consequences to many small- and medium-sized businesses. These enterprises often use business structures with pass-through taxation, so the owners pay personal rates of tax on their business income. The marriage penalty results in increased effective income tax rates on family-owned enterprises.

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Section 2 is simple: it eliminates the marriage penalty adjustment under the tax code, because it will now be unnecessary with the new rates.

HB1388 relates to the fundamental issue of fairness in the tax code. Families, and family businesses, should not be required to pay a higher rate of income tax because they are married.

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1388
3/24/2025

Relating to income tax rates for individuals, estates, and trusts and the marriage penalty credit; to repeal section 57-38-01.28 of the North Dakota Century Code, relating to the marriage penalty credit; and to provide an effective date.

8:02 a.m. Chairman Weber called the meeting to order.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Tax brackets and corresponding deductions

8:02 a.m. Vice Chairman Rummel updated the committee on information regarding marriage tax structure and deductions and submitted neutral testimony #43644.

8:18 a.m. Vice Chairman Rummel moved a Do Not Pass.

8:18 a.m. Senator Patten seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	Y
Senator Chuck Walen	Y

Motion passed 6-0-0.

Chairman Weber will carry the bill.

8:19 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1388 ([25.1052.01000](#))

Finance and Taxation Committee (Sen. Weber, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1388 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

HOUSE BILL 1388

1 As of January 1, 2025

Married filing jointly and Qualifying surviving spouse

If North Dakota

taxable income is:

<u>Over</u>	<u>But Not Over</u>	<u>Your Tax is:</u>			
\$0	\$80,975	\$0			
\$80,975	\$298,075	\$0 Plus	1.95%	of the amount over	\$80,975
\$298,075		\$4,233.45 Plus	2.50%	of the amount over	\$298,075

2 HB 1388 Effective for taxable years beginning after December 31, 2024

Married filing jointly and Qualifying surviving spouse

If North Dakota

taxable income is:

<u>Over</u>	<u>But Not Over</u>	<u>Your Tax is:</u>			
\$0	\$96,950	\$0			
\$96,950	\$489,650	\$0 Plus	1.95%	of the amount over	\$96,950
\$489,650		\$7,657.65 Plus	2.50%	of the amount over	\$489,650

TCJA

3 **Federal Standard Deduction for 2025**

Married \$30,000

ND	Federal
<u>Taxable</u>	<u>Gross</u>

\$80,975	\$110,975
\$96,950	\$126,950
\$298,075	\$328,075
\$489,650	\$519,650

4 **Maximum Benefit**

1st bracket \$15,975 1.95% \$311.51

2nd bracket \$191,575 0.55% \$1,053.66

\$1,365.18 or .3% of total federal gross income of \$519,650

15,000 filers will move to the zero bracket (+3% = 64% at zero)

9,000 filers will move from the top bracket

Married returns currently up to a gross income of \$110,975 are unaffected.

5 **Fiscal Note**

\$55,014,000

(\$16,470,000) Marriage Credit

\$1,014,000 Married Filing Separately

\$965,000 Head of Household

\$34,000 Surviving Spouse

\$40,557,000

HB 1158 from last session - Impact on 2023 Income Taxes

<u>Tax Bracket</u>		<u>Net Tax Liability</u>		Resident		Non-Resident	
1	0%	\$0		\$0		\$0	
2	1.95%	\$105,305,473	37.1%	\$94,391,717	41.6%	\$10,913,756	19.2%
3	2.50%	\$178,682,162	62.9%	\$132,758,358	58.4%	\$45,923,804	80.8%
Net Tax Totals		<u>\$283,987,635</u>	100.0%	<u>\$227,150,075</u>	100.0%	<u>\$56,837,560</u>	100.0%
		100.0%		80.0%		20.0%	
Net Royalty Tax		\$27,447,428		\$13,195,646		\$14,251,782	
		100.0%		48.1%		51.9%	
Percent of Net Tax		9.7%		5.8%		25.1%	
Number of Returns							
1	0%	282,410	60.9%	229,326	64.7%	53,084	48.4%
2	1.95%	153,552	33.1%	113,770	32.1%	39,782	36.3%
3	2.50%	28,098	6.1%	11,237	3.2%	16,861	15.4%
Totals		<u>464,060</u>	100.0%	<u>354,333</u>	100.0%	<u>109,727</u>	100.0%
		100.0%		76.4%		23.6%	
Passthrough Entity							
1	0%	\$0		\$0		\$0	
2	1.95%	\$16,867,793	13.7%	\$13,945,022	14.9%	\$2,922,771	9.9%
3	2.50%	\$106,172,966	86.3%	\$79,516,479	85.1%	\$26,656,484	90.1%
Totals		<u>\$123,040,759</u>	100.0%	<u>\$93,461,501</u>	100.0%	<u>\$29,579,255</u>	100.0%
		100.0%		76.0%		24.0%	
Percent of Net Tax		43.3%		41.1%		52.0%	