

HOUSE BILL NO. 1250

Introduced by

Representatives Headland, Belter, Carlson, Delzer, Kasper, Nathe

Senators Armstrong, Burckhard, Cook, Hogue, Miller, Wardner

1 A BILL for an Act to create and enact a new section to chapter 57-38, subsections 7 and 8 to
2 section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of
3 the North Dakota Century Code, relating to corporate and individual income tax credits and
4 transition of financial institutions to corporate income tax treatment; to amend and reenact
5 ~~sections 57-35.3-03, 57-35.3-07,~~ subsection 5 of section 11-37-08, subsection 8 of section
6 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section
7 40-63-07, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26,
8 subsections 5 and 7 of section 57-38-01.32, section 57-38-30 ~~and,~~ subsection 1 and
9 subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the
10 North Dakota Century Code, relating to ~~reduction of financial institutions tax and~~ individual and
11 corporation income tax rates and credits and increased allocations from the state aid
12 distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to
13 elimination of the financial institutions tax; and to provide an effective date.

14 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

15 ~~— **SECTION 1. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is~~
16 ~~amended and reenacted as follows:~~

17 ~~— **57-35.3-03. Imposition and basis of tax.**~~

18 ~~— An annual tax is imposed upon each financial institution for the grant to it of the privilege of~~
19 ~~transacting, or for the actual transacting by it, of business within this state during any part of~~
20 ~~each tax year. The tax is based upon and measured by the taxable income of the financial~~
21 ~~institution for the calendar year. The rate of tax is six and one-half percent of taxable income,~~
22 ~~but the amount of tax may not be less than fifty dollars.~~

23 ~~— **SECTION 2. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is~~
24 ~~amended and reenacted as follows:~~

1 ~~— **57-35.3-07. (Effective for the first two taxable years beginning after December 31,**~~
2 ~~**2010) Payment of tax.**~~

3 ~~— Three thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits~~
4 ~~allowed under subsections 1, 3, 4, and 5 of section 57-35.3-05, must be paid to the tax~~
5 ~~commissioner on or before April fifteenth of the year in which the return is due, regardless of~~
6 ~~any extension of the time for filing the return granted under section 57-35.3-06. Ten thirteenths~~
7 ~~of the tax before credits allowed under section 57-35.3-05, less the credit allowed under~~
8 ~~subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January~~
9 ~~fifteenth of the year after the return is due. Payment must be made in the manner prescribed by~~
10 ~~the tax commissioner.~~

11 ~~— **(Effective after the first two taxable years beginning after December 31, 2010)**~~
12 ~~**Payment of tax.**~~

13 ~~— Three thirteenths~~One-sixth ~~of the tax before credits allowed under section 57-35.3-05, less~~
14 ~~the credits allowed under subsections 1, 3, and 4 of section 57-35.3-05, must be paid to the tax~~
15 ~~commissioner on or before April fifteenth of the year in which the return is due, regardless of~~
16 ~~any extension of the time for filing the return granted under section 57-35.3-06.~~

17 ~~Ten thirteenths~~Five-sixths ~~of the tax before credits allowed under section 57-35.3-05, less the~~
18 ~~credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner~~
19 ~~on or before January fifteenth of the year after the return is due. Payment must be made in the~~
20 ~~manner prescribed by the tax commissioner.~~

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

- 23 5. Bonds issued by a commerce authority under this section are declared to be issued for
24 an essential public government purpose, and together with interest and income on the
25 bonds, are exempt from all individual and corporate taxes imposed under sections
26 ~~57-35.3-03, 57-38-30, and 57-38-30.3.~~

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

- 29 8. "Taxpayer" means an individual, corporation, ~~financial institution,~~ or trust subject to the
30 taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S

1 corporation, limited partnership, limited liability company, or any other passthrough
2 entity.

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

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

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

9 **40-63-06. Historic preservation and renovation tax credit.**

10 A credit against state tax liability as determined under sections ~~57-35.3-03~~, 57-38-30, and
11 57-38-30.3 is allowed for investments in the historic preservation or renovation of property
12 within the renaissance zone. The amount of the credit is twenty-five percent of the amount
13 invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in
14 the year in which the preservation or renovation is completed. Any excess credit may be carried
15 forward for a period of up to five taxable years.

16 **SECTION 5. AMENDMENT.** Subsections 3 and 4 of section 40-63-07 of the North Dakota
17 Century Code are amended and reenacted as follows:

- 18 3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3~~
19 ~~or~~ 57-38. An exemption under this section may be passed through to any shareholder,
20 partner, and owner if the renaissance fund organization is a passthrough entity for tax
21 purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by
22 this subsection shall file required returns and report income to the tax commissioner
23 as required by the provisions of ~~those chapters~~ chapter 57-38 as if the exemption did
24 not exist. If an employer, this subsection does not exempt a renaissance fund
25 organization from complying with the income tax withholding laws.
- 26 4. A credit against state tax liability as determined under section ~~57-35.3-03~~, 57-38-30, or
27 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount
28 of the credit is fifty percent of the amount invested in the renaissance fund
29 organization during the taxable year. Any amount of credit which exceeds a taxpayer's
30 tax liability for the taxable year may be carried forward for up to five taxable years after
31 the taxable year in which the investment was made.

1 **SECTION 6. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota
2 Century Code is amended and reenacted as follows:

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

15 **SECTION 7. AMENDMENT.** Subsections 1 and 3 of section 57-38-01.26 of the North
16 Dakota Century Code are amended and reenacted as follows:

- 17 1. A taxpayer is entitled to a credit against state income tax liability under section
18 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic
19 organization created under the laws of this state. The amount of the credit to which a
20 taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an
21 angel fund during the taxable year. The aggregate annual credit for which a taxpayer
22 may obtain a tax credit is not more than forty-five thousand dollars. The aggregate
23 lifetime credits under this section that may be obtained by an individual, married
24 couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~fifty-~~
25 thousand dollars. The investment used to calculate the credit under this section may
26 not be used to calculate any other income tax deduction or credit allowed by law.
- 27 3. An angel fund must:
- 28 a. Be a partnership, limited partnership, corporation, limited liability company, limited
29 liability partnership, trust, or estate organized on a for-profit basis which is
30 headquartered in this state.

- 1 b. Be organized for the purpose of investing in a portfolio of at least three primary
2 sector companies that are early-stage and mid-stage private, nonpublicly traded
3 enterprises with strong growth potential. For purposes of this section, an
4 early-stage entity means an entity with annual revenues of up to two million
5 dollars and a mid-stage entity means an entity with annual revenues over two
6 million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities~~
7 ~~do not include those that have more than twenty-five percent of their revenue~~
8 ~~from income-producing real estate.~~ Investments in real estate or real estate
9 holding companies are not eligible investments by certified angel funds. Any
10 angel fund certified before January 1, 2013, which has invested in real estate or a
11 real estate holding company is not eligible for recertification.
- 12 c. Consist of at least six accredited investors as defined by securities and exchange
13 commission regulation D, rule 501.
- 14 d. Not have more than twenty-five percent of its capitalized investment assets
15 owned by an individual investor.
- 16 e. Have at least five hundred thousand dollars in commitments from accredited
17 investors and that capital must be subject to call to be invested over an
18 unspecified number of years to build a portfolio of investments in enterprises.
- 19 f. Be member-managed or a manager-managed limited liability company and the
20 investor members or a designated board that includes investor members must
21 make decisions as a group on which enterprises are worthy of investments.
- