2013 HOUSE FINANCE AND TAXATION

HB 1250

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1250
January 29, 2013
Job 17888

☐ Conference Committee

Kristi Hetzler

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of financial institutions tax and individual and corporation income tax rates.

Attached testimony #1, 2, 3, 4

Minutes:

Chairman Belter: Opened hearing on HB 1250.

Vice Chairman Headland: Introduced bill and supports HB 1250. This is a bill that will reduce the economic impact to citizens and businesses across the state. Reviewed bill. See attached testimony #1 and #2. (ended 10:19)

Representative Nathe: Supports HB 1250. We are in prosperous times and it's a good investment in the people of ND. History will show every time we have cut this tax, revenues have succeeded the forecast.

Rick Clayburgh, President and CEO of Bankers Association: In support of HB 1250, specifically in the reduction of the financial institution tax. We would also support the possibility of eliminating the financial institution tax and converting our banks to the corporate tax and individual income tax like all business in ND. (ended 14:00)

Bill Shalhoob, Greater North Dakota Chamber: See attached testimony #3. (ended 16:45)

Representative Kelsh: What are we trying to fix here? Isn't our current tax system proof that what we are doing is working pretty well?

Bill Shalhoob, Greater North Dakota Chamber: I don't know that we are trying to fix anything; I think the State of ND should collect as much money as they need, not anymore or any less. After the State of ND has the money they need, anything left over should come back to tax payers.

Jim Goetz, Chairman and CEO of Security First Bank of North Dakota: See attached testimony #4. Will leave more money in the private sector and have our economy the ability to grow. I do have a couple concerns within HB 1250 in its present form. ND community banks are subject financial institutions income tax instead of state income tax. The financial institution income tax which is currently at the rate of 6.5% is divided between the state and counties. State receives 1.5% and county 5%, HB 1250 provides a slight decrease for community banks from 6.5% to 6% at same time all others get it reduced to 2.9%, that's 207% higher than others, and treatment should be equal. This bill is a good start but should be amended. (ended 22:00)

Sandy Clark, North Dakota Taxpayers Association: Our policy says we will support the elimination or the reduction of individual and corporate income tax. HB 1250 is a bill of choice of all bills in this committee, along with the Senates.

Representative Zaiser: You indicated that this was your favorite tax bill and you favor the other tax bills as well. Do you think that the substantial cuts in here would provide enough money for the state of ND to meet all of its needs? Infrastructures?

Sandy Clark, North Dakota Taxpayers Association: Yes we believe there is enough money there to cover the "needs". Maybe not all the wants, but yes the needs. This is our bill of choice in regards of individual and corporate income tax.

Chairman Belter: Any further testimony to 1250? Any testimony in opposition

Joe Becker, Tax Department: We are neutral on the bill. Anytime you flatten the brackets from five to three there will be some change in progressivity as well as the proportional distribution of the relief. It's not severe but the relief is not proportional.

Chairman Belter: Closes.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1250
February 11, 2013
Job #18693
☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to reduction of financial institutions tax and individual and corporation income tax rates.

Minutes:

Vice Chairman Headland: Made a motion for a Do Pass.

Representative Dockter: Seconded.

Chairman Belter: Any discussion?

Representative Zaiser: Is this straight across the board the same percentage for everyone?

Vice Chairman Headland: It is for individual and corporate; it is less of a reduction for the financial institutions.

Chairman Belter: It reduces the financials from 6 ½% to 6%?

Vice Chairman Headland: Yes and all of that reduction is at the state level.

ROLL CALL VOTE TAKEN: 11 YES 2 NO 1 ABSENT

Vice Chairman Headland will carry this bill.

Representative Drovdal: Does this need to go to appropriations?

Chairman Belter: No it doesn't have any impact. It's just a reduction in revenue.

Representative Dockter: It's based off the projections so even though it's $530 million there is still going to be 20% more in revenue based on the forecast even with the reduction, is that correct?

Chairman Belter: Yes but the way the rules read unless it has an impact on an agency it doesn't need to go to appropriations. Many times in the past we may have sent a bill to appropriations like this because they wanted it but by our rules it doesn't have to go there.

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(503,400,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 reduces individual, corporation, and financial institutions 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.*

Section 1 of HB 1250 reduces the financial institutions tax rate from 6.5% to 6%. Section 3 reduces the number of corporation income tax brackets from three to two, and lowers the top corporate income tax rate from 5.15% to 3.30%. Section 4 reduces the number of individual income tax brackets from five to three, lowers and "rounds" the tax rates to .9%, 1.9%, and 2.9%.

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.*

If enacted, HB 1250 is expected to reduce state general fund revenues by an estimated $503.4 million in the 2013-15 biennium. The following provides the estimated biennial fiscal effect by type of income tax: Financial institutions tax, -$2.4 million; Corporation income tax, -$140 million; Individual income tax, -$361 million.

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
Telephone: 328-3402
Date Prepared: 01/28/2013

Date: 2-11-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

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. Headland Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak		—
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE

HB 1250: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1250 was placed on the Eleventh order on the calendar.

2013 SENATE FINANCE AND TAXATION

HB 1250

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1250
3/12/2013
Job Number 19783

☐ Conference Committee

Committee Clerk Signature	

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-35.3-03, 57-35.3-07, 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of financial institutions tax and individual and corporation income tax rates; and to provide an effective date.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on HB 1250.

Representative Headland introduced HB 1250.

Senator Burckhard - If it's a 35% reduction in tax revenue, what's the percentage reduction in taxes?

Representative Headland - There is a bit of a variance when you compress the brackets and change the rate, there are some people that get a little bit more of a break because they fall at a certain place within a marginal bracket.

Senator Oehlke - We had a bill that got rid of the financial institutions tax and changed it to corporate tax, have you don't anything with that yet?

Representative Headland - We are in the process of dealing with that piece of legislation.

Senator Oehlke - If that passed how would that… $2.4 million reduction in taxable income on the financial institutions, but how would that correlate, how would it change?

Representative Headland - That is a good question that you will have to get answered by the tax department.

Senator Triplett - I think I heard you say that this bill represents a 35% reduction in rate but a 30% increase in revenues, but the fiscal note suggests a $5.3 million reduction in revenues.

Representative Headland - If I said it that way then I stated it wrong. This is a 35% reduction in projected revenue.

Senator Triplett - What I thought I heard you say was that the bill represented a 35% reduction in rates but you were projecting a 30% increase in tax revenue because of our vibrant economy and I obviously just completely misheard you.

Representative Headland - We can pass this bill and reduce projected revenues by 35% and still be left with 30% more revenue from these taxes than we said we needed last session.

Senator Triplett - Maybe where we have the disconnect is your suggesting that what we said we needed is enough and where I come from I guess I'm thinking if we have a growing vibrant economy and more people coming in, we might need more government services and therefore more money.

Representative Headland - Last session we reduced rates to an area where we thought revenues that were projected because you know how we budget here, we are always basing everything on projections. There was a dollar amount we said we needed to collect in those revenues. If you look at that dollar amount and we place this reduction on, it still would leave us, if projections hold, with 30% more revenue than we projected last session that we would need to cover our ongoing needs and expenses.

Rick Clayburgh, North Dakota Bankers Association - We are in support of HB 1250. The Senate has already passed out SB 2364 which is the elimination of the financial institutions tax. Not knowing where it's going to go for sure we still support the original concept of HB 1250. (8:20)

Senator Miller - You said that we could remove sections 1-3, did you not mean 3 that is the corporate...

Rick Clayburgh - I was thinking 3 dealt with financial institution, 1 and 2 and then the language of SB 2364 into this bill.

Senator Miller - With regard to corporate income tax you said you would probably see a slight increase in your taxes if we did nothing to the corporate code. How much tax relief would we have to pass in order for you to not see an increase?

Rick Clayburgh - Our accountants have run scenarios in that target range of around 20% is kind of where we think that number is specific to the banks to make it palatable to our C corp banks. (12:02)

Bill Shalhoob, Greater North Dakota Chamber - See attached testimony 1 in favor in HB1250.

Senator Burckhard - Is that budgeting or just an amazing economy when you see those kinds of differences?

Bill Shalhoob - I think its conservative forecasting which I think is the business the state of North Dakota has to be in in projecting revenues and then an amazing economy beyond that. (15:05)

Sandy Clark, North Dakota Taxpayers Association - We are pleased to stand in support of HB 1250. We think this is very good policy and prudent for the legislature to return excess dollars to the taxpayers of North Dakota. (17:13)

Matt Peyerl - Senator Oehlke asked about the fiscal note and how that interplays with SB 2364 that repeals the financial institution tax. If you turn to your fiscal note this bill has a $2.4 million impact for income tax relief for banks and financial institutions. If that tax is repealed that cost will go away but what will happen is it will shift more cost on to the corporation and individual income tax portions of this bill and that number will be $7.5-8 million. If you call it $7.5 million, even at that against the $2.4 million it would increase the price tag by about $5 million. Of this bill, if the other bill were considered law right now.

Chairman Cook - If we amended SB 2364 into this bill then you're saying the fiscal note from this bill will go from $503 million to about $508 million.

Matt Peyerl - That is my understanding, yes.

Matt Peyerl, Tax Department - There is an amendment that we think would be required if the financial institution tax is not repealed (attachment 2).

Chairman Cook - If before we went home this bill was defeated and we ended up still keeping the financial institutions tax at its current tax rate, we wouldn't need this.

Matt Peyerl - No you wouldn't need it.

Senator Dotzenrod - The fiscal note we have is $503 million, you're saying if we amended SB 2364 into here it would be $508 million. In SB 2364 we changed the distribution of the political subdivisions instead of .4 it's .435 so that gave the subdivisions some state dollars. Is that number, the $508 million is that net?

Matt Peyerl - I think the short answer is no but I'll circle around to get there. SB 2364 what it did, the total tax reduction under financial institution tax takes bank taxes collected from $32 million down to $25 million. What this bill would do is that $25 million that the state would be collecting would be reduced by a third which is about $7.5-8 million so you are taking additional relief on top of that and moving it into the individual and corporate income tax rate reductions that are in this bill. SB 2364 didn't address the overall rates of the financial institution tax it was just to repeal it and move then into the corporate income tax overall rates. It's wasn't meant to be a large rate relief package. The S corps ended up with rate relief because they are going to be taxed at regular individual income rates instead of the 6.5% rate. So really what you are doing is taking that $25.8 million in SB 2364 of general fund revenue dollars and saying we are going to collect about a third less of that. (24:24)

Chairman Cook closed the hearing on HB 1250.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1250
4/1/2013
Job Number 20706

☐ Conference Committee

Committee Clerk Signature	Angela Rittmiller

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-35.3-03, 57-35.3-07, 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of financial institutions tax and individual and corporation income tax rates; and to provide an effective date.

Minutes:

Chairman Cook opened discussion on HB 1250.

Senator Judy Lee introduced amendments to HB 1250 (attachment 3).

Ryan Raushenberger, Tax Department provided more detailed information about the amendments.

Chairman Cook - Can you explain the effective date?

Senator Judy Lee - We discussed having a sunset or something that would bring us to another session to see what kind of take up there might be and that is impractical and we are looking at a 5 year carry forward and so forth. With the report, we don't want a study, we have studied it to death, we do want to report to legislative management, maybe change the verbiage you may change the verbiage on that, by October 1 or something like that so that there would be something available for the final legislative management meeting and there would be an opportunity for the next legislative session to review this and see if it needs to be continued or tweaked, we would never interrupt those that were already underway.

Senator Triplett - My question is about the relationship of the qualified child care facility definition at the top of page 2 with the qualified child care expenditure on page 1. I would understand from reading those 2 together that a private home daycare provider could not take a credit for anything related to acquiring constructing, rehabilitating or expanding property but am I understanding correctly then that someone operating a childcare facility out of their home who has at least 1 full time equivalent employee could take the credit for the direct costs, indirect costs or the contracted costs?

Ryan Raushenberger - I believe the situation you are describing is an at home facility that would actually have somebody employee at their residence but also would take a credit for some of the costs to provide childcare to that FTE's children?

Senator Triplett - Not to the FTE's children but that they would meet the standard of employer under 2a by having at least 1 full time equivalent employee and then they would be able to take the credit for direct costs provided under sub b2, direct costs and 3 the indirect costs, and 4 the contract piece so that the only thing a home daycare provider would not be able to do would be to take a credit for any expenses related with acquiring construction, rehabilitating, or expanding their property. Is that a fair understanding or not?

Ryan Raushenberger - Page 1 line 11, who employs 1 or more full time equivalent employees and whose primary source of income is from a business other than providing childcare. So since their primary business is childcare, they can't take the credit.

Senator Triplett - Do we think it's fair to give tax credits that favor institutional daycare providers as opposed to home daycare providers? How is that fair to the people out there who are trying to provide home daycare and are licensed and doing a good job of it. I understand why we don't want to build a home for them if they are doing it out of their home but why could they not be entitled to the credit for the rest of these things, the direct and indirect costs?

Ryan Raushenberger - One of the reasons this was drafted the way it was drafted is that the intent was to incent those businesses that have a tax liability and probably have more resources to provide a more substantial number of spots, I might let Senator Judy Lee talk about the policy reason of why.

Senator Judy Lee - There are other incentives and reimbursements of one sort or another for all kinds of childcare providers. Which is why I said when I first stepped up here that this is not the silver bullet. The only place there hasn't been a real incentive has been for the businesses that need the employees. (19:44)

Senator Miller - Has it been considered that if we give a company a tax credit to go and contract for childcare for their employees that we could be giving them an advantage to offer a better price and the effectively displace other folks from childcare services?

Senator Judy Lee - If there were any kind of shortage of children for childcare slots we wouldn't be talking about this. We are talking about a crisis in a number of slots being available for the number of families who need them so I don't see anybody being displaced in any way or that this is going to negatively impact it. (21:27)

Senator Miller - It's not about taking away children from some providers spots, but some parent has their kids enrolled in a childcare facility and then corporation X calls up that childcare facility and says we will offer whatever if you take care of our employees kids and they say okay and they tell parents we don't have any more space for your kids so the other kids get booted out. It seems to me that I have always been told the crisis is with people willing to do childcare not so much not having children.

Senator Judy Lee - One of the reasons that we have a problem is because we don't have enough workers but one of the reasons we don't have enough workers is because we can't afford to pay them a reasonable wage. Part of the challenge there is that parents are only able to pay a certain amount and those kinds of things. If we can in this way help to address the fixed costs of that childcare provider so that they can focus their income from childcare families more on salaries the idea is that they will be able to expand. (23:34)

Senator Triplett - This is a very generous tax credit when added to the federal tax credit. I'm wondering if there might be a reason to set it and provide maybe 2 different levels. Like a 25% and a 50% of a state tax credit and give the larger tax credit to employers who would be willing to provide round the clock daycare. Otherwise we may risk having people set up sort of cream of the crop easy stuff, 8am-4pm or 5pm kind of thing and still be very short of daycare for people who have to work shift work in hospitals and nursing homes or people whose jobs in the oil fields are 12 on 12 off and that sort of thing and if we could provide an extra incentive for those daycare providers who would be willing to provide round the clock daycare, which I know is hard to staff, but so important for the people who have to work nights, would you consider something like that? Or 30% and 50%, something?

Senator Judy Lee - We didn't really discuss that. It would seem to me that if I were a business that was going to be investing in childcare I would make darn sure that the childcare facility was going to be providing services at the time that my employees needed it. (25:58)

Chairman Cook - The biggest policy decision for this committee is that 50%.

Senator Miller - Is there any idea as to what the participation is in the federal program?

Ryan Raushenberger - We actually have had that discussion as we do not believe, at least in state that it is being utilized all that much but we don't really have a good picture on that. (29:13)

Chairman Cook - It's not my intent to act on these amendments today but I would suggest that any of you now that have looked at these amendments if there is some tweaking you want to do to them, get it down so we can move through this quickly when we finish up on HB 1250.

Senator Dotzenrod - The only concern I have is that this bill proposes to reduce income taxes about $500 million. Giving credits works pretty well as long as there's a significant reduction available to the tax payer. I'm not sure on the scale of things when you look at the cost of providing daycare, are we getting, are we mating 2 things together here that really sort of work against each other. That is, are we going to end up with about a 40% reduction in income tax and…

Chairman Cook - Is there going to be enough money left to even take advantage of the credit.

Senator Dotzenrod - That is what I'm wondering. I think what I'm struggling with myself is trying to understand the relative size of the problem of one compared to the other. I would think if you are talking 50% credit on a child care facility that you are talking a dollar amount that for most employers is not going to be something that they will be able to obtain through their income tax and I could be all wrong about that but, I might have to visit with the tax department a little bit.

Chairman Cook - We know there are employers out there that are doing this today without a tax incentive to encourage them to do that. I would certainly think that if there was a tax incentive there would be more who would be enticed to do it. That's what most tax credits are, is something to motivate someone to make a decision they otherwise would not make.

Senator Triplett - To follow up on Senator Dotzenrod's comment, is there any other bill that we still have open that would be a better fit or is this the only one that really relates to income taxes that we still have on the table?

Chairman Cook - We have HB 1105. That could fit there too I suppose.

Chairman Cook closed discussion on HB 1250.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1250
4/3/2013
Job Number 20801

☐ Conference Committee

Committee Clerk Signature	Angela Rittmiller

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-35.3-03, 57-35.3-07, 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of financial institutions tax and individual and corporation income tax rates; and to provide an effective date.

Minutes:

Chairman Cook opened discussion on HB 1250.

Chairman Cook handed out and explained amendments 13.0382.03004.

Vice Chairman Campbell handed out and explained amendments 13.0382.03005.

Senator Oehlke - I'll move amendments 13.0382.03004.

Seconded by **Vice Chairman Campbell**.

Roll Call Vote on amendments 13.0382.03004 - 6-1-0

Senator Oehlke - I'll move amendments 13.0382.03005.

Seconded by **Vice Chairman Campbell**.

Roll Call Vote on amendments 13.0382.03005 - 7-0-0

Senator Miller handed out and explained amendments 13.0382.03006.

Senator Miller - I'll move my amendments.

Seconded by **Senator Oehlke**.

Roll Call Vote on amendments 13.0382.03006 - 5-2-0

Chairman Cook closed discussion on HB 1250.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1250
4/3/2013
Job Number 20840

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-35.3-03, 57-35.3-07, 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of financial institutions tax and individual and corporation income tax rates; and to provide an effective date.

Minutes:

Chairman Cook opened discussion on HB 1250.

Senator Miller handed out and explained amendments 13.0382.03007.

Senator Miller - I'll move the amendment 13.0382.03007.

Seconded by **Senator Triplett**.

Verbal Vote on amendment 13.0382.03007 - 6-0-1

Senator Oehlke - I move a **Do Pass as Amended and re-refer to Appropriations**.

Seconded by **Vice Chairman Campbell**.

There was brief discussion on the overview of all 4 amendments.

Roll Call Vote 5-2-0

Carried by **Senator Miller**.

13.0382.04000

FISCAL NOTE
Requested by Legislative Council
04/04/2013

Amendment to: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(193,850,000)	$11,590,000		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 with Senate Amendments reduces individual and corporation tax rates, repeals the financial institution tax, increases capital gain and dividend income exclusion, creates income tax credits for employer-provided child care and rural leadership scholarships, and tightens angel fund limits.

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.*

Sections 10 and 11 of the bill create an income tax credit for an employer equal to 50% of the cost of providing and operating its own child care facility or contracting with a third part child care facility. Section 13 creates a corporation income tax credit equal to 50% of contributions to the Rural Leadership Participation Tuition Scholarship Program through the NDSU Extension Service. Section 14 lowers the corporation income tax rates by approximately 9.5% in each bracket. Section 15 lowers the individual income tax rates by approximately 15% in each bracket. (Note: There appears to be a drafting error relative to the income tax rates for estates and trusts, which historically have been the same as for individuals; however, in the current version of the bill, the income tax rates for estates and trusts are lowered by a greater amount than those for individuals.) Section 16 increases the long-term capital gain and qualified dividend income exclusion for individuals from 30% to 40%. Sections 7, 12, and 17 through 21, repeal the financial institution tax and subject the entities to the income tax. Section 12 allows a financial institution consisting of an S corporation to elect to be taxed like a regular corporation for the limited purpose of utilizing unused financial institution losses and tax credits. The repeal of the financial institution tax will affect both the general fund and the financial institution tax distribution fund, the latter of which provides funding to the counties and their political subdivisions. Section 20 increases the portion of the sales and use, gross receipts, and motor vehicle excise tax collections deposited into the state aid distribution fund from 40% to 43.5% for the purpose of replacing the decrease in revenues to the counties and their political subdivisions resulting from the repeal of the financial institution tax.

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.*

   If enacted, HB 1250 with Senate Amendments is expected to decrease state general fund revenues by an estimated net $193.850 million for the 2013-15 biennium. This net amount consists of a decrease in individual income tax of $150 million due to lower tax rates; decrease in corporation income tax of $40 million due to lower tax rates; decrease in individual income tax of $8.26 million due to increase in long-term capital gain and qualified dividend income exclusion; increase in income tax of $23.3 million due to repeal of financial institution tax and subjecting financial institutions to the income tax; decrease in state general fund portion of financial institution tax of $7.3 million due to repeal of financial institution tax; and a decrease of $11.59 million due to the additional amount transferred to the state aid distribution fund. The estimates of the changes to long-term capital gain and dividend income exclusion and the transfer from financial institutions tax to corporation income tax reflect the rate relief also contained in this bill. (Note: The 10/13ths portion of the financial institution tax revenue for the 2012 tax year due on January 15, 2014, is unaffected by this bill, and will be the last deposit into the financial institution tax distribution fund for distribution to the counties and their political subdivisions in March of 2014. IT IS ASSUMED THAT THE EFFECTIVE DATE of this bill is corrected or expanded so that, beginning in FY 15 (August of 2014), counties and cities will receive the expanded state aid distribution fund distributions each quarter to replace their annual financial institution tax distributions they previously received each March.) The employer-provided child care income tax credit and the Rural Leadership Participation Tuition Scholarship Program credit may reduce state general fund revenue for the 2013-15 biennium, but the amount of the reduction cannot be determined because the potential participation by employers and contributors is unknown.

   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.*

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Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 04/07/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(503,400,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 reduces individual, corporation, and financial institutions 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.*

Section 1 of HB 1250 reduces the financial institutions tax rate from 6.5% to 6%. Section 3 reduces the number of corporation income tax brackets from three to two, and lowers the top corporate income tax rate from 5.15% to 3.30%. Section 4 reduces the number of individual income tax brackets from five to three, lowers and "rounds" the tax rates to .9%, 1.9%, and 2.9%.

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.*

If enacted, HB 1250 is expected to reduce state general fund revenues by an estimated $503.4 million in the 2013-15 biennium. The following provides the estimated biennial fiscal effect by type of income tax: Financial institutions tax, -$2.4 million; Corporation income tax, -$140 million; Individual income tax, -$361 million.

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
Telephone: 328-3402
Date Prepared: 01/28/2013

13.0382.03004
Title.

Prepared by the Legislative Council staff for
Senator Cook

April 2, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes and a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~ Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

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

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-two hundredths percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~eighty-three hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~sixty-five hundredths percent.

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 ~~$34,500~~$36,250 ~~1.51%~~1.29%

Over ~~$34,500~~$36,250 ~~$520.95~~$467.74 plus ~~2.82%~~2.41%

but not over ~~$83,600~~$87,850 of amount over ~~$34,500~~$36,250

Over ~~$83,600~~$87,850 ~~$1,905.57~~$1,711.15 plus ~~3.13%~~2.67%

but not over ~~$174,400~~$183,250 of amount over ~~$83,600~~$87,850

Over ~~$174,400~~$183,250 ~~$4,747.61~~$4,262.73 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$174,400~~$183,250

Over ~~$379,150~~$398,350 ~~$12,180.04~~$10,934.86 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

   b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~$60,650 ~~1.51%~~1.29%

Over ~~$57,700~~$60,650 ~~$871.27~~$782.57 plus ~~2.82%~~2.41%

but not over ~~$139,350~~$146,400 of amount over ~~$57,700~~$60,650

Over ~~$139,350~~$146,400 ~~$3,173.80~~$2,848.90 plus ~~3.13%~~2.67%

but not over ~~$212,300~~$223,050 of amount over ~~$139,350~~$146,400

Over ~~$212,300~~$223,050 ~~$5,457.14~~$4,898.99 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$212,300~~$223,050

Over ~~$379,150~~$398,350 ~~$11,513.79~~10,336.57 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850~~$30,325 ~~1.51%~~1.29%

Over ~~$28,850~~$30,325 ~~$435.64~~$391.29 plus ~~2.82%~~2.41%

but not over ~~$69,675~~$73,200 of amount over ~~$28,850~~$30,325

Over ~~$69,675~~$73,200 ~~$1,586.90~~$1,424.46 plus ~~3.13%~~2.67%

but not over ~~$106,150~~$111,525 of amount over ~~$69,675~~$73,200

Over ~~$106,150~~$111,525 ~~$2,728.57~~$2,449.51 plus ~~3.63%~~3.10%

but not over ~~$189,575~~$199,175 of amount over ~~$106,150~~$111,525

Over ~~$189,575~~$199,175 ~~$5,756.90~~$5,168.30 plus ~~3.99%~~3.41%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~$48,600 ~~1.51%~~1.29%

Over ~~$46,250~~$48,600 ~~$698.38~~$627.09 plus ~~2.82%~~2.41%

but not over ~~$119,400~~$125,450 of amount over ~~$46,250~~$48,600

Over ~~$119,400~~$125,450 ~~$2,761.21~~$2,478.96 plus ~~3.13%~~2.67%

but not over ~~$193,350~~$203,150 of amount over ~~$119,400~~$125,450

Over ~~$193,350~~$203,150 ~~$5,075.84~~$4,557.14 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$193,350~~$203,150

Over ~~$379,150~~$398,350 ~~$11,820.38~~$10,611.99 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~$2,450 ~~1.51%~~1.22%

Over ~~$2,300~~$2,450 ~~$34.73~~$29.82 plus ~~2.82%~~2.27%

but not over ~~$5,450~~$5,700 of amount over ~~$2,300~~$2,450

Over ~~$5,450~~$5,700 ~~$123.56~~$103.69 plus ~~3.13%~~2.52%

but not over ~~$8,300~~$8,750 of amount over ~~$5,450~~$5,700

Over ~~$8,300~~$8,750 ~~$212.77~~$180.64 plus ~~3.63%~~2.93%

but not over ~~$11,350~~$11,950 of amount over ~~$8,300~~$8,750

Over ~~$11,350~~$11,950 ~~$323.48~~$274.27 plus ~~3.99%~~3.22%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

13.0382.03005
Title.

Prepared by the Legislative Council staff for Senator Campbell
April 2, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to a corporate income tax credit, utilization of net operating losses and credit carryforwards, the time for filing of returns for certain corporations, interest on tax when the time for filing a return is extended, refunds of tax for certain corporations, and audits of certain corporations; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 5 and 7 of section 57-38-01.32, subdivisions c and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to subjecting financial institutions to the corporate income tax, adjustments for net operating losses, bonds and other obligations of a commerce authority, creation of renaissance zones, state aid distribution fund allocations to political subdivisions, the housing incentive fund tax credit, computation of farm income, and income associated with losses passed through to a financial institution; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 5 of section 57-38-01.32 of the North Dakota Century Code is amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

SECTION 9. AMENDMENT. Subsection 7 of section 57-38-01.32 of the North Dakota Century Code is amended and reenacted as follows:

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses -Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under section 15 of this Act; and

   b. Is binding until the earlier of:

      (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

      (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

   a. A subchapter S corporation may not file a consolidated return.

   b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

   c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 11. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 12. AMENDMENT. Subdivision c of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 10 of this Act.

SECTION 13. AMENDMENT. Subdivision f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 10 of this Act.

SECTION 14. Subsection 7 to section 57-38-34 of the North Dakota Century Code is created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

SECTION 15. Subsection 8 to section 57-38-34 of the North Dakota Century Code is created and enacted as follows:

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 16. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 17. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 18. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

   a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

      (1) Thirty-two percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

      (1) Forty percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 19. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 20. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012, except section 18 of this Act, which is effective for taxable events occurring after June 30, 2014."

Renumber accordingly

Prepared by the Legislative Council staff for
Senator Miller

April 2, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subdivision d of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the long-term capital gain and qualified dividend income tax exclusion; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~ Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

13.0382.03007
Title.

Prepared by the Legislative Council staff for Senator Miller

April 3, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "Act" insert "to create and enact an new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an employer-provided child care income tax credit;"

Page 1, line 1, after the third comma insert "and"

Page 1, line 3, after the semicolon insert "to provide for a report;"

Page 2, after line 12, insert:

"**SECTION 3.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time-equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

      (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

(1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

(2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state."

Page 5, after line 26, insert:

"**SECTION 6.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 3 of this Act.

SECTION 7. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care."

Renumber accordingly

Prepared by the Legislative Council staff for
Senate Finance and Taxation Committee
April 4, 2013

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~<u>Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.</u>

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

   g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

   h. Be in compliance with the securities laws of this state.

   i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

      (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

      (2) The dollar amount remitted by the taxpayer or passthrough entity; and

      (3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 9. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

      (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any

amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

(1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

(2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 11. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

SECTION 12. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

   b. Is binding until the earlier of:

      (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

      (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

   a. A subchapter S corporation may not file a consolidated return.

   b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

   c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 13. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 14. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-two hundredths percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~eighty-three hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~sixty-five hundredths percent.

SECTION 15. 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 ~~$34,500~~$36,250 ~~1.51%~~1.29%

Over ~~$34,500~~$36,250 ~~$520.95~~$467.74 plus ~~2.82%~~2.41%

but not over ~~$83,600~~$87,850 of amount over ~~$34,500~~$36,250

Over ~~$83,600~~$87,850 ~~$1,905.57~~$1,711.15 plus ~~3.13%~~2.67%

but not over ~~$174,400~~$183,250 of amount over ~~$83,600~~$87,850

Over ~~$174,400~~$183,250 ~~$4,747.61~~$4,262.73 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$174,400~~$183,250

Over ~~$379,150~~$398,350 ~~$12,180.04~~$10,934.86 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

   b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~$60,650 ~~1.51%~~1.29%

Over ~~$57,700~~$60,650 ~~$871.27~~$782.57 plus ~~2.82%~~2.41%

but not over ~~$139,350~~$146,400 of amount over ~~$57,700~~$60,650

Over ~~$139,350~~$146,400 ~~$3,173.80~~$2,848.90 plus ~~3.13%~~2.67%

but not over ~~$212,300~~$223,050 of amount over ~~$139,350~~$146,400

Over ~~$212,300~~$223,050 ~~$5,457.14~~$4,898.99 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$212,300~~$223,050

Over ~~$379,150~~$398,350 ~~$11,513.79~~$10,336.57 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850~~$30,325 ~~1.51%~~1.29%

Over ~~$28,850~~$30,325 ~~$435.64~~$391.29 plus ~~2.82%~~2.41%

but not over ~~$69,675~~$73,200 of amount over ~~$28,850~~$30,325

Over ~~$69,675~~$73,200 ~~$1,586.90~~$1,424.46 plus ~~3.13%~~2.67%

but not over ~~$106,150~~$111,525 of amount over ~~$69,675~~$73,200

Over ~~$106,150~~$111,525 ~~$2,728.57~~$2,449.51 plus ~~3.63%~~3.10%

but not over ~~$189,575~~$199,175 of amount over ~~$106,150~~$111,525

Over ~~$189,575~~$199,175 ~~$5,756.90~~$5,168.30 plus ~~3.99%~~3.41%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~$48,600 ~~1.51%~~1.29%

Over ~~$46,250~~$48,600 ~~$698.38~~$627.09 plus ~~2.82%~~2.41%

but not over ~~$119,400~~$125,450 of amount over ~~$46,250~~$48,600

Over ~~$119,400~~$125,450 ~~$2,761.21~~$2,478.96 plus ~~3.13%~~2.67%

but not over ~~$193,350~~$203,150 of amount over ~~$119,400~~$125,450

Over ~~$193,350~~$203,150 ~~$5,075.84~~$4,557.14 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$193,350~~$203,150

Over ~~$379,150~~$398,350 ~~$11,820.38~~$10,611.99 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~$2,450 ~~1.51%~~1.22%

Over ~~$2,300~~$2,450 ~~$34.73~~$29.82 plus ~~2.82%~~2.27%

but not over ~~$5,450~~$5,700 of amount over ~~$2,300~~$2,450

Over ~~$5,450~~$5,700 ~~$123.56~~$103.69 plus ~~3.13%~~2.52%

but not over ~~$8,300~~$8,750 of amount over ~~$5,450~~$5,700

Over ~~$8,300~~$8,750 ~~$212.77~~$180.64 plus ~~3.63%~~2.93%

but not over ~~$11,350~~$11,950 of amount over ~~$8,300~~$8,750

Over ~~$11,350~~$11,950 ~~$323.48~~$274.27 plus ~~3.99%~~3.22%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 16. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 12 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section12 of this Act.

SECTION 17. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 18. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 19. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 20. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

   a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

      (1) Thirty-two percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

      (1) Forty percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 21. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 22. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

SECTION 23. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Date: 4-3-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03004

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Campbell

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller		X			
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment

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

Date: 4-3-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03005

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Campbell

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Date: 4-3-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03006

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Oehlke

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett		X
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment

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

Date: 4-3-13
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03007

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

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 6 No 0

Absent 1

Floor Assignment

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

verbal vote

Date: 4-3-13
Roll Call Vote #: 5

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Finance & 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 Senator Oehlke Seconded By Senator Campbell

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chairman Tom Campbell	X		Senator Connie Triplett		X
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Miller

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

REPORT OF STANDING COMMITTEE

HB 1250: 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** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1250 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation,~~ financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities~~

~~do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~ Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 9. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the

return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

      (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

      The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

   c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

      (1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

      (2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 11. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

SECTION 12. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

   b. Is binding until the earlier of:

(1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

a. A subchapter S corporation may not file a consolidated return.

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 13. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 14. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-two hundredths percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~eighty-three hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~sixty-five hundredths percent.

SECTION 15. 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 ~~$34,500~~$36,250	~~1.51%~~1.29%
Over ~~$34,500~~$36,250 but not over ~~$83,600~~$87,850	~~$520.95~~$467.74 plus ~~2.82%~~2.41% of amount over ~~$34,500~~$36,250
Over ~~$83,600~~$87,850 but not over ~~$174,400~~$183,250	~~$1,905.57~~$1,711.15 plus ~~3.13%~~2.67% of amount over ~~$83,600~~$87,850
Over ~~$174,400~~$183,250 but not over ~~$379,150~~$398,350	~~$4,747.61~~$4,262.73 plus ~~3.63%~~3.10% of amount over ~~$174,400~~$183,250
Over ~~$379,150~~$398,350	~~$12,180.04~~$10,934.86 plus ~~3.99%~~3.41% of amount over ~~$379,150~~$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$57,700~~$60,650	~~1.51%~~1.29%
Over ~~$57,700~~$60,650 but not over ~~$139,350~~$146,400	~~$871.27~~$782.57 plus ~~2.82%~~2.41% of amount over ~~$57,700~~$60,650
Over ~~$139,350~~$146,400 but not over ~~$212,300~~$223,050	~~$3,173.80~~$2,848.90 plus ~~3.13%~~2.67% of amount over ~~$139,350~~$146,400
Over ~~$212,300~~$223,050 but not over ~~$379,150~~$398,350	~~$5,457.14~~$4,898.99 plus ~~3.63%~~3.10% of amount over ~~$212,300~~$223,050
Over ~~$379,150~~$398,350	~~$11,513.79~~$10,336.57 plus ~~3.99%~~3.41% of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$28,850~~$30,325	~~1.51%~~1.29%
Over ~~$28,850~~$30,325	~~$435.64~~$391.29 plus ~~2.82%~~2.41%

but not over ~~$69,675~~$73,200 of amount over ~~$28,850~~$30,325

Over ~~$69,675~~$73,200 ~~$1,586.90~~$1,424.46 plus ~~3.13%~~2.67%

but not over ~~$106,150~~$111,525 of amount over ~~$69,675~~$73,200

Over ~~$106,150~~$111,525 ~~$2,728.57~~$2,449.51 plus ~~3.63%~~3.10%

but not over ~~$189,575~~$199,175 of amount over ~~$106,150~~$111,525

Over ~~$189,575~~$199,175 ~~$5,756.90~~$5,168.30 plus ~~3.99%~~3.41%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~$48,600 ~~1.51%~~1.29%

Over ~~$46,250~~$48,600 ~~$698.38~~$627.09 plus ~~2.82%~~2.41%

but not over ~~$119,400~~$125,450 of amount over ~~$46,250~~$48,600

Over ~~$119,400~~$125,450 ~~$2,761.21~~$2,478.96 plus ~~3.13%~~2.67%

but not over ~~$193,350~~$203,150 of amount over ~~$119,400~~$125,450

Over ~~$193,350~~$203,150 ~~$5,075.84~~$4,557.14 plus ~~3.63%~~3.10%

but not over ~~$379,150~~$398,350 of amount over ~~$193,350~~$203,150

Over ~~$379,150~~$398,350 ~~$11,820.38~~$10,611.99 plus ~~3.99%~~3.41%

of amount over ~~$379,150~~$398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~$2,450 ~~1.51%~~1.22%

Over ~~$2,300~~$2,450 ~~$34.73~~$29.82 plus ~~2.82%~~2.27%

but not over ~~$5,450~~$5,700 of amount over ~~$2,300~~$2,450

Over ~~$5,450~~$5,700 ~~$123.56~~$103.69 plus ~~3.13%~~2.52%

but not over ~~$8,300~~$8,750 of amount over ~~$5,450~~$5,700

Over ~~$8,300~~$8,750 ~~$212.77~~$180.64 plus ~~3.63%~~2.93%

but not over ~~$11,350~~$11,950 of amount over ~~$8,300~~$8,750

Over ~~$11,350~~$11,950 ~~$323.48~~$274.27 plus ~~3.99%~~3.22%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 16. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~<u>section 12 of this Act</u>.

d. Reduced by ~~thirty~~<u>forty</u> percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~<u>Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the</u>

reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section12 of this Act.

SECTION 17. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 18. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 19. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 20. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 21. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 22. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

SECTION 23. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

2013 SENATE APPROPRIATIONS

HB 1250

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1250
April 8, 2013
Job # 20975
☐ Conference Committee

Committee Clerk Signature	Rose Laning

Explanation or reason for introduction of bill/resolution:

A bill relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment

Minutes:

Testimony attached # 1

Legislative Council - Sheila M. Sandness
OMB - Joe Morrissette

Chairman Holmberg opened the hearing on HB 1250. All committee members were present.

Senator Dwight Cook, District 34
Bill Sponsor
He named the various sections of the bill with their amended changes.

It amends into 1250- 2364 which eliminated the financial institutions tax. The reason that's in this bill, the House took out the funding mechanism. We will concur and hopefully kill the bill.

Chairman Holmberg: The focus of this committee is to balance the bottom line. What is the right number when it comes to various tax levels? The Senate passed $250M and the Exec budget was $125M. Rolling in the financial institutions tax made a difference over and above the $125 versus less. I don't know how the two interface but we'll find out.

Senator Cook: Our goal was to go home with a definite focus on property tax.

Rick Clayburgh, ND Bankers Association
Testified in favor of HB 1250

Specifically we're here in support the inclusion of language of the elimination of financial institutions tax which was in SB 2364 into this bill. The language of 2364 as it is in this bill now continues to have the language which the Senate agreed to in the first half on the hold harmless for the counties which includes the change in the formula from the state aid distribution fund. HB 1250 is shaping up to be the last tax bill discussion. We want to make sure the elimination of the bank tax and moving our banks into the business tax arena is in a bill that is alive. SB 2364 could be killed today if you concur and do not pass that bill.

The original fiscal note on 2364 - hold harmless in the counties takes place the second year of the biennium, the elimination of financial institution tax and full dollars coming into the state occurs in the first year of the biennium, there is a new impact of roughly, a positive to the general fund of $6.5M. It's a net effect positive to the general fund this next biennium based on the timing differences.

Bill Shalhoob, Greater ND Chamber of Commerce
Testified in favor of HB 1250 We hope the committees can get that number up, and we thought we were somewhere between $190 M, we hope that the committees can work on getting that number up. We thought we were somewhere between $250 Mill and $503 Mill when crossover occurred. Now it appears we are somewhere between $190 M and $503 M. We hope the committee takes a hard look at providing as much tax relief to the citizens of ND as possible.

Chairman Holmberg: Is your organization supportive, what is your top priority? Property tax, or corporate income tax, individual income tax, which would be your organizations top priority as far as the most money to be spent?

Bill Shalhoob: That would be property tax. There is issues out there, as you know a group against measure 2, that we believe that probably would have to be funded adequately, with adequately being a very subjective term. We have a definition of adequate that probably does that, and then I would have to say, in terms of that we so far our position has been that corporate and personal income tax are the same in terms of percentages going down.

V.Chairman Grindberg: Does the state chamber take a position in support of the Governor's proposed tax reduction plan or was the Chambers position slightly above that percentage wise and dollar amount?

Bill Shalhoob: We were above that at all times. **V. Chairman Grindberg** That percent and that dollar amount for corporate and personal being. **Bill Shalhoob** you got a little confused. It's a little confusing here because based on the last biennium, collections in the interim we're talking about a 33% reduction. But you're aware the income taxes grew to such an extent, I think we're at just over a $1B in personal and $400,000+ change in corporate. When you talk about 1/3 of those numbers; that was a lot different from the last biennium. Total we were looking for I thought would be somewhere around the $300 M area which I don't think is 33%.

V.Chairman Grindberg: The chamber is advocating a dollar amount versus a tax rate? Clearly you can argue we grew more in income tax because the states' population is growing, so I am curious is it a dollar amount or is it the rate that is most important to the Chamber?

Bill Shalhoob: I think we talked a dollar amount in both. We think that $560 Million is the number for property tax, and we think somewhere around the $300M is the right amount for income taxes.

V.Chairman Grindberg: I don't' see why the tax rate would be better than a dollar amount. If we come back here two years from now and pick a rate, and the state gains another

40,000 people, of course the dollars are going to grow, it's the rate that from a business climate standpoint, would be more in my opinion a priority than the dollar amount because of a growing population.

Bill Shalhoob: What happened is that it went up so much that we couldn't talk about a rate. If we could've talked about a 35% rate, cut, some of that gets to be $530 Million and we were looking at a 33% cut. We supported the $503M coming out of the House. Now giving everything and giving the programing changes, it doesn't appear that 35% is what is going to happen. This number we think is too low. We'd like to see a 25% cut in income tax both sides.

V.Chairman Bowman: Where were you on bill that reduced money to oil producing counties by $400 million plus because all of this has to be paid for somewhere and it all has to be balanced out? Our position on where were are because we know where the needs are. Where are you advocating for oil producing counties as to what you think we need just to stay whole?

Bill Shalhoob: We have no position on 1358, or on the oil tax, we hope it works well for you.

Mark Johnson, ND Association of Counties (12:53-14:22)
Testified in favor of HB 1250
Testimony attached # 1

Sandy Clark, ND Taxpayers' Association (14:38-15:47)
Testified in favor of HB 1250
No written testimony.

Our interest is in personal and corporate income taxes. We also hope that in your deliberations would find a little more money to find tax relief for individual and corporate income tax. We think there is an opportunity this session to provide some really meaningful relief in the income tax area as well as property tax relief.

Chairman Holmberg: Do you have any comments on V. Chairman Bowman's comments of giving away so much we can't take care of needs that are demonstrated?

Sandy Clark: You have a huge responsibility in trying to balance the budget and meet the needs, and you have to decide what are real needs and what are wants, and still hope you can give tax breaks. We also do not have a position on those particular bills.

V.Chairman Bowman: The Legacy fund is a winner for all the people in ND. How many billions of dollars will be there if things keep going as they are ongoing. As of right now, we don't see the benefits but it's growing every single day. It is going to grow to a huge substantial amount of money that someday will come back for a lot of good things for the people of North Dakota. I don't know how you measure that for tax deductions or whatever. I look at it as a benefit for every single person in this state that lives here and stays here, because that fund is going to get very large and that is coming out of the same revenue

Sandy Clark: Absolutely, Taxpayers Association was a group that was supportive of the Legacy Fund and part of promoting that measure and so we would concur. We think the real blessing for this state and something to look forward too. It is certainly growing faster than the expectations of those us who worked on it.

Senator Robinson We have heard from another couple of agencies, the critical need for housing and day care. Has your association taken a stand on those two issues?

Sandy Clark No we have not. Our organization is very limited in scope. It is about taxes. We do promote less government spending, but in this particular session, we have limited strictly too property tax, income tax and corporate tax. Of course we certainly support property tax reform and we've been involved in a couple of those issues as well.

Senator Robinson I hope that in some point in time and I hope it is a long ways away when we have to put taxes back on the organizations at the forefront leading the charge.

Senator Joe Miller, District 10 (19:51- 21:14)
Testified in favor of HB 1250
No written testimony.

He talked to the long term capital gains. It was about $8 million dollars. The bill was still sitting in Finance and Tax and would put a 30% exclusion rate. The state of ND is taxing capital gains as regular income whereas in the federal tax code, it is taxed differently. It is lower generally. These long term capital gains are usually relied on by older retired couples. We want to encourage more long term investments and want you to past the entirety of the bill as it was brought to this committee.

Senator Wanzek: If I sell a quarter of land and have a $450,000 gain. You're saying 30% is currently excluded, but your saying now 40% would be.

Senator Miller: Currently nothing is excluded but it is 30%. **Senator Wanzek** In the fiscal note it said 30%.

Keith Magnusson, ND League of Cities (22:14-22:42)
Testified in favor of HB 1250
No written testimony.
Want to make sure that they are made whole. The bankers were proud they were contributing to the local governments.

Matt Peyerl, ND Tax Department (22:53- 23:45)
Remained neutral on the bill but clarified points regarding 30% of long term capital gains are excluded and what this bill does is take it to 40% exclusion rates. So it would be a change in that direction. That fiscal note, it was $190 for a rate relief, or late reductions on previously mentioned the 30-40% capital gain exclusion that is a $8 Million dollar number, so that gets you to $198 and then the positive impact of moving the financial institutions tax is about $4M, so that is where you get to a net of $193 reductions. That positive 3, Mr. Clayburgh indicated it was a positive 6. 5 or 6. 9. That positive amount has come down now

Senator Mathern: Your comment about capital gains. I presume your talking about state income tax on capital gains and not federal?

Matt Peyerl: IRS gives preferential treatment to long term capital gains using different rate brackets depending on what bracket fall in. The state doesn't do it that way. The state just takes your total federal taxable income and the way it administers the lower relief for the reduction. For long term capital gains is they just taking out 30% of those. So, it's a subtraction on your ND return.

Senator Carlisle: Senator Cook said we're looking at a billion dollars total in tax relief. In some of the testimony, today when Senator Bowman said there is about $400 Million between the House and Senate on a couple of other bills, if there is any back fill, is that in addition to the billion or how did the members of the committee take that?

Chairman Holmberg: We know that right now there is $700 Million in property tax relief. 1198 had an additional over that. That number was 714 and 123. We've passed out of committee 1233 which was $20M property tax offset and now various differences between House and Senate version of this bill of roughly $193 Million here, and the House passed $ $503 Million, so add them all up and that's what you end up with. The Executive recommendation if it was all in 1250 was $125 -to $503. There is certainly well over a billion. If you take the Executive Budget and add to what has been passed your right around $1 Billion, right? Its $857 +$125= $982M.

Senator Robinson: Are your plans to hold this for at least later today. We won't do it today.

Chairman Holmberg: We need to determine as a committee our recommendation as far as essentially the bottom line.

Senator Robinson: I'd be willing to have an amendment if we have it tomorrow morning.

Chairman Holmberg: Prepare it and we'll see.

Chairman Holmberg talked of committee schedule.

We'll come back here at 3:30 - full committee and take care of bills.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1250
April 11, 2013
Job # 21124

☐ Conference Committee

Rose Laning

Explanation or reason for introduction of bill/resolution:
A bill relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund

Minutes:

Testimony attached # 1

Legislative Council - Allen H. Knudson
OMB - Laney Herauf

Chairman Holmberg opened the discussion on HB 1250. All committee members were present.

Chairman Holmberg gave a history of the bill. He feels this is one of the corner pieces of the tax relief puzzle. He gave the reason he brought up HB 1358: this committee knows there are needs all over the state. From emails he has received, it is the perception that HB 1358 is the only bill that addresses the needs in western ND. That is not the case. He explained the reasoning behind how money is moved to different funds and how the budget is balanced. (00:00 to 06:31)

Chairman Holmberg passed out amendment 13.0382.03010 and explained the difference between HB 1250 and HB 1250 with this amendment adopted. (06:40 to 09:16)

V.Chairman Grindberg moved amendment 13.0382.03010
Senator Krebsbach seconded

Senator Wanzek I may resist this motion. I think our senate taxation committee came up with these numbers and when you allow a business to keep a dollar, they typically spend or invest that dollar and that actually causes the economy to generate some more activity and revenue. When we look at which taxes have increased the most it's been corporate and income taxes. I will probably vote no on the amendment.

Chairman Holmberg: Some would say that the individual in Fargo that would gain $300 is investing that money, but it's not being invested into the infrastructure in western ND.

Vice Chairman Grindberg: We have to realize why revenues are growing. We have more tax payers.

Chairman Holmberg: There were a large number of new folks filing last year.

Senator Wanzek: I do know how farmers think. You put a $1 in a farmer's pocket, he'll go out and spend $2. He will borrow the other one.

Senator Robinson: There are many perspectives to look at. There are needs in western ND, there are day-care needs. Business and industry will come where there is quality of life. So it's not just the tax climate. The taxes are of concern. We are already in a very good tax climate for business. We need to take care of some issues out west. That is why he supports the amendment. (12:40 to 13:44)

Senator Warner: I will support the money.

There was discussion about the routing of the money. (13:54 to 14:50)

Senator Gary Lee: I think we're trying to find a balance; I don't think we have found it yet, but we might at a conference committee. I'm going to support the amendment.

Vice Chairman Bowman: He appreciates that they are trying to do something over and above what they have passed before. He feels this is a start. Tax revenues have taken a huge upward surge and he feels even more should be done. (15:15 to 17:17)

Voice vote - amendment adopted.

Senator Erbele Do Pass as Amended on HB 1250.
Senator Carlisle seconded

A roll call vote was taken. Yea: 10 Nay: 3 Absent: 0

The bill goes to Finance & Tax and Senator Miller will carry the bill on the floor.

Senator Holmberg will carry the amendment.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB # 1250
04-12-2013
Job # 21136

☐ Conference Committee

Committee Clerk Signature	Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL relating to reduction of financial institutions tax & individual & corporate income tax rates. (Reconsidered and new Vote for Do Pass as Amended)

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Friday, April 12, 2013 in regards to HB 1250. All committee members were present. Lori Laschkewitsch-OMB and Allen H. Knudson- Legislative Council were also present.

Chairman Holmberg: explained the reason that John Walstad in Legislative Council is preparing a new amendment. What is the way we can do it so that things are proper?

Allen H. Knudson: You probably should reconsider because it's an new amendment number. That would be the cleanest.

Vice Chairman Grindberg: Moved we reconsider our action on 1250. 2nd by Vice Chairman Bowman.

Chairman Holmberg it's the tax bill. We have the amendment here. We will attach the new amendment, do a new committee report and send it back upstairs. All in favor of reconsidering say aye. It carried.

Chairman Holmberg: Can we have a motion to adopt amendment # 13.0382.03011?

Vice Chairman Grindberg moved to adopt the amendment # 13.0382.03011. 2nd by Senator Warner.

Allen H. Knudson: The rate changes were not correct in the previous version. It didn't do the intent you wanted it to do. These make those corrections.

Chairman Holmberg All in favor of new amendments say aye. It carried

Vice Chairman Grindberg Moved Do Pass as Amended 2nd by Senator Carlisle.

Chairman Holmberg: Call the roll on a Do Pass As Amended on 1250.

A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0.

Chairman Holmberg: I will carry the amendment. **Senator Miller from Finance and Tax will carry the bill.**

The hearing was closed on HB 1250.

13.0382.04000

FISCAL NOTE
Requested by Legislative Council
04/04/2013

Amendment to: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(193,850,000)	$11,590,000		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 with Senate Amendments reduces individual and corporation tax rates, repeals the financial institution tax, increases capital gain and dividend income exclusion, creates income tax credits for employer-provided child care and rural leadership scholarships, and tightens angel fund limits.

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.*

Sections 10 and 11 of the bill create an income tax credit for an employer equal to 50% of the cost of providing and operating its own child care facility or contracting with a third part child care facility. Section 13 creates a corporation income tax credit equal to 50% of contributions to the Rural Leadership Participation Tuition Scholarship Program through the NDSU Extension Service. Section 14 lowers the corporation income tax rates by approximately 9.5% in each bracket. Section 15 lowers the individual income tax rates by approximately 15% in each bracket. (Note: There appears to be a drafting error relative to the income tax rates for estates and trusts, which historically have been the same as for individuals; however, in the current version of the bill, the income tax rates for estates and trusts are lowered by a greater amount than those for individuals.) Section 16 increases the long-term capital gain and qualified dividend income exclusion for individuals from 30% to 40%. Sections 7, 12, and 17 through 21, repeal the financial institution tax and subject the entities to the income tax. Section 12 allows a financial institution consisting of an S corporation to elect to be taxed like a regular corporation for the limited purpose of utilizing unused financial institution losses and tax credits. The repeal of the financial institution tax will affect both the general fund and the financial institution tax distribution fund, the latter of which provides funding to the counties and their political subdivisions. Section 20 increases the portion of the sales and use, gross receipts, and motor vehicle excise tax collections deposited into the state aid distribution fund from 40% to 43.5% for the purpose of replacing the decrease in revenues to the counties and their political subdivisions resulting from the repeal of the financial institution tax.

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.*

   If enacted, HB 1250 with Senate Amendments is expected to decrease state general fund revenues by an estimated net $193.850 million for the 2013-15 biennium. This net amount consists of a decrease in individual income tax of $150 million due to lower tax rates; decrease in corporation income tax of $40 million due to lower tax rates; decrease in individual income tax of $8.26 million due to increase in long-term capital gain and qualified dividend income exclusion; increase in income tax of $23.3 million due to repeal of financial institution tax and subjecting financial institutions to the income tax; decrease in state general fund portion of financial institution tax of $7.3 million due to repeal of financial institution tax; and a decrease of $11.59 million due to the additional amount transferred to the state aid distribution fund. The estimates of the changes to long-term capital gain and dividend income exclusion and the transfer from financial institutions tax to corporation income tax reflect the rate relief also contained in this bill. (Note: The 10/13ths portion of the financial institution tax revenue for the 2012 tax year due on January 15, 2014, is unaffected by this bill, and will be the last deposit into the financial institution tax distribution fund for distribution to the counties and their political subdivisions in March of 2014. IT IS ASSUMED THAT THE EFFECTIVE DATE of this bill is corrected or expanded so that, beginning in FY 15 (August of 2014), counties and cities will receive the expanded state aid distribution fund distributions each quarter to replace their annual financial institution tax distributions they previously received each March.) The employer-provided child care income tax credit and the Rural Leadership Participation Tuition Scholarship Program credit may reduce state general fund revenue for the 2013-15 biennium, but the amount of the reduction cannot be determined because the potential participation by employers and contributors is unknown.

   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

Telephone: 328-3402

Date Prepared: 04/07/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(503,400,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 reduces individual, corporation, and financial institutions 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.*

Section 1 of HB 1250 reduces the financial institutions tax rate from 6.5% to 6%. Section 3 reduces the number of corporation income tax brackets from three to two, and lowers the top corporate income tax rate from 5.15% to 3.30%. Section 4 reduces the number of individual income tax brackets from five to three, lowers and "rounds" the tax rates to .9%, 1.9%, and 2.9%.

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.*

If enacted, HB 1250 is expected to reduce state general fund revenues by an estimated $503.4 million in the 2013-15 biennium. The following provides the estimated biennial fiscal effect by type of income tax: Financial institutions tax, -$2.4 million; Corporation income tax, -$140 million; Individual income tax, -$361 million.

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
Telephone: 328-3402
Date Prepared: 01/28/2013

13.0382.03011
Title.06000

Prepared by the Legislative Council staff for
Senate Appropriations
April 12, 2013

4/12/13
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

In lieu of the amendments adopted by the Senate as printed on pages 1102-1113 of the Senate Journal, House Bill No. 1250 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation,~~ financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

   g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

   h. Be in compliance with the securities laws of this state.

   i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

      (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

      (2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 9. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

(4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

(1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

(2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 11. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

SECTION 12. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:
   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and
   b. Is binding until the earlier of:
      (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or
      (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.
2. If an election is made under this section, the following apply:
   a. A subchapter S corporation may not file a consolidated return.
   b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.
   c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 13. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 14. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-eight hundredths percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~ninety-eight hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~eighty-four hundredths percent.

SECTION 15. 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 ~~$34,500~~$36,250	~~1.51%~~1.36%
Over ~~$34,500~~$36,250	~~$520.95~~$494.28 plus ~~2.82%~~2.55%
but not over ~~$83,600~~$87,850	of amount over ~~$34,500~~$36,250
Over ~~$83,600~~$87,850	~~$1,905.57~~$1,808.25 plus ~~3.13%~~2.83%
but not over ~~$174,400~~$183,250	of amount over ~~$83,600~~$87,850
Over ~~$174,400~~$183,250	~~$4,747.61~~$4,504.63 plus ~~3.63%~~3.28%
but not over ~~$379,150~~$398,350	of amount over ~~$174,400~~$183,250
Over ~~$379,150~~$398,350	~~$12,180.04~~$11,555.37 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~$60,650 ~~1.51%~~1.36%

Over ~~$57,700~~$60,650 ~~$871.27~~$826.98 plus ~~2.82%~~2.55%

but not over ~~$139,350~~$146,400 of amount over ~~$57,700~~$60,650

Over ~~$139,350~~$146,400 ~~$3,173.80~~$3,010.57 plus ~~3.13%~~2.83%

but not over ~~$212,300~~$223,050 of amount over ~~$139,350~~$146,400

Over ~~$212,300~~$223,050 ~~$5,457.14~~$5,177.00 plus ~~3.63%~~3.28%

but not over ~~$379,150~~$398,350 of amount over ~~$212,300~~$223,050

Over ~~$379,150~~$398,350 ~~$11,513.79~~$10,923.14 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850~~$30,325 ~~1.51%~~1.36%

Over ~~$28,850~~$30,325 ~~$435.64~~$413.49 plus ~~2.82%~~2.55%

but not over ~~$69,675~~$73,200 of amount over ~~$28,850~~$30,325

Over ~~$69,675~~$73,200 ~~$1,586.90~~$1,505.28 plus ~~3.13%~~2.83%

but not over ~~$106,150~~$111,525 of amount over ~~$69,675~~$73,200

Over ~~$106,150~~$111,525 ~~$2,728.57~~$2,588.49 plus ~~3.63%~~3.28%

but not over ~~$189,575~~$199,175 of amount over ~~$106,150~~$111,525

Over ~~$189,575~~$199,175 ~~$5,756.90~~$5,461.56 plus ~~3.99%~~3.60%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~$48,600 ~~1.51%~~1.36%

Over ~~$46,250~~$48,600 ~~$698.38~~$662.68 plus ~~2.82%~~2.55%

but not over ~~$119,400~~$125,450 of amount over ~~$46,250~~$48,600

Over ~~$119,400~~$125,450 ~~$2,761.21~~$2,619.63 plus ~~3.13%~~2.83%

but not over ~~$193,350~~$203,150 of amount over ~~$119,400~~$125,450

Over ~~$193,350~~$203,150 ~~$5,075.84~~$4,815.74 plus ~~3.63%~~3.28%

but not over ~~$379,150~~$398,350 of amount over ~~$193,350~~$203,150

Over ~~$379,150~~$398,350 ~~$11,820.38~~$11,214.18 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$2,300~~$2,450	~~1.51%~~1.36%
Over ~~$2,300~~$2,450 but not over ~~$5,450~~$5,700	~~$34.73~~$33.41 plus ~~2.82%~~2.55% of amount over ~~$2,300~~$2,450
Over ~~$5,450~~$5,700 but not over ~~$8,300~~$8,750	~~$123.56~~$116.17 plus ~~3.13%~~2.83% of amount over ~~$5,450~~$5,700
Over ~~$8,300~~$8,750 but not over ~~$11,350~~$11,950	~~$212.77~~$202.37 plus ~~3.63%~~3.28% of amount over ~~$8,300~~$8,750
Over ~~$11,350~~$11,950	~~$323.48~~$307.26 plus ~~3.99%~~3.60% of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 16. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 12 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section12 of this Act.

SECTION 17. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 18. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 19. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 20. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

   a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

      (1) Thirty-two percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

      (1) Forty percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 21. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 22. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

SECTION 23. EFFECTIVE DATE. Section 20 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Date: 4-11-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1250

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number #13.0382.03010

Action Taken ☑ Adopt Amendment ☐ Do Pass as Amended ☐ ~~Do Pass~~ ☐ Do Not Pass

Motion Made By Grindberg Seconded By Krebsbach

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ~~Finance + Tax~~

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

Voice vote carried

Date: 4-11-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1250

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☐ ~~Adopt~~ Amendment ☑ Do Pass as Amended ☐ Do Pass ☐ Do Not Pass

Motion Made By Erbele Seconded By Carlisle

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern		✓
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson		✓
Senator Ralph Kilzer	✓		Senator John Warner		✓
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 10 No 3

Absent 0

Floor Assignment Finance + Tax Mathern

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

Date: 4-12-13

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1250

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number * reconsider previous action

Action Taken ☐ Adopt Amendment ☐ Do Pass as Amended ☐ Do Pass ☐ Do Not Pass

Motion Made By Grindberg Seconded By Bowman

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

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

Voice vote passed

* This was for the 1st passage of the Bill on 4-11-13

Date: 4-12-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1250

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03011

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

Motion Made By Grindberg Seconded By Warner

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

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

Voice Vote carried

Date: 4-12-13

Roll Call Vote # 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1250

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0382.03011

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

Motion Made By Grindberg Seconded By Carlisle

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern		✓
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	/	✓
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson		✓
Senator Ralph Kilzer	✓		Senator John Warner		✓
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) ______ No ______

Absent ______

Floor Assignment E+Tax ~~Holmb~~ Miller

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

Sen Holmberg will carry the amendment

REPORT OF STANDING COMMITTEE

HB 1250, as amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1250, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 1102-1113 of the Senate Journal, House Bill No. 1250 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 9. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax

return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

      (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

      The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

   c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

      (1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

      (2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 11. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

SECTION 12. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

   b. Is binding until the earlier of:

(1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

a. A subchapter S corporation may not file a consolidated return.

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 13. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 14. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-eight hundredths percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~ninety-eight hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~eighty-four hundredths percent.

SECTION 15. 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 ~~$34,500~~$36,250 ~~1.51%~~1.36%

Over ~~$34,500~~$36,250 ~~$520.95~~$494.28 plus ~~2.82%~~2.55%

but not over ~~$83,600~~$87,850 of amount over ~~$34,500~~$36,250

Over ~~$83,600~~$87,850 ~~$1,905.57~~$1,808.25 plus ~~3.13%~~2.83%

but not over ~~$174,400~~$183,250 of amount over ~~$83,600~~$87,850

Over ~~$174,400~~$183,250 ~~$4,747.61~~$4,504.63 plus ~~3.63%~~3.28%

but not over ~~$379,150~~$398,350 of amount over ~~$174,400~~$183,250

Over ~~$379,150~~$398,350 ~~$12,180.04~~$11,555.37 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~$60,650 ~~1.51%~~1.36%

Over ~~$57,700~~$60,650 ~~$871.27~~$826.98 plus ~~2.82%~~2.55%

but not over ~~$139,350~~$146,400 of amount over ~~$57,700~~$60,650

Over ~~$139,350~~$146,400 ~~$3,173.80~~$3,010.57 plus ~~3.13%~~2.83%

but not over ~~$212,300~~$223,050 of amount over ~~$139,350~~$146,400

Over ~~$212,300~~$223,050 ~~$5,457.14~~$5,177.00 plus ~~3.63%~~3.28%

but not over ~~$379,150~~$398,350 of amount over ~~$212,300~~$223,050

Over ~~$379,150~~$398,350 ~~$11,513.79~~$10,923.14 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850~~$30,325 ~~1.51%~~1.36%

Over ~~$28,850~~$30,325 ~~$435.64~~$413.49 plus ~~2.82%~~2.55%

but not over ~~$69,675~~$73,200 of amount over ~~$28,850~~$30,325

Over ~~$69,675~~$73,200 ~~$1,586.90~~$1,505.28 plus ~~3.13%~~2.83%

but not over ~~$106,150~~$111,525 of amount over ~~$69,675~~$73,200

Over ~~$106,150~~$111,525 ~~$2,728.57~~$2,588.49 plus ~~3.63%~~3.28%

but not over ~~$189,575~~$199,175 of amount over ~~$106,150~~$111,525

Over ~~$189,575~~$199,175 ~~$5,756.90~~$5,461.56 plus ~~3.99%~~3.60%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~$48,600 ~~1.51%~~1.36%

Over ~~$46,250~~$48,600 ~~$698.38~~$662.68 plus ~~2.82%~~2.55%

but not over ~~$119,400~~$125,450 of amount over ~~$46,250~~$48,600

Over ~~$119,400~~$125,450 ~~$2,761.21~~$2,619.63 plus ~~3.13%~~2.83%

but not over ~~$193,350~~$203,150 of amount over ~~$119,400~~$125,450

Over ~~$193,350~~$203,150 ~~$5,075.84~~$4,815.74 plus ~~3.63%~~3.28%

but not over ~~$379,150~~$398,350 of amount over ~~$193,350~~$203,150

Over ~~$379,150~~$398,350 ~~$11,820.38~~$11,214.18 plus ~~3.99%~~3.60%

of amount over ~~$379,150~~$398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~$2,450 ~~1.51%~~1.36%

Over ~~$2,300~~$2,450 ~~$34.73~~$33.41 plus ~~2.82%~~2.55%

but not over ~~$5,450~~$5,700 of amount over ~~$2,300~~$2,450

Over ~~$5,450~~$5,700 ~~$123.56~~$116.17 plus ~~3.13%~~2.83%

but not over ~~$8,300~~$8,750 of amount over ~~$5,450~~$5,700

Over ~~$8,300~~$8,750 ~~$212.77~~$202.37 plus ~~3.63%~~3.28%

but not over ~~$11,350~~$11,950 of amount over ~~$8,300~~$8,750

Over ~~$11,350~~$11,950 ~~$323.48~~$307.26 plus ~~3.99%~~3.60%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 16. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~<u>section 12 of this Act</u>.

d. Reduced by ~~thirty~~<u>forty</u> percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~<u>Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the</u>

reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section12 of this Act.

SECTION 17. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 18. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 19. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 20. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 21. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 22. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

SECTION 23. EFFECTIVE DATE. Section 20 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

2013 CONFERENCE COMMITTEE

HB 1250

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1250
April 24, 2013
Job #21477

☒ Conference Committee

Committee Clerk Signature	Mary Brucker

Minutes:

Chairman Belter: Unfortunately we are having amendments but they are not here yet. Until we get those amendments there isn't much we can do. Obviously the big contention will be the income tax rate reductions between the house and the senate.

Senator Miller: Is your intention to keep the structure of the bill as it is and just increase the rate cut?

Chairman Belter: There was one provision we were planning to take out.

Senator Miller: Which one was that?

Chairman Belter: The childcare credit.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1250
April 24, 3013 (afternoon)
Job #21495

☒ Conference Committee

Committee Clerk Signature	Mary Brucker

Minutes:

Attached amendments and marked up version #1 and 2

Chairman Belter: We have some proposed amendments and a marked up version we would like to discuss today.

Vice Chairman Headland: Distributed amendments and marked up version 13.0382.03013. See attachments #1 and 2. In section 4 of the amendment it was my intent that not be part of the amendment I brought forward.

Senator Triplett: Are you saying there is an error in the amendment and we should just cross it out?

Vice Chairman Headland: Yes. Section 1 was passed over by the senate. Section 5, the renaissance zone, was passed by the senate and the house was going to add a provision.

Chairman Belter: Is section 6 the dividend section?

Senator Miller: No, I don't think so. Section 4 is all related to the banks.

Vice Chairman Headland: This is not what I recognized in the bill that we had that would have eliminated financial institutions tax. We should probably have John Walstad here to explain.

Chairman Belter: Let's skip over the financial institutions tax since Mr. Walstad is in another committee.

Vice Chairman Headland: In section 7 is the renaissance zone language. You sent us language on angel funds. I don't see the language that I had asked for on increasing the cap.

Chairman Belter: It's on page 4 line 24.

Senator Miller: The qualified dividends exclusion is in section 12.

Representative Kelsh: Does the angel fund section apply to income producing real estate or is that any real estate?

Vice Chairman Headland: That would be language that was sent over to the senate so they could answer that better than me. The biggest difference between what we're proposing and this amendment and what was passed in the senate is probably in the rates of the individuals and corporations. Section 10 deals with corporate tax and the brackets are set to reduce the tax collection by 25 percent.

Senator Miller: What is the overall fiscal impact of this bill?

Chairman Belter: It's about $352M.

Vice Chairman Headland: I wish I could have had more time to go over the amendment. The total with a 25% deduction in each would equal $352M. I'm going to need someone from the tax department or John Walstad give us this break down.

Chairman Belter: Does anyone from the tax department have the exact numbers in how the breakdown is between the corporate and the personal?

Donnita Wald: No.

Chairman Belter: We'll get that. In your proposal I think there was $25M in corporate so how does that low of tax work for the banks?

Senator Miller: If you want to prevent all banks' taxes from going up I think we need a little bit more than $25M. I think they are pretty close to being okay though.

Senator Triplett: I think I recall Mr. Clayburgh saying that the way we had it in the senate it would reduce taxes for most of the banks but there would be a few c-corps who would have a slight tax increase.

Rick Clayburgh, President and CEO of the North Dakota Banker's Association: In testimony in both the house and the senate in terms of elimination of the financial institution tax without any changes to the corporate tax arena our c-corps banks would see a tax increase because they are losing the impact of the federal corporate income tax deduction that they enjoy now. Our s-corps banks would be treated fairly because they don't get that same treatment so all things equal they do better than the current situation. We've had analysis from both Eide Bailly and Brady Martz looking at the target amount and the range is somewhere we are about a hold even for all c-corps banks it is between 15 and 18% reduction in rates. My comment in the senate is that with the reduction in 1250 we were looking at further reducing the amount at the $50M we said for the most part our c-corps banks would be okay with it.

Senator Triplett: Can we get copies of the minutes for the next meeting?

Chairman Belter: We can do that.

Senator Triplett: Can you tell me why you were thinking of removing the entire section on the child care credit?

Vice Chairman Headland: I don't think it was part of the bill we sent over and I don't see it being part of the income tax bill.

Senator Triplett: Senator Judy Lee would agree with you. She would have preferred it be in a different bill. She was told to have it in this bill. The leadership could negotiate to have it in another bill.

Chairman Belter: I had a discussion after the last meeting and it was indicated to me it was in another bill. I want to make it clear that I don't support the child care credit but I was told it was in another bill. The chairman from the house human services committee just told me they were discussing it and someone told him the only place is in this bill so we need to clarify this. Also, where was the dividend section?

Senator Miller: Section 12.

Chairman Belter: That was added, wasn't it?

Senator Miller: That was in another bill that Vice Chairman Headland had introduced. His version was the addition of the underscored language in section 12 of the bill. His was at 30% which is current law. Representative Casper had a bill that would have done away with a lot of this tax at about $60M but we killed that and killed Vice Chairman Headland's bill and put it all in the tax bill and raised it up to 40% exclusion. It's about $8M cut on capital gains and I thought that was a nice gesture and it still accomplishes what Vice Chairman Headland's bill was trying to do.

Chairman Belter: In looking at the fiscal note it is $8M. We just got these amendments. The house would like to see some income tax relief. We will get clarification on the childcare credit and see if it exists anywhere else.

Senator Miller: The senate passed out 2156 which adds $250M in tax cuts and since then we've re-thought our position. We passed out 1250 with $190M then it went to appropriations and they took that down to $125M. All along I've been trying to keep the tax cuts up but the rest of the senate says differently. That attitude is everyday becoming more and more hardened and I think it's important to remember that.

Vice Chairman Headland: The house said $500M and they have a position that they feel a compromise is in order but it should be between the $250M that the senate passed over to us and the $500M we passed over to them. We are an equal branch in deciding this and we have to have approval of all legislation by both houses and we both understand that. I think if we are going to get anywhere the discussion needs to be had of the compromise between the two levels. I'm committed as a house member to keeping the discussion between the $250M and the $500M.

Senator Triplett: The goal is to find some middle ground.

Chairman Belter: Your recommendation was $250M and in the house we don't send our tax bills to appropriations so we would hope you consider our view point and make the difference between the $500M and the $250M.

Meeting adjourned.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1250
April 26, 2013
Job #21557

☒ Conference Committee

Committee Clerk Signature	Mary Brucker

Minutes:

Amendments #1, marked up version of bill #2, and attachment #3.

Senator Miller: I move the senate recede from its amendments.

Senator Campbell: Seconded.

Chairman Belter: Before I accept that I want to confer here. I'm not going to accept that; we need a full motion.

Representative Headland: In the amendment I offered the other day there was an area in section 12 that should be fixed. It's a simple matter of changing one word from 20-30. It was indicated to me that when we increase the exclusion from 30-40% if the federal government should decide to start taxing dividends as ordinary income the original bill with the 30% referred to a 20% of all dividends. When we move to 40 that number should be moved to 30 to keep it level. Distributed amendments 13.0382.03016 and marked up version which is exactly the same as the prior one.
Made a motion the senate recede from senate amendments and further amend with 03016.

Senator Miller: Seconded.

Representative Kelsh: The childcare tax credit is in another bill?

Chairman Belter: It's been removed.

Representative Kelsh: But is that provision with that language in another bill?

Chairman Belter: Not to my knowledge. Distributed Proposed Child Care-Related Funding with bills listed for the committee's review. Attachment #3.

Representative Headland: To further explain the rationale behind 1250 is that the house passed over a 35% reduction in both individual and corporate income tax which was a $500M tax package. The senate passed us $250M so this is a compromise between both positions. I think it is fair and I think the people are deserving of tax relief. I hope the senate can take it up and pass it moving forward.

Senator Miller: The senate position is somewhat wavering but at the same time the child care tax credit was important to gaining support in the senate and without that it makes it more difficult to pass.

Chairman Belter: I understand that but that was a direct tax credit, dollar for dollar. I think that is a pretty lucrative tax credit. I see a lot of inequity in that because I don't think that would be something large businesses may take advantage of but for families using childcare in someone's home that would probably not been a usable credit. I don't see that was an equitable way of the issue of child care which is why I asked that be removed.

ROLL CALL VOTE: 4 YES 2 NO 0 ABSENT
MOTION CARRIES.

13.0382.08000

FISCAL NOTE
Requested by Legislative Council
04/29/2013

Amendment to: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(358,790,000)	$11,590,000		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 with Conference Committee Amendments reduces individual and corporation tax rates, repeals the financial institution tax, increases capital gain and dividend income exclusion, and tightens angel fund limits.

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.*

Section 10 lowers the corporation income tax rates by approximately 25% and removes one bracket. Section 11 lowers the individual income tax rates by approximately 25% in each bracket. Section 12 increases the long-term capital gain and qualified dividend income exclusion for individuals from 30% to 40%. Sections 9,13, 14, 15, and 17 repeal the financial institution tax and subject the entities to the income tax. Section 6 allows a financial institution consisting of an S corporation to elect to be taxed like a regular corporation for the limited purpose of utilizing unused financial institution losses and tax credits. The repeal of the financial institution tax will affect both the general fund and the financial institution tax distribution fund, the latter of which provides funding to the counties and their political subdivisions. Section 16 increases the portion of the sales and use, gross receipts, and motor vehicle excise tax collections deposited into the state aid distribution fund from 40% to 43.5% for the purpose of replacing the decrease in revenues to the counties and their political subdivisions resulting from the repeal of the financial institution tax.

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.*

If enacted, HB 1250 with Conference Committee Amendments is expected to decrease state general fund revenues by an estimated net $358.79 million for the 2013-15 biennium. This net amount consists of a decrease in individual income tax of $251.4 million due to lower tax rates; decrease in corporation income tax of $101.3 million due to lower tax rates and bracket elimination; decrease in individual income tax of $6.5 million due to increase in long-term capital gain and qualified dividend income exclusion; increase in income tax of $19.3 million due to repeal of financial institution tax and subjecting financial institutions to the income tax; decrease in state general fund portion of financial institution tax of $7.3 million due to repeal of financial institution tax; and a decrease of $11.59 million due to the additional amount transferred to the state aid distribution fund. The estimates of the changes to long-term capital gain and dividend income exclusion and the transfer from financial institutions tax to corporation income tax reflect the rate relief also contained in this bill. (Note: The 10/13ths portion of the financial institution tax revenue for the 2012 tax year due on January 15, 2014, is unaffected by this bill, and will be the last deposit into the financial institution tax distribution fund for distribution to the counties and their political subdivisions in March of 2014.)

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

Telephone: 328-3402

Date Prepared: 04/29/2013

13.0382.06000

FISCAL NOTE
Requested by Legislative Council
04/18/2013

Amendment to: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(127,890,000)	$11,590,000		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 with Senate Amendments reduces individual and corporation tax rates, repeals the financial institution tax, increases capital gain and dividend income exclusion, creates income tax credits for employer-provided child care and rural leadership scholarships, and tightens angel fund limits.

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.*

Sections 10 and 11 of the bill create an income tax credit for an employer equal to 50% of the cost of providing and operating its own child care facility or contracting with a third part child care facility. Section 13 creates a corporation income tax credit equal to 50% of contributions to the Rural Leadership Participation Tuition Scholarship Program through the NDSU Extension Service. Section 14 lowers the corporation income tax rates by approximately 6% in each bracket. Section 15 lowers the individual income tax rates by approximately 9% in each bracket. Section 16 increases the long-term capital gain and qualified dividend income exclusion for individuals from 30% to 40%. Sections 7, 12, and 17 through 21, repeal the financial institution tax and subject the entities to the income tax. Section 12 allows a financial institution consisting of an S corporation to elect to be taxed like a regular corporation for the limited purpose of utilizing unused financial institution losses and tax credits. The repeal of the financial institution tax will affect both the general fund and the financial institution tax distribution fund, the latter of which provides funding to the counties and their political subdivisions. Section 20 increases the portion of the sales and use, gross receipts, and motor vehicle excise tax collections deposited into the state aid distribution fund from 40% to 43.5% for the purpose of replacing the decrease in revenues to the counties and their political subdivisions resulting from the repeal of the financial institution tax.

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.*

If enacted, HB 1250 with Senate Amendments is expected to decrease state general fund revenues by an estimated net $127.890 million for the 2013-15 biennium. This net amount consists of a decrease in individual income tax of $100 million due to lower tax rates; decrease in corporation income tax of $25 million due to lower tax rates;

decrease in individual income tax of $8 million due to increase in long-term capital gain and qualified dividend income exclusion; increase in income tax of $24 million due to repeal of financial institution tax and subjecting financial institutions to the income tax; decrease in state general fund portion of financial institution tax of $7.3 million due to repeal of financial institution tax; and a decrease of $11.59 million due to the additional amount transferred to the state aid distribution fund. The estimates of the changes to long-term capital gain and dividend income exclusion and the transfer from financial institutions tax to corporation income tax reflect the rate relief also contained in this bill. (Note: The 10/13ths portion of the financial institution tax revenue for the 2012 tax year due on January 15, 2014, is unaffected by this bill, and will be the last deposit into the financial institution tax distribution fund for distribution to the counties and their political subdivisions in March of 2014.) The employer-provided child care income tax credit and the Rural Leadership Participation Tuition Scholarship Program credit may reduce state general fund revenue for the 2013-15 biennium, but the amount of the reduction cannot be determined because the potential participation by employers and contributors is unknown.

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

Telephone: 328-3402

Date Prepared: 04/19/2013

13.0382.04000

FISCAL NOTE
Requested by Legislative Council
04/04/2013

Amendment to: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(193,850,000)	$11,590,000		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 with Senate Amendments reduces individual and corporation tax rates, repeals the financial institution tax, increases capital gain and dividend income exclusion, creates income tax credits for employer-provided child care and rural leadership scholarships, and tightens angel fund limits.

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.*

Sections 10 and 11 of the bill create an income tax credit for an employer equal to 50% of the cost of providing and operating its own child care facility or contracting with a third part child care facility. Section 13 creates a corporation income tax credit equal to 50% of contributions to the Rural Leadership Participation Tuition Scholarship Program through the NDSU Extension Service. Section 14 lowers the corporation income tax rates by approximately 9.5% in each bracket. Section 15 lowers the individual income tax rates by approximately 15% in each bracket. (Note: There appears to be a drafting error relative to the income tax rates for estates and trusts, which historically have been the same as for individuals; however, in the current version of the bill, the income tax rates for estates and trusts are lowered by a greater amount than those for individuals.) Section 16 increases the long-term capital gain and qualified dividend income exclusion for individuals from 30% to 40%. Sections 7, 12, and 17 through 21, repeal the financial institution tax and subject the entities to the income tax. Section 12 allows a financial institution consisting of an S corporation to elect to be taxed like a regular corporation for the limited purpose of utilizing unused financial institution losses and tax credits. The repeal of the financial institution tax will affect both the general fund and the financial institution tax distribution fund, the latter of which provides funding to the counties and their political subdivisions. Section 20 increases the portion of the sales and use, gross receipts, and motor vehicle excise tax collections deposited into the state aid distribution fund from 40% to 43.5% for the purpose of replacing the decrease in revenues to the counties and their political subdivisions resulting from the repeal of the financial institution tax.

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.*

   If enacted, HB 1250 with Senate Amendments is expected to decrease state general fund revenues by an estimated net $193.850 million for the 2013-15 biennium. This net amount consists of a decrease in individual income tax of $150 million due to lower tax rates; decrease in corporation income tax of $40 million due to lower tax rates; decrease in individual income tax of $8.26 million due to increase in long-term capital gain and qualified dividend income exclusion; increase in income tax of $23.3 million due to repeal of financial institution tax and subjecting financial institutions to the income tax; decrease in state general fund portion of financial institution tax of $7.3 million due to repeal of financial institution tax; and a decrease of $11.59 million due to the additional amount transferred to the state aid distribution fund. The estimates of the changes to long-term capital gain and dividend income exclusion and the transfer from financial institutions tax to corporation income tax reflect the rate relief also contained in this bill. (Note: The 10/13ths portion of the financial institution tax revenue for the 2012 tax year due on January 15, 2014, is unaffected by this bill, and will be the last deposit into the financial institution tax distribution fund for distribution to the counties and their political subdivisions in March of 2014. IT IS ASSUMED THAT THE EFFECTIVE DATE of this bill is corrected or expanded so that, beginning in FY 15 (August of 2014), counties and cities will receive the expanded state aid distribution fund distributions each quarter to replace their annual financial institution tax distributions they previously received each March.) The employer-provided child care income tax credit and the Rural Leadership Participation Tuition Scholarship Program credit may reduce state general fund revenue for the 2013-15 biennium, but the amount of the reduction cannot be determined because the potential participation by employers and contributors is unknown.

   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

Telephone: 328-3402

Date Prepared: 04/07/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1250

1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(503,400,000)			
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **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 1250 reduces individual, corporation, and financial institutions 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.*

Section 1 of HB 1250 reduces the financial institutions tax rate from 6.5% to 6%. Section 3 reduces the number of corporation income tax brackets from three to two, and lowers the top corporate income tax rate from 5.15% to 3.30%. Section 4 reduces the number of individual income tax brackets from five to three, lowers and "rounds" the tax rates to .9%, 1.9%, and 2.9%.

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.*

If enacted, HB 1250 is expected to reduce state general fund revenues by an estimated $503.4 million in the 2013-15 biennium. The following provides the estimated biennial fiscal effect by type of income tax: Financial institutions tax, -$2.4 million; Corporation income tax, -$140 million; Individual income tax, -$361 million.

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
Telephone: 328-3402
Date Prepared: 01/28/2013

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: FINANCE AND TAXATION

Bill/Resolution No. 1250 as (re) engrossed

Date: 4-26-13

Roll Call Vote #: 1

Action Taken
- [ ] HOUSE accede to Senate amendments
- [ ] HOUSE accede to Senate amendments and further amend
- [x] SENATE recede from Senate amendments
- [ ] SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- [ ] Unable to agree, recommends that the committee be discharged and a new committee be appointed

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

Motion Made by: Sen. Miller Seconded by: Sen. Campbell

Representatives	4-24 am	4-24 pm	4-26	Yes	No		Senators	4-24 am	4-24 pm	4-26	Yes	No
Chairman Belter	✓	✓	✓				Senator Miller	✓	✓	✓		
Rep Headland	✓	✓	✓	/			Senator Campbell	✓	✓	✓	/	
Rep Kelsh	✓	✓	✓				Senator Triplett	✓	✓	✓		

Vote Count Yes: ______ No: ______ Absent: ______

House Carrier ______ Senate Carrier ______

LC Number ______ . ______ of amendment

LC Number ______ . ______ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Motion not accepted.

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: FINANCE AND TAXATION

Bill/Resolution No. 1250 as (re) engrossed

Date: 4-26-13

Roll Call Vote #: 1

Action Taken

- ☐ HOUSE accede to Senate amendments
- ☐ HOUSE accede to Senate amendments and further amend
- ☐ SENATE recede from Senate amendments
- ☒ SENATE recede from Senate amendments and amend as follows

attached .03016

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

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

Motion Made by: Rep. Headland Seconded by: Senator Miller

Representatives	4-26			Yes	No		Senators	4-26			Yes	No
Chairman Belter	√			√			Senator Miller	√			√	
Rep Headland	√			√			Senator Campbell	√			√	
Rep Kelsh	√				√		Senator Triplett	√				√

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier ______ Senate Carrier ______

LC Number ______ . ______ of amendment

LC Number ______ . ______ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

13.0382.0316 amendment attached

REPORT OF CONFERENCE COMMITTEE

HB 1250: Your conference committee (Sens. Miller, Campbell, Triplett and Reps. Belter, Headland, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1802-1813, adopt amendments as follows, and place HB 1250 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1802-1813 of the House Journal and pages 1549-1559 of the Senate Journal and that House Bill No. 1250 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment;"

Page 1, line 1, replace "sections 57-35.3-03, 57-35.3-07," with "subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section"

Page 1, replace the second "and" with a comma

Page 1, line 2, after "1" insert "and subdivisions c, d, and f of subsection 2"

Page 1, line 2, after "57-38-30.3" insert ", and section 57-39.2-26.1"

Page 1, line 2, remove "reduction of

Page 1, line 3, remove "financial institutions tax and"

Page 1, line 3, after "rates" insert "and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax"

Page 1, remove lines 6 through 23

Page 2, replace lines 1 through 12 with:

"**SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 7. AMENDMENT. Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The

amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~fifty~~ thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

   g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

   h. Be in compliance with the securities laws of this state.

   i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

      (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 8. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 9. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

   b. Is binding until the earlier of:

      (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

      (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

   a. A subchapter S corporation may not file a consolidated return.

   b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

   c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3."

Page 2, line 19, overstrike "sixty-eight" and insert immediately thereafter "twenty-six"

Page 2, line 23, replace "thirty" with "eighty-seven"

Page 3, line 9, replace "$50,000" with "$36,250"

Page 3, line 9, replace "0.90%" with "1.13%"

Page 3, line 10, replace "$50,000" with "$36,250"

Page 3, line 10, replace "$450.00" with "$410.53"

Page 3, line 10, replace "1.90%" with "2.12%"

Page 3, line 11, replace "$125,000" with "$87,850"

Page 3, line 11, replace "$50,000" with "$36,250"

Page 3, line 12, replace "$125,000" with "$87,850"

Page 3, line 12, replace "$1,875.00" with "$1,501.87"

Page 3, line 12, replace "2.90%" with "2.35%"

Page 3, line 13, after "~~$174,400~~" insert "but not over $183,250"

Page 3, line 13, replace "$125,000" with "$87,850"

Page 3, line 14, after "~~$174,400~~" insert "Over $183,250"

Page 3, line 14, after "~~3.63%~~" insert "$3,741.39 plus 2.72%"

Page 3, line 15, after "~~$379,150~~" insert "but not over $398,350"

Page 3, line 15, after "~~$174,400~~" insert "of amount over $183,250"

Page 3, line 16, after "~~$379,150~~" insert "Over $398,350"

Page 3, line 16, after "~~3.99%~~" insert "$9,597.49 plus 2.99%"

Page 3, line 17, after "~~$379,150~~" insert "of amount over $398,350"

Page 3, line 20, replace "$85,000" with "$60,650"

Page 3, line 20, replace "0.90%" with "1.13%"

Page 3, line 21, replace "$85,000" with "$60,650"

Page 3, line 21, replace "$765.00" with "$686.86"

Page 3, line 21, replace "1.90%" with "2.12%"

Page 3, line 22, replace "$210,000" with "$146,400"

Page 3, line 22, replace "$85,000" with "$60,650"

Page 3, line 23, replace "$210,000" with "$146,400"

Page 3, line 23, replace "$3,140.00" with "$2,500.47"

Page 3, line 23, replace "2.90%" with "2.35%"

Page 3, line 24, after "~~$212,300~~" insert "<u>but not over $223,050</u>"

Page 3, line 24, replace "<u>$210,000</u>" with "<u>$146,400</u>"

Page 3, line 25, after "~~$212,300~~" insert "<u>Over $223,050</u>"

Page 3, line 25, after "~~3.63%~~" insert "<u>$4,299.83 plus 2.72%</u>"

Page 3, line 26, after "~~$379,150~~" insert "<u>but not over $398,350</u>"

Page 3, line 26, after "~~$212,300~~" insert "<u>of amount over $223,050</u>"

Page 3, line 27, after "~~$379,150~~" insert "<u>Over $398,350</u>"

Page 3, line 27, after "~~3.99%~~" insert "<u>$9,072.37 plus 2.99%</u>"

Page 3, line 28, after "~~$379,150~~" insert "<u>of amount over $398,350</u>"

Page 3, line 31, replace "<u>$42,500</u>" with "<u>$30,325</u>"

Page 3, line 31, replace "<u>0.90%</u>" with "<u>1.13%</u>"

Page 4, line 1, replace "<u>$42,500</u>" with "<u>$30,325</u>"

Page 4, line 1, replace "<u>$382.50</u>" with "<u>$343.43</u>"

Page 4, line 1, replace "<u>1.90%</u>" with "<u>2.12%</u>"

Page 4, line 2, replace "<u>$105,000</u>" with "<u>$73,200</u>"

Page 4, line 2, replace "<u>$42,500</u>" with "<u>$30,325</u>"

Page 4, line 3, replace "<u>$105,000</u>" with "<u>$73,200</u>"

Page 4, line 3, replace "<u>$1,570.00</u>" with "<u>$1,250.24</u>"

Page 4, line 3, replace "<u>2.90%</u>" with "<u>2.35%</u>"

Page 4, line 4, after "~~$106,150~~" insert "<u>$111,525</u>"

Page 4, line 4, replace "<u>$105,000</u>" with "<u>$73,200</u>"

Page 4, line 5, after "~~$106,150~~" insert "<u>Over $111,525</u>"

Page 4, line 5, after "~~3.63%~~" insert "<u>$2,149.92 plus 2.72%</u>"

Page 4, line 6, after "~~$189,575~~" insert "<u>but not over $199,175</u>"

Page 4, line 6, after "~~$106,150~~" insert "<u>of amount over $111,525</u>"

Page 4, line 7, after "~~$189,575~~" insert "<u>Over $199,175</u>"

Page 4, line 7, after "~~3.99%~~" insert "<u>$4,536.19 plus 2.99%</u>"

Page 4, line 8, after "~~$189,575~~" insert "<u>of amount over $199,175</u>"

Page 4, line 11, replace "<u>$65,000</u>" with "<u>$48,600</u>"

Page 4, line 11, replace "<u>0.90%</u>" with "<u>1.13%</u>"

Page 4, line 12, replace "<u>$65,000</u>" with "<u>$48,600</u>"

Page 4, line 12, replace "$585.00" with "$555.40"

Page 4, line 12, replace "1.90%" with "2.12%"

Page 4, line 13, replace "$180,000" with "$125,450"

Page 4, line 13, replace "$65,000" with "$48,600"

Page 4, line 14, replace "$180,000" with "$125,450"

Page 4, line 14, replace "$2,770.00" with "$2,175.78"

Page 4, line 14, replace "2.90%" with "2.35%"

Page 4, line 15, after "~~$193,350~~" insert "but not over $203,150"

Page 4, line 15, replace "$180,000" with "$125,450"

Page 4, line 16, after "~~$193,350~~" insert "Over $203,150"

Page 4, line 16, after "~~3.63%~~" insert "$3,999.79 plus 2.72%"

Page 4, line 17, after "~~$379,150~~" insert "but not over $398,350"

Page 4, line 17, after "~~$193,350~~" insert "of amount over $203,150"

Page 4, line 18, after "~~$379,150~~" insert "Over $398,350"

Page 4, line 18, after "~~3.99%~~" insert "$9,314.11 plus 2.99%"

Page 4, line 19, after "~~$379,150~~" insert "of amount over $398,350"

Page 4, line 22, replace "$5,000" with "$2,450"

Page 4, line 22, replace "0.90%" with "1.13%"

Page 4, line 23, replace "$5,000" with "$2,450"

Page 4, line 23, replace "$45.00" with "$27.75"

Page 4, line 23, replace "1.90%" with "2.12%"

Page 4, line 24, replace "$10,000" with "$5,700"

Page 4, line 24, replace "$5,000" with "$2,450"

Page 4, line 25, replace "$10,000" with "$5,700"

Page 4, line 25, replace "$140.00" with "$96.49"

Page 4, line 25, replace "2.90%" with "2.35%"

Page 4, line 26, after "~~$8,300~~" insert "but not over $8,750"

Page 4, line 26, replace "$10,000" with "$5,700"

Page 4, line 27, after "~~$8,300~~" insert "Over $8,750"

Page 4, line 27, after "~~3.63%~~" insert "$168.09 plus 2.72%"

Page 4, line 28, after "~~$11,350~~" insert "but not over $11,950"

Page 4, line 28, after "~~$8,300~~" insert "of amount over $8,750"

Page 4, line 29, after "~~$11,350~~" insert "Over $11,950"

Page 4, line 29, after "~~3.99%~~" insert "$255.21 plus 2.99%"

Page 4, line 30, remove the overstrike over "~~of amount over~~"

Page 4, line 30, after "~~$11,350~~" insert "$11,950"

Page 5, after line 26, insert:

"**SECTION 12. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

SECTION 13. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

   a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

      (1) Thirty-two percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

      (1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed."

Page 5, line 27, replace "This" with "Section 17 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this"

Renumber accordingly

HB 1250 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HB 1250

1
HB 1250

	2011-2013 forcast	2011-2013 Revised forcast	Percentage	Projected Revenue 2013-2015	35% reduction	Revenue 2013-2015	Percent increase over 2011-2013
Individual Income tax	$540,999,000.00	$883,137,013.00	163%	1,031,128,000	$361,000,000	$670,128,000	20%
Corporate Income tax	$122,577,000.00	$372,161,771.00	304%	$405,492,000	$140,000,000	$265,492,000	64%
Totals	$$663,576,000	$1,255,298,784		$1,436,620,000	$501,000,000	$935,620,000	30%

Headland, Craig A.

From: Scott W. Drenkard <drenkard@taxfoundation.org>
Sent: Friday, January 18, 2013 12:59 PM
To: Headland, Craig A.
Cc: Joseph Henchman; Elizabeth Malm
Subject: HR 1250 bill score

Rep. Headland,

We'll put out a paper on this next week, but in the meantime, here's an embargoed list of the ranking results for HR 1250 for you to cycle around to your co-sponsors/staff.

North Dakota State Business Tax Climate Ranks Under HR 1250

	Current law	HR 1250
Overall	28	20
Corporate	21	13
Individual	35	31
Sales	16	16
UIT	17	17
Property	4	4

Note: Rank given as if tax change had been in place on snapshot date of the Index -July 1 2012.

Thanks again for your patience on this. Let me know if you or anyone on your staff wants to talk details.

Scott W. Drenkard
Economist
Tax Foundation
National Press Building
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GNDC
Greater North Dakota Chamber

Testimony of Bill Shalhoob
Greater North Dakota Chamber of Commerce
HB 1250
January 29, 2013

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. GNDC is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support HB 1250 and urge a do pass from your committee on the bill.

GNDC believes appropriate taxes are necessary and acceptable to the business community in order to adequately fund the essential services of state and local governments. The Chamber supports fair and equitable taxation of all businesses operating within the state. GNDC has been among the principle advocates for tax reductions in past sessions and that role will continue in this session. In seeking those reductions our goal is that any reductions given will be measured, fairly distributed among all classes of taxpayers and above all else sustainable for the long term. In the business community and the private sector certainty allows for long term planning and promotes investment into the state economy.

We support HB 1250 because it does all of the above. It treats the 24,000 business entities who pay their taxes through the individual income tax system the same as the 12,000 entities who file using corporate income tax. Individual income taxes collected in the last biennium were about $734 million. You will recall the legislature enacted what was believed to be a $125 million reduction from that number. Collections in this biennium are estimated to be $883 million, an increase of $274 million or 45% over budget. Corporate tax collections were $234 million in the 2011 biennium. Despite what was believed to be a very modest $25 million cut enacted last session, current estimates are for $372 million to be paid in corporate taxes in this biennium. This is 80% over the forecast. Given the revenue generated today and the projection for the next biennium the 35% reduction in each tax is appropriate, meaningful and sustainable.

Thank you for the opportunity to appear before you today in support of HB 1250. I would be happy to answer any questions.

Champions for Business

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#4

HOUSE FINANCE AND TAXATION COMMITTEE – HB 1250

Chairman Belter, Members of the Committee, good morning. My name is Jim Goetz, and I am the Chairman and CEO of Security First Bank of North Dakota, with offices in Center, New Salem, Mandan and Bismarck. I am also a past President of the Independent Community Banks of North Dakota, and a current member of that Organization's Legislative Committee. I have also served on various committees of the Independent Community Banks of America for well over 20 years.

As you are probably aware, all community banks must retain certain levels or percentages of their assets in capital. In simplified terms, for very $100.00 in loans that a bank makes, the bank must have about $10.00 in equity capital. As our economy grows our banks grow, their loans grow, and their need for additional capital increases. Over time the only real source of that capital is retained earnings.

Community banks are all about fully supporting their communities and the counties they serve. One way to help banks retain more earnings, and thereby give banks the ability to support more local economic activity through increased lending, is to reduce income tax rates on banks. Again, every $10.00 in income pg 2 #4

taxes that a bank saves will enable that bank to make another $100.00 in loans in our State.

For this reason among others, I strongly support reductions in State income tax rates. Reductions in State income tax rates will leave more money in the private sector available to help our economy continue to grow, and I support the tax reduction concepts contemplated in House Bill 1250.

Despite my strong support for reduced taxes, I do have problems with certain parts of HB 1250 in its present form. As you are aware, in North Dakota community banks are subject to the financial institutions income tax instead of state income tax. The financial institutions income tax, which is currently at the rate of 6.5%, is divided between the State and the counties with the State receiving 1.5%, and the counties receiving 5.0%.

HB 1250 provides for a slight tax decrease for community banks in the form of a reduction in the financial institutions income tax rate from 6.5% to 6.0%. At the same time it reduces the maximum state income rate on every other taxpaying person and entity in North Dakota down to 2.90%. That means under HB 1250, community banks would end up paying a state tax rate that is 207% higher than any other entity or anyone else in North Dakota, and that simply is not right. While

pg 3
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we support reducing tax rates, in fairness community banks should treated the same as every other corporation that does business in the State of North Dakota, and community banks should be subject to the same tax rates as other corporations.

Therefore, while this bill is a good start, it needs to be amended to change the archaic funding formulas that exist in the current financial institutions income tax structure. Community banks are all about supporting their counties. There is no argument that the counties need all of the funding they can get, and in fact they need more than the amount provided by the 5% tax that they get from community banks. Further in fairness, the funding that the counties get should be borne by everyone in the State and not just community banks. We do need the reduced state income tax rates contemplated by HB 1250. However community banks should be taxed at the same tax rates at which all other corporations in North Dakota are taxed to enable them to retain more earnings, and to enable them to increase lending for the betterment of the economy for all North Dakotans. We need a tax system that is fair for counties, a tax system that is fair for community banks, and a tax system that is best for sustained economic growth in North Dakota. HB 1250 is a good step in the right direction, but it does need significant changes.

Mr. Chairman, Members of the Committee, thank you.

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GNDC
Greater North Dakota Chamber

Testimony of Bill Shalhoob
Greater North Dakota Chamber of Commerce
HB 1250
March 12, 2013

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. GNDC is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support HB 1250 and urge a do pass from your committee on the bill.

GNDC believes appropriate taxes are necessary and acceptable to the business community in order to adequately fund the essential services of state and local governments. The Chamber supports fair and equitable taxation of all businesses operating within the state. GNDC has been among the principle advocates for tax reductions in past sessions and that role will continue in this session. In seeking those reductions our goal is that any reductions given will be measured, fairly distributed among all classes of taxpayers and above all else sustainable for the long term. In the business community and the private sector certainty allows for long term planning and promotes investment into the state economy.

We support HB 1250 because it does all of the above. It treats the 24,000 business entities who pay their taxes through the individual income tax system the same as the 12,000 entities who file using corporate income tax. Individual income taxes collected in the last biennium were about $734 million. You will recall the legislature enacted what was believed to be a $125 million reduction from that number. Collections in this biennium are estimated to be $883 million, an increase of $274 million or 45% over budget. Corporate tax collections were $234 million in the 2011 biennium. Despite what was believed to be a very modest $25 million cut enacted last session, current estimates are for $372 million to be paid in corporate taxes in this biennium. This is 80% over the forecast. Given the revenue generated today and the projection for the next biennium the 35% reduction in each tax is appropriate, meaningful and sustainable.

Thank you for the opportunity to appear before you today in support of HB 1250. I would be happy to answer any questions.

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Prepared by the Office of
State Tax Commissioner on behalf of
Representative Headland for the
Senate Finance and Taxation Committee
March 12, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 1, after "57-35.3-03," insert "subsection 1 of section 57-35.3-05,"

Page 1, after line 13, insert:

"**SECTION 2. AMENDMENT.** Subsection 1 of section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~four and six-tenths~~ twenty percent of the portion of the tax ~~before credits allowed under this section~~ due on April 15, or two thousand five hundred dollars, whichever is less.
   b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~four and six-tenths~~ twenty percent of the portion of the tax ~~before credits allowed under this section~~ due on April 15, or two thousand five hundred dollars, whichever is less.
   c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
   d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year."

Renumber accordingly

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Prepared by the Office of
State Tax Commissioner
April1, 2013

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

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.
2. For purposes of this section:
   a. "Employer" means a taxpayer who employs one or more full-time-equivalent employees and whose primary source of income is from a business other than the business of providing child care services.
   b. "Qualified child care expenditure" means any amount paid or incurred:
      (1) To acquire, construct, rehabilitate, or expand property:
         (a) That is to be used as part of a qualified child care facility;
         (b) For which a deduction under federal law for depreciation (or amortization in lieu of depreciation) is allowable; and
         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;
      (2) For the direct costs necessary for the operation of the child care facility;
      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or
      (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

      The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

c. "Qualified child care facility" means a facility the principle use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

(1) The term "qualified child care facility" does not apply to a facility which is the principle residence of the operator of the facility.

(2) A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer shall be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

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7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 2. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 5 of this Act."

SECTION 3. LEGISLATIVE MANAGEMENT REPORT. During the 2013-2015 biennium, the department of human services, with the assistance of the tax commissioner shall report to an interim committee designated by legislative management, the impact of the employer-provided child care tax credit on the expansion of child care and on existing child care providers to continue to provide affordable and quality child care, thus improving the ability of the state's workforce to find affordable and quality child care.

"**SECTION4. EFFECTIVE DATE.** Sections 5 and 6 of this Act are effective for taxable years beginning after December 31, 2012."

Renumber accordingly

Mark Johnson #1
HB 1250
4-8-13

Testimony To The
SENATE APPROPRIATIONS COMMITTEE
Prepared Monday, April 8, 2013 by
Mark A. Johnson, CAE – Executive Director
North Dakota Association of Counties

REGARDING House Bill No. 1250 with Senate Amendments

Chairman Holmberg and members of the Committee, our Association and the North Dakota County Commissioners Association wish to strongly support the inclusion of section ~~20~~ 18 in HB1250 and its passage as part of this overall tax package.

As has been explained, the repeal of the financial institutions tax, which the Senate passed as SB2364, included this same provision to hold counties harmless for the loss of their share of this tax. The mechanism chosen was a marginal increase in the portion of sales and use tax going into the State Aid Distribution Fund.

It is our understanding that the appropriate increase was calculated with assistance from the Tax Department and we are confident that this calculation is an accurate attempt to hold counties harmless.

Without this offset, as the fiscal note indicates, the elimination of the bank tax is a \$10 million increase in property taxes across the State. Section ~~20~~ 18 is a simple and effective solution, and we urge the Committee's support.

13.0382.03010
Title.

Prepared by the Legislative Council staff for
Senator Holmberg
April 11, 2013

#1
4-11-13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

In lieu of the amendments adopted by the Senate as printed on pages 1102-1113 of the Senate Journal, House Bill No. 1250 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

SECTION 6. AMENDMENT. Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 7. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~<u>Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.</u>

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

   g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

   h. Be in compliance with the securities laws of this state.

   i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

      (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

      (2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 9. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit.

1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.

2. For purposes of this section:

   a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

   b. "Qualified child care expenditure" means any amount paid or incurred:

      (1) To acquire, construct, rehabilitate, or expand property:

         (a) That is to be used as part of a qualified child care facility;

         (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and

         (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;

      (2) For the direct costs necessary for the operation of the child care facility;

      (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or

(4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.

(1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.

(2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:

(a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and

(b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.

3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.

5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.

6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. 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. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.

8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

SECTION 11. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

SECTION 12. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

   a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

   b. Is binding until the earlier of:

      (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

      (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

   a. A subchapter S corporation may not file a consolidated return.

   b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

   c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 13. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 14. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~eighty-four hundredths of one percent.

2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~two and ~~twenty-three~~twelve hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~two and ~~fifteen~~fifty-eight hundredths percent.

SECTION 15. 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 ~~$34,500~~$36,250	~~1.51%~~1.0%
Over ~~$34,500~~$36,250	~~$520.95~~$350.32 plus ~~2.82%~~1.8%
but not over ~~$83,600~~$87,850	of amount over ~~$34,500~~$36,250
Over ~~$83,600~~$87,850	~~$1,905.57~~$1,281.60 plus ~~3.13%~~2.0%
but not over ~~$174,400~~$183,250	of amount over ~~$83,600~~$87,850
Over ~~$174,400~~$183,250	~~$4,747.61~~$3,192.65 plus ~~3.63%~~2.3%
but not over ~~$379,150~~$398,350	of amount over ~~$174,400~~$183,250
Over ~~$379,150~~$398,350	~~$12,180.04~~$8,189.85 plus ~~3.99%~~2.6%

of amount over ~~$379,150~~$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$57,700~~$60,650	~~1.51%~~1.0%
Over ~~$57,700~~$60,650	~~$871.27~~$586.12 plus ~~2.82%~~1.8%
but not over ~~$139,350~~$146,400	of amount over ~~$57,700~~$60,650
Over ~~$139,350~~$146,400	~~$3,173.80~~$2,133.74 plus ~~3.13%~~2.0%
but not over ~~$212,300~~$223,050	of amount over ~~$139,350~~$146,400
Over ~~$212,300~~$223,050	~~$5,457.14~~$3,699.19 plus ~~3.63%~~2.3%
but not over ~~$379,150~~$398,350	of amount over ~~$212,300~~$223,050
Over ~~$379,150~~$398,350	~~$11,513.79~~$7,741.76 plus ~~3.99%~~2.6%

of amount over ~~$379,150~~$398,350

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$28,850~~$30,325	~~1.51%~~1.0%
Over ~~$28,850~~$30,325	~~$435.64~~$293.06 plus ~~2.82%~~1.8%
but not over ~~$69,675~~$73,200	of amount over ~~$28,850~~$30,325
Over ~~$69,675~~$73,200	~~$1,586.90~~$1,066.87 plus ~~3.13%~~2.0%
but not over ~~$106,150~~$111,525	of amount over ~~$69,675~~$73,200
Over ~~$106,150~~$111,525	~~$2,728.57~~$1,834.60 plus ~~3.63%~~2.3%
but not over ~~$189,575~~$199,175	of amount over ~~$106,150~~$111,525
Over ~~$189,575~~$199,175	~~$5,756.90~~$3,870.88 plus ~~3.99%~~2.6%

of amount over ~~$189,575~~$199,175

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$46,250~~$48,600	~~1.51%~~1.0%
Over ~~$46,250~~$48,600	~~$698.38~~$469.67 plus ~~2.82%~~1.8%
but not over ~~$119,400~~$125,450	of amount over ~~$46,250~~$48,600
Over ~~$119,400~~$125,450	~~$2,761.21~~$1,856.66 plus ~~3.13%~~2.0%
but not over ~~$193,350~~$203,150	of amount over ~~$119,400~~$125,450
Over ~~$193,350~~$203,150	~~$5,075.84~~$3,413.15 plus ~~3.63%~~2.3%
but not over ~~$379,150~~$398,350	of amount over ~~$193,350~~$203,150

Over ~~$379,150~~<u>$398,350</u> ~~$11,820.38~~<u>$7,948.04</u> plus ~~3.99%~~<u>2.6%</u>

of amount over ~~$379,150~~<u>$398,350</u>

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~<u>$2,450</u> ~~1.51%~~<u>1.0%</u>

Over ~~$2,300~~<u>$2,450</u> ~~$34.73~~<u>$23.68</u> plus ~~2.82%~~<u>1.8%</u>

but not over ~~$5,450~~<u>$5,700</u> of amount over ~~$2,300~~<u>$2,450</u>

Over ~~$5,450~~<u>$5,700</u> ~~$123.56~~<u>$82.34</u> plus ~~3.13%~~<u>2.0%</u>

but not over ~~$8,300~~<u>$8,750</u> of amount over ~~$5,450~~<u>$5,700</u>

Over ~~$8,300~~<u>$8,750</u> ~~$212.77~~<u>$143.44</u> plus ~~3.63%~~<u>2.3%</u>

but not over ~~$11,350~~<u>$11,950</u> of amount over ~~$8,300~~<u>$8,750</u>

Over ~~$11,350~~<u>$11,950</u> ~~$323.48~~<u>$217.78</u> plus ~~3.99%~~<u>2.6%</u>

of amount over ~~$11,350~~<u>$11,950</u>

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 16. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 12 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section12 of this Act.

SECTION 17. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 18. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 19. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 20. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

   a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

      (1) Thirty-two percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

      (1) Forty percent of the amount must be allocated equally among the counties; and

      (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

   A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 21. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 22. LEGISLATIVE MANAGEMENT REPORT. By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

SECTION 23. EFFECTIVE DATE. Section 20 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

13.0382.03013
Title.

Prepared by the Legislative Council staff for
Representative Headland
April 24, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

That the Senate recede from its amendments as printed on pages 1802-1813 of the House Journal and pages 1549-1559 of the Senate Journal and that House Bill No. 1250 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment;"

Page 1, line 1, replace "sections 57-35.3-03, 57-35.3-07," with "subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section"

Page 1, replace line 1 with ","

Page 1, line 2, after "1" insert "and subdivisions c, d, and f of subsection 2"

Page 1, line 2, after "57-38-30.3" insert ", and section 57-39.2-26.1"

Page 1, line 2, remove "reduction of

Page 1, line 3, remove "financial institutions tax and"

Page 1, line 3, after "rates" insert "and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax"

Page 1, remove lines 6 through 23

Page 2, replace lines 1 through 12 with:

"**SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30 and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is

attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 7. AMENDMENT. Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~fifty~~ thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 8. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 9. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

b. Is binding until the earlier of:

(1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

a. A subchapter S corporation may not file a consolidated return.

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3."

Page 2, line 19, overstrike "sixty-eight" and insert immediately thereafter "twenty-six"

Page 2, line 23, replace "thirty" with "eighty-seven"

Page 3, line 9, replace "$50,000" with "$36,250"

Page 3, line 9, replace "0.90%" with "1.13%"

Page 3, line 10, replace "$50,000" with "$36,250"

Page 3, line 10, replace "$450.00" with "$410.53"

Page 3, line 10, replace "1.90%" with "2.12%"

Page 3, line 11, replace "$125,000" with "$87,850"

Page 3, line 11, replace "$50,000" with "$36,250"

Page 3, line 12, replace "$125,000" with "$87,850"

Page 3, line 12, replace "$1,875.00" with "$1501.87"

Page 3, line 12, replace "2.90%" with "2.35%"

Page 3, line 13, after "~~$174,400~~" insert "but not over $183,250"

Page 3, line 13, replace "$125,000" with "$87,850"

Page 3, line 14, after "~~$174,400~~" insert "Over $183,250"

Page 3, line 14, after "~~3.63%~~" insert "$3,741.39 plus 2.72%"

Page 3, line 15, after "~~$379,150~~" insert "but not over $379,150"

Page 3, line 15, after "~~$174,400~~" insert "of amount over $183,250"

Page 3, line 16, after "~~$379,150~~" insert "Over $398,350"

Page 3, line 16, after "~~3.99%~~" insert "$9,597.49 plus 2.99%"

Page 3, line 17, after "~~$379,150~~" insert "of amount over $398,350"

Page 3, line 20, replace "$85,000" with "$60,650"

Page 3, line 20, replace "0.90%" with "1.13%"

Page 3, line 21, replace "$85,000" with "$60,650"

Page 3, line 21, replace "$765.00" with "$686.86"

Page 3, line 21, replace "1.90%" with "2.12%"

Page 3, line 22, replace "$210,000" with "$146,400"

Page 3, line 22, replace "$85,000" with "$60,650"

Page 3, line 23, replace "$210,000" with "$146,400"

Page 3, line 23, replace "$3,140.00" with "$2,500.47"

Page 3, line 23, replace "2.90%" with "2.35%"

Page 3, line 24, after "~~$212,300~~" insert "but not over $212,300"

Page 3, line 24, replace "$210,000" with "$146,400"

Page 3, line 25, after "~~$212,300~~" insert "Over $223,050"

Page 3, line 25, after "~~3.63%~~" insert "$4,299.83 plus 2.72%"

Page 3, line 26, after "~~$379,150~~" insert "but not over $398,350"

Page 3, line 26, after "~~$212,300~~" insert "of amount over $223,050"

Page 3, line 27, after "~~$379,150~~" insert "Over $398,350"

Page 3, line 27, after "~~3.99%~~" insert "$9,072.37 plus 2.99%"

Page 3, line 28, after "~~$379,150~~" insert "of amount over $398,350"

Page 3, line 31, replace "$42,500" with "$30,325"

Page 3, line 31, replace "0.90%" with "1.13%"

Page 4, line 1, replace "$42,500" with "$30,325"

Page 4, line 1, replace "$382.50" with "$343.43"

Page 4, line 1, replace "1.90%" with "2.12%"

Page 4, line 2, replace "$105,000" with "$73,200"

Page 4, line 2, replace "$42,500" with "$30,325"

Page 4, line 3, replace "$105,000" with "$73,200"

Page 4, line 3, replace "$1,570.00" with "$1,250.24"

Page 4, line 3, replace "2.90%" with "2.35%"

Page 4, line 4, overstrike "$106,150" and insert immediately thereafter "$111,525"

Page 4, line 4, replace "$105,000" with "$73,200"

Page 4, line 5, after "~~$106,150~~" insert "Over $111,525"

Page 4, line 5, after "~~3.63%~~" insert "$2,149.92 plus 2.72%"

Page 4, line 6, after "~~$189,575~~" insert "but not over $199,175"

Page 4, line 6, after "~~$106,150~~" insert "of amount over $111,525"

Page 4, line 7, after "~~$189,575~~" insert "Over $199,175"

Page 4, line 7, after "~~3.99%~~" insert "$4,536.19 plus 2.99%"

Page 4, line 8, after "~~$189,575~~" insert "of amount over $199,175"

Page 4, line 11, replace "$65,000" with "$48,600"

Page 4, line 11, replace "0.90%" with "1.13%"

Page 4, line 12, replace "$65,000" with "$48,600"

Page 4, line 12, replace "$585.00" with "$555.40"

Page 4, line 12, replace "1.90%" with "2.12%"

Page 4, line 13, replace "$180,000" with "$125,450"

Page 4, line 13, replace "$65,000" with "$48,600"

Page 4, line 14, replace "$180,000" with "$125,450"

Page 4, line 14, replace "$2,770.00" with "$2,175.78"

Page 4, line 14, replace "2.90%" with "2.35%"

Page 4, line 15, after "~~$193,350~~" insert "but not over $203,150"

Page 4, line 15, replace "$180,000" with "$125,450"

Page 4, line 16, after "~~$193,350~~" insert "Over $203,150"

Page 4, line 16, after "~~3.63%~~" insert "$3,999.79 plus 2.72%"

Page 4, line 17, after "~~$379,150~~" insert "but not over $398,350"

Page 4, line 17, after "~~$193,350~~" insert "of amount over $203,150"

Page 4, line 18, after "~~$379,150~~" insert "Over $398,350"

Page 4, line 18, after "~~3.99%~~" insert "$9,314.11 plus 2.99%"

Page 4, line 19, after "~~$379,150~~" insert "of amount over $398,350"

Page 4, line 22, replace "$5,000" with "$2,450"

Page 4, line 22, replace "0.90%" with "1.13%"

Page 4, line 23, replace "$5,000" with "$2,450"

Page 4, line 23, replace "$45.00" with "$27.75"

Page 4, line 23, replace "1.90%" with "2.12%"

Page 4, line 24, replace "$10,000" with "$5,700"

Page 4, line 24, replace "$5,000" with "$2,450"

Page 4, line 25, replace "$10,000" with "$5,700"

Page 4, line 25, replace "$140.00" with "$96.49"

Page 4, line 25, replace "2.90%" with "2.35%"

Page 4, line 26, after "~~$8,300~~" insert "but not over $8,750"

Page 4, line 26, replace "$10,000" with "$5,700"

Page 4, line 27, after "~~$8,300~~" insert "Over $8,750"

Page 4, line 27, after "~~3.63%~~" insert "$168.09 plus 2.72%"

Page 4, line 28, after "~~$11,350~~" insert "but not over $11,950"

Page 4, line 28, after "~~$8,300~~" insert "of amount over $8,750"

Page 4, line 29, after "~~$11,350~~" insert "Over $11,950"

Page 4, line 29, after "~~3.99%~~" insert "$255.21 plus 2.99%"

Page 4, line 30, remove the overstrike over "~~of amount over~~ "

Page 4, line 30, after "~~$11,350~~" insert "$11,950"

Page 5, after line 26, insert:

"**SECTION 12. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

SECTION 13. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed."

Page 5, line 27, after "This" insert "Section 17 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this"

Renumber accordingly

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1250

Introduced by

Representatives Headland, Belter, Carlson, Delzer, Kasper, Nathe

Senators Armstrong, Burckhard, Cook, Hogue, Miller, Wardner

A BILL for an Act to create and enact a new section to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact ~~sections 57-35.3-03, 57-35.3-07,~~subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30 ~~and~~, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to ~~reduction of financial institutions tax and~~ individual and corporation income tax rates and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**57-35.3-03. Imposition and basis of tax.**~~

~~An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is six and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.~~

~~**SECTION 2. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**57-35.3-07. (Effective for the first two taxable years beginning after December 31, 2010) Payment of tax.**~~

~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, 4, and 5 of section 57-35.3-05, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.~~

~~**(Effective after the first two taxable years beginning after December 31, 2010) Payment of tax.**~~

~~Three-thirteenthsOne-sixth of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, and 4 of section 57-35.3-05, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenthsFive-sixths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.~~

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S

corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 7. AMENDMENT. Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~fifty~~ thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~ Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 8. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 9. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

<u>**Financial institutions - Net operating losses - Credit carryovers.**</u>

<u>1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:</u>

<u>a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and</u>

<u>b. Is binding until the earlier of:</u>

<u>(1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or</u>

<u>(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.</u>

<u>2. If an election is made under this section, the following apply:</u>

<u>a. A subchapter S corporation may not file a consolidated return.</u>

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 10. 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. For the first ~~twenty-five~~fifty thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~twenty-six hundredths percent.
2. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of four and twenty-three hundredths percent.~~

~~3.~~ On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~three and ~~fifteen~~~~thirty~~eighty-seven hundredths percent.

SECTION 11. 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 ~~$34,500~~~~$50,000~~$36,250 ~~1.51%~~~~0.90%~~1.13%

Over ~~$34,500~~~~$50,000~~$36,250 ~~$520.95~~~~$450.00~~$410.53 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$83,600~~~~$125,000~~$87,850 of amount over ~~$34,500~~~~$50,000~~$36,250

Over ~~$83,600~~~~$125,000~~$87,850 ~~$1,905.57~~~~$1,875.00~~$1501.87 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $174,400~~but not over $183,250 of amount over ~~$83,600~~~~$125,000~~$87,850

~~Over $174,400~~Over $183,250 ~~$4,747.61 plus 3.63%~~$3,741.39 plus 2.72%

~~but not over $379,150~~but not over $379,150 ~~of amount over $174,400~~of amou over $183,250

~~Over $379,150~~Over $398,350 ~~$12,180.04 plus 3.99%~~$9,597.49 plus 2.99%

~~of amount over $379,150~~of amount over $398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~~~$85,000~~$60,650 ~~1.51%~~~~0.90%~~1.13%

Over ~~$57,700~~~~$85,000~~$60,650 ~~$871.27~~~~$765.00~~$686.86 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$139,350~~~~$210,000~~$146,400 of amount over ~~$57,700~~~~$85,000~~$60,650

Over ~~$139,350~~~~$210,000~~$146,400 ~~$3,173.80~~~~$3,140.00~~$2,500.47 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $212,300~~but not over $212,300 of amount over ~~$139,350~~~~$210,000~~$146,400

~~Over $212,300~~Over $223,050 ~~$5,457.14 plus 3.63%~~$4,299.83 plus 2.72%

~~but not over $379,150~~but not over $398,350 ~~of amount over $212,300~~of amount over $223,050

~~Over $379,150~~Over $398,350 ~~$11,513.79 plus 3.99%~~$9,072.37 plus 2.99%

~~of amount over $379,150~~of amount over $398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850~~~~$42,500~~$30,325 ~~1.51%~~~~0.90%~~1.13%

Over ~~$28,850~~~~$42,500~~$30,325 ~~$435.64~~~~$382.50~~$343.43 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$69,675~~~~$105,000~~$73,200 of amount over ~~$28,850~~~~$42,500~~$30,325

Over ~~$69,675~~~~$105,000~~$73,200 ~~$1,586.90~~~~$1,570.00~~$1,250.24 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $106,150~~$111,525 of amount over ~~$69,675~~~~$105,000~~$73,200

~~Over $106,150~~Over $111,525 ~~$2,728.57 plus 3.63%~~$2,149.92 plus 2.72%

~~but not over $189,575~~but not over $199,175 ~~of amount over $106,150~~of amount over $111,525

~~Over $189,575~~Over $199,175 ~~$5,756.90 plus 3.99%~~$4,536.19 plus 2.99%

~~of amount over $189,575~~of amount over $199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~~~$65,000~~$48,600 ~~1.51%~~~~0.90%~~1.13%

Over ~~$46,250~~~~$65,000~~$48,600 ~~$698.38~~~~$585.00~~$555.40 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$119,400~~~~$180,000~~$125,450 of amount over ~~$46,250~~~~$65,000~~$48,600

Over ~~$119,400~~~~$180,000~~$125,450 ~~$2,761.21~~~~$2,770.00~~$2,175.78 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $193,350~~but not over $203,150 of amount over ~~$119,400~~~~$180,000~~$125,450

~~Over $193,350~~Over $203,150 ~~$5,075.84 plus 3.63%~~$3,999.79 plus 2.72%

~~but not over $379,150~~but not over $398,350 ~~of amount over $193,350~~of amount over $203,150

~~Over $379,150~~Over $398,350 ~~$11,820.38 plus 3.99%~~$9,314.11 plus 2.99%

~~of amount over $379,150~~of amount over $398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$2,300~~~~$5,000~~$2,450 ~~1.51%~~~~0.90%~~1.13%

Over ~~$2,300~~~~$5,000~~$2,450 ~~$34.73~~~~$45.00~~$27.75 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$5,450~~~~$10,000~~$5,700 of amount over ~~$2,300~~~~$5,000~~$2,450

Over ~~$5,450~~~~$10,000~~$5,700 ~~$123.56~~~~$140.00~~$96.49 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $8,300~~but not over $8,750 of amount over ~~$5,450~~~~$10,000~~$5,700

~~Over $8,300~~Over $8,750 ~~$212.77 plus 3.63%~~$168.09 plus 2.72%

~~but not over $11,350~~but not over $11,950 ~~of amount over $8,300~~of amount over $8,750

~~Over $11,350~~Over $11,950 ~~$323.48 plus 3.99%~~$255.21 plus 2.99%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 12. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~ section 9 of this Act.

SECTION 13. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under

this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 18. EFFECTIVE DATE. ~~This~~ Section 17 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012.

13.0382.03016
Title.

Prepared by the Legislative Council staff for
Representative Headland
April 26, 2013

#/

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

That the Senate recede from its amendments as printed on pages 1802-1813 of the House Journal and pages 1549-1559 of the Senate Journal and that House Bill No. 1250 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment;"

Page 1, line 1, replace "sections 57-35.3-03, 57-35.3-07," with "subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section"

Page 1, replace line 1 with ","

Page 1, line 2, after "1" insert "and subdivisions c, d, and f of subsection 2"

Page 1, line 2, after "57-38-30.3" insert ", and section 57-39.2-26.1"

Page 1, line 2, remove "reduction of

Page 1, line 3, remove "financial institutions tax and"

Page 1, line 3, after "rates" insert "and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax"

Page 1, remove lines 6 through 23

Page 2, replace lines 1 through 12 with:

"**SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30 and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~<u>chapter 57-38</u> as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources<u>, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013</u>. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is

attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 7. AMENDMENT. Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~<u>five</u> hundred ~~fifty~~ thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

   b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~<u>Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.</u>

   c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

   d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

   e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

   f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 8. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 9. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

<u>Financial institutions - Net operating losses - Credit carryovers.</u>

<u>1.</u> <u>A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:</u>

<u>a.</u> <u>Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and</u>

<u>b.</u> <u>Is binding until the earlier of:</u>

<u>(1)</u> <u>The end of the tax year for which the taxpayer reports a tax liability after tax credits; or</u>

(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

a. A subchapter S corporation may not file a consolidated return.

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3."

Page 2, line 19, overstrike "sixty-eight" and insert immediately thereafter "twenty-six"

Page 2, line 23, replace "thirty" with "eighty-seven"

Page 3, line 9, replace "$50,000" with "$36,250"

Page 3, line 9, replace "0.90%" with "1.13%"

Page 3, line 10, replace "$50,000" with "$36,250"

Page 3, line 10, replace "$450.00" with "$410.53"

Page 3, line 10, replace "1.90%" with "2.12%"

Page 3, line 11, replace "$125,000" with "$87,850"

Page 3, line 11, replace "$50,000" with "$36,250"

Page 3, line 12, replace "$125,000" with "$87,850"

Page 3, line 12, replace "$1,875.00" with "$1501.87"

Page 3, line 12, replace "2.90%" with "2.35%"

Page 3, line 13, after "~~$174,400~~" insert "but not over $183,250"

Page 3, line 13, replace "$125,000" with "$87,850"

Page 3, line 14, after "~~$174,400~~" insert "Over $183,250"

Page 3, line 14, after "~~3.63%~~" insert "$3,741.39 plus 2.72%"

Page 3, line 15, after "~~$379,150~~" insert "but not over $379,150"

Page 3, line 15, after "~~$174,400~~" insert "of amount over $183,250"

Page 3, line 16, after "~~$379,150~~" insert "Over $398,350"

Page 3, line 16, after "~~3.99%~~" insert "$9,597.49 plus 2.99%"

Page 3, line 17, after "~~$379,150~~" insert "of amount over $398,350"

Page 3, line 20, replace "$85,000" with "$60,650"

Page 3, line 20, replace "0.90%" with "1.13%"

Page 3, line 21, replace "$85,000" with "$60,650"

Page 3, line 21, replace "$765.00" with "$686.86"

Page 3, line 21, replace "1.90%" with "2.12%"

Page 3, line 22, replace "$210,000" with "$146,400"

Page 3, line 22, replace "$85,000" with "$60,650"

Page 3, line 23, replace "$210,000" with "$146,400"

Page 3, line 23, replace "$3,140.00" with "$2,500.47"

Page 3, line 23, replace "2.90%" with "2.35%"

Page 3, line 24, after "~~$212,300~~" insert "but not over $212,300"

Page 3, line 24, replace "$210,000" with "$146,400"

Page 3, line 25, after "~~$212,300~~" insert "Over $223,050"

Page 3, line 25, after "~~3.63%~~" insert "$4,299.83 plus 2.72%"

Page 3, line 26, after "~~$379,150~~" insert "but not over $398,350"

Page 3, line 26, after "~~$212,300~~" insert "of amount over $223,050"

Page 3, line 27, after "~~$379,150~~" insert "Over $398,350"

Page 3, line 27, after "~~3.99%~~" insert "$9,072.37 plus 2.99%"

Page 3, line 28, after "~~$379,150~~" insert "of amount over $398,350"

Page 3, line 31, replace "$42,500" with "$30,325"

Page 3, line 31, replace "0.90%" with "1.13%"

Page 4, line 1, replace "$42,500" with "$30,325"

Page 4, line 1, replace "$382.50" with "$343.43"

Page 4, line 1, replace "1.90%" with "2.12%"

Page 4, line 2, replace "$105,000" with "$73,200"

Page 4, line 2, replace "$42,500" with "$30,325"

Page 4, line 3, replace "$105,000" with "$73,200"

Page 4, line 3, replace "$1,570.00" with "$1,250.24"

Page 4, line 3, replace "2.90%" with "2.35%"

Page 4, line 4, overstrike "$106,150" and insert immediately thereafter "$111,525"

Page 4, line 4, replace "$105,000" with "$73,200"

Page 4, line 5, after "~~$106,150~~" insert "Over $111,525"

Page 4, line 5, after "~~3.63%~~" insert "$2,149.92 plus 2.72%"

Page 4, line 6, after "~~$189,575~~" insert "but not over $199,175"

Page 4, line 6, after "~~$106,150~~" insert "of amount over $111,525"

Page 4, line 7, after "~~$189,575~~" insert "Over $199,175"

Page 4, line 7, after "~~3.99%~~" insert "$4,536.19 plus 2.99%"

Page 4, line 8, after "~~$189,575~~" insert "of amount over $199,175"

Page 4, line 11, replace "$65,000" with "$48,600"

Page 4, line 11, replace "0.90%" with "1.13%"

Page 4, line 12, replace "$65,000" with "$48,600"

Page 4, line 12, replace "$585.00" with "$555.40"

Page 4, line 12, replace "1.90%" with "2.12%"

Page 4, line 13, replace "$180,000" with "$125,450"

Page 4, line 13, replace "$65,000" with "$48,600"

Page 4, line 14, replace "$180,000" with "$125,450"

Page 4, line 14, replace "$2,770.00" with "$2,175.78"

Page 4, line 14, replace "2.90%" with "2.35%"

Page 4, line 15, after "~~$193,350~~" insert "but not over $203,150"

Page 4, line 15, replace "$180,000" with "$125,450"

Page 4, line 16, after "~~$193,350~~" insert "Over $203,150"

Page 4, line 16, after "~~3.63%~~" insert "$3,999.79 plus 2.72%"

Page 4, line 17, after "~~$379,150~~" insert "but not over $398,350"

Page 4, line 17, after "~~$193,350~~" insert "of amount over $203,150"

Page 4, line 18, after "~~$379,150~~" insert "Over $398,350"

Page 4, line 18, after "~~3.99%~~" insert "$9,314.11 plus 2.99%"

Page 4, line 19, after "~~$379,150~~" insert "of amount over $398,350"

Page 4, line 22, replace "$5,000" with "$2,450"

Page 4, line 22, replace "0.90%" with "1.13%"

Page 4, line 23, replace "$5,000" with "$2,450"

Page 4, line 23, replace "$45.00" with "$27.75"

Page 4, line 23, replace "1.90%" with "2.12%"

Page 4, line 24, replace "$10,000" with "$5,700"

Page 4, line 24, replace "$5,000" with "$2,450"

Page 4, line 25, replace "$10,000" with "$5,700"

Page 4, line 25, replace "$140.00" with "$96.49"

Page 4, line 25, replace "2.90%" with "2.35%"

Page 4, line 26, after "~~$8,300~~" insert "but not over $8,750"

Page 4, line 26, replace "$10,000" with "$5,700"

Page 4, line 27, after "~~$8,300~~" insert "Over $8,750"

Page 4, line 27, after "~~3.63%~~" insert "$168.09 plus 2.72%"

Page 4, line 28, after "~~$11,350~~" insert "but not over $11,950"

Page 4, line 28, after "~~$8,300~~" insert "of amount over $8,750"

Page 4, line 29, after "~~$11,350~~" insert "Over $11,950"

Page 4, line 29, after "~~3.99%~~" insert "$255.21 plus 2.99%"

Page 4, line 30, remove the overstrike over "~~of amount over~~ "

Page 4, line 30, after "~~$11,350~~" insert "$11,950"

Page 5, after line 26, insert:

"**SECTION 12. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

SECTION 13. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed."

Page 5, line 27, after "This" insert "Section 17 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this"

Renumber accordingly

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1250

Introduced by

Representatives Headland, Belter, Carlson, Delzer, Kasper, Nathe

Senators Armstrong, Burckhard, Cook, Hogue, Miller, Wardner

A BILL for an Act to create and enact a new section to chapter 57-38, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact ~~sections 57-35.3-03, 57-35.3-07,~~ subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30 ~~and~~, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to ~~reduction of financial institutions tax and~~ individual and corporation income tax rates and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**57-35.3-03. Imposition and basis of tax.**~~

~~An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is six and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.~~

~~**SECTION 2. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**57-35.3-07. (Effective for the first two taxable years beginning after December 31, 2010) Payment of tax.**~~

~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, 4, and 5 of section 57-35.3-05, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.~~

~~**(Effective after the first two taxable years beginning after December 31, 2010) Payment of tax.**~~

~~Three-thirteenths~~~~One-sixth~~ ~~of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, and 4 of section 57-35.3-05, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06.~~ ~~Ten-thirteenths~~~~Five-sixths~~ ~~of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.~~

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S

corporation, limited partnership, limited liability company, or any other passthrough entity.

SECTION 3. AMENDMENT. Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03,~~ 57-38-30~~,~~ and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

4. A credit against state tax liability as determined under section ~~57-35.3-03,~~ 57-38-30~~,~~ or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 7. AMENDMENT. Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~fifty~~ thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.

3. An angel fund must:

   a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.~~Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.

c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.

e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.

h. Be in compliance with the securities laws of this state.

i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;

(2) The dollar amount remitted by the taxpayer or passthrough entity; and

(3) The date the payment was received by the angel fund for the investment.

j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 8. AMENDMENT. Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

SECTION 9. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:

a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and

b. Is binding until the earlier of:

(1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or

(2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:

a. A subchapter S corporation may not file a consolidated return.

b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.

c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 10. 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. For the first ~~twenty-five~~fifty thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~twenty-six hundredths percent.
2. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of four and twenty-three hundredths percent.~~

~~3.~~ On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~three and ~~fifteenthirty~~eighty-seven hundredths percent.

SECTION 11. 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 ~~$34,500~~~~$50,000~~$36,250 ~~1.51%~~~~0.90%~~1.13%

Over ~~$34,500~~~~$50,000~~$36,250 ~~$520.95~~~~$450.00~~$410.53 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$83,600~~~~$125,000~~$87,850 of amount over ~~$34,500~~~~$50,000~~$36,250

Over ~~$83,600~~~~$125,000~~$87,850 ~~$1,905.57~~~~$1,875.00~~$1501.87 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $174,400~~but not over $183,250 of amount over ~~$83,600~~~~$125,000~~$87,850

~~Over $174,400~~Over $183,250 ~~$4,747.61 plus 3.63%~~$3,741.39 plus 2.72%

~~but not over $379,150~~but not over $379,150 ~~of amount over $174,400~~of amount over $183,250

~~Over $379,150~~Over $398,350 ~~$12,180.04 plus 3.99%~~$9,597.49 plus 2.99%

~~of amount over $379,150~~of amount over $398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$57,700~~~~$85,000~~$60,650 ~~1.51%~~~~0.90%~~1.13%

Over ~~$57,700~~~~$85,000~~$60,650 ~~$871.27~~~~$765.00~~$686.86 plus ~~2.82%~~~~1.90%~~2.12%

but not over ~~$139,350~~~~$210,000~~$146,400 of amount over ~~$57,700~~~~$85,000~~$60,650

Over ~~$139,350~~~~$210,000~~$146,400 ~~$3,173.80~~~~$3,140.00~~$2,500.47 plus ~~3.13%~~~~2.90%~~2.35%

~~but not over $212,300~~but not over $212,300 of amount over ~~$139,350$210,000~~$146,400

~~Over $212,300~~Over $223,050 ~~$5,457.14 plus 3.63%~~$4,299.83 plus 2.72%

~~but not over $379,150~~but not over $398,350 ~~of amount over $212,300~~of amount over $223,050

~~Over $379,150~~Over $398,350 ~~$11,513.79 plus 3.99%~~$9,072.37 plus 2.99%

~~of amount over $379,150~~of amount over $398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$28,850$42,500~~$30,325 ~~1.51%0.90%~~1.13%

Over ~~$28,850$42,500~~$30,325 ~~$435.64$382.50~~$343.43 plus ~~2.82%1.90%~~2.12%

but not over ~~$69,675$105,000~~$73,200 of amount over ~~$28,850$42,500~~$30,325

Over ~~$69,675$105,000~~$73,200 ~~$1,586.90$1,570.00~~$1,250.24 plus ~~3.13%2.90%~~2.35%

~~but not over $106,150~~$111,525 of amount over ~~$69,675$105,000~~$73,200

~~Over $106,150~~Over $111,525 ~~$2,728.57 plus 3.63%~~$2,149.92 plus 2.72%

~~but not over $189,575~~but not over $199,175 ~~of amount over $106,150~~of amount over $111,525

~~Over $189,575~~Over $199,175 ~~$5,756.90 plus 3.99%~~$4,536.19 plus 2.99%

~~of amount over $189,575~~of amount over $199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~$46,250~~ ~~$65,000~~ $48,600	~~1.51%~~ ~~0.90%~~ 1.13%
Over ~~$46,250~~ ~~$65,000~~ $48,600 but not over ~~$119,400~~ ~~$180,000~~ $125,450	~~$698.38~~ ~~$585.00~~ $555.40 plus ~~2.82%~~ ~~1.90%~~ 2.12% of amount over ~~$46,250~~ ~~$65,000~~ $48,600
Over ~~$119,400~~ ~~$180,000~~ $125,450 ~~but not over $193,350~~ but not over $203,150	~~$2,761.21~~ ~~$2,770.00~~ $2,175.78 plus ~~3.13%~~ ~~2.90%~~ 2.35% of amount over ~~$119,400~~ ~~$180,000~~ $125,450
~~Over $193,350~~ Over $203,150 ~~but not over $379,150~~ but not over $398,350	~~$5,075.84 plus 3.63%~~ $3,999.79 plus 2.72% ~~of amount over $193,350~~ of amount over $203,150
~~Over $379,150~~ Over $398,350	~~$11,820.38 plus 3.99%~~ $9,314.11 plus 2.99% ~~of amount over $379,150~~ of amount over $398,350

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$2,300~~ ~~$5,000~~ $2,450	~~1.51%~~ ~~0.90%~~ 1.13%
Over ~~$2,300~~ ~~$5,000~~ $2,450 but not over ~~$5,450~~ ~~$10,000~~ $5,700	~~$34.73~~ ~~$45.00~~ $27.75 plus ~~2.82%~~ ~~1.90%~~ 2.12% of amount over ~~$2,300~~ ~~$5,000~~ $2,450
Over ~~$5,450~~ ~~$10,000~~ $5,700 ~~but not over $8,300~~ but not over $8,750	~~$123.56~~ ~~$140.00~~ $96.49 plus ~~3.13%~~ ~~2.90%~~ 2.35% of amount over ~~$5,450~~ ~~$10,000~~ $5,700
~~Over $8,300~~ Over $8,750 ~~but not over $11,350~~ but not over $11,950	~~$212.77 plus 3.63%~~ $168.09 plus 2.72% ~~of amount over $8,300~~ of amount over $8,750
~~Over $11,350~~ Over $11,950	~~$323.48 plus 3.99%~~ $255.21 plus 2.99%

of amount over ~~$11,350~~$11,950

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. 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.

h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 12. AMENDMENT. Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

d. Reduced by ~~thirty~~forty percent of:

(1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008.~~Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 9 of this Act.

SECTION 13. Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under

this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:

(1) Thirty-two percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:

(1) Forty percent of the amount must be allocated equally among the counties; and

(2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 18. EFFECTIVE DATE. ~~This~~ Section 17 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012.

Prepared by the North Dakota Legislative Council staff
April 2013

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PROPOSED CHILD CARE-RELATED FUNDING - 2013-15 BIENNIUM

The schedule below provides information on proposed funding under consideration by the Legislative Assembly relating to child care and early childhood education during the 2013-15 biennium, **as of April 22, 2013**.

	General Fund	Special Funds	Total
Infrastructure			
HB 1013 - Department of Public Instruction - Grants of up to $5,000 per classroom to assist schools making safety compliant space available for licensed prekindergarten programs	$125,000	$0	$125,000
HB 1113 - Department of Commerce - Continues to provide financing to early childhood facilities from the development fund through a continuing appropriation	0	500,000	500,000
SB 2018 - Housing Finance Agency - Grants of up to $187,500 from the housing incentive fund to political subdivisions for new and expanded licensed child care facilities and essential equipment for the facilities	0	2,600,000	2,600,000
SB 2018 - Bank of North Dakota - Expansion of the beginning entrepreneur loan guarantee program to include child care facilities[1]	0	17,762,391[1]	17,762,391[1]
SB 2014 - Bank of North Dakota - Provides a transfer from Bank of North Dakota profits to the partnership in assisting community expansion (PACE) fund[2]	0	10,000,000[2]	10,000,000[2]
Total infrastructure funding	$125,000	$30,862,391	$30,987,391
Workforce and training			
HB 1012 - Department of Human Services - Early childhood contracts providing training, technical assistance, and professional development for child care providers, maintaining child care provider lists, and recruiting providers	$166,221	$2,551,178	$2,717,399
HB 1012 - Department of Human Services - Grants to child care providers for workforce development, quality improvement technical assistance, and capacity building in accordance with North Dakota Century Code Section 50-11.1-14.1	3,150,000	0	3,150,000
HB 1012 - Department of Human Services - Child care provider licensing reviews and revisions of administrative rules for child care facilities	142,964	630,117	773,081
HB 1013 - Department of Public Instruction - Continuing education grants for preschool teachers	150,000	0	150,000
HB 1250 - Provides a tax credit equal to 50 percent of the qualified child care expenditures, including operations, construction, and overhead	Unknown	Unknown	Unknown
HB 1422 - Department of Human Services - Provides an appropriation for a child care stabilization initiative	6,000,000	0	6,000,000
SB 2018 - Housing Finance Agency - Grants from the housing incentive fund to licensed early childhood service providers that provide care to children with disabilities or developmental delays pursuant to Section 50-11.1-18	0	400,000	400,000
Total workforce and training funding	$9,609,185	$3,581,295	$13,190,480
Low income and welfare subsidies			
HB 1012 - Department of Human Services - Child care grant payments to providers on behalf of eligible recipients for child care services	$252,686	$20,645,979	$20,898,665
HB 1012 - Department of Human Services - Child care transition assistance including payments to temporary assistance for needy families (TANF)-eligible recipients for child care services	0	897,336	897,336
HB 1012 - Department of Human Services - Head Start collaboration providing support to local Head Start programs	0	198,468	198,468
Total low income and welfare subsidy funding	$252,686	$21,741,783	$21,994,469
Studies			
HB 1013/SB 2229 - Department of Public Instruction - HB 1013 provides funding and SB 2229 provides language for a study of early childhood care and early childhood education	$200,000	$0	$200,000
SB 2018 - Provides for a Legislative Management study of the current and potential child care service needs and child care workforce needs	0	0	0

Infrastructure	General Fund	Special Funds	Total
SB 2244 - Provides for a Legislative Management study of the availability and access to child care services in the state and the state's role in ensuring available and accessible child care services in the state	0	0	0
Total study funding	$200,000	$0	$200,000
Total child care-related funding	$10,186,871	$56,185,469	$66,372,340

[1] This amount reflects the total funds available for the beginning entrepreneur loan guarantee program as of March 31, 2013, and the Bank of North Dakota has authority to carry over any unexpended funds.

[2] This amount reflects the portion of the $28 million transfer to the PACE fund, which the Bank of North Dakota intends to designate to flex PACE. Child care facility loans could qualify for flex PACE interest buydowns of up to $100,000 per loan.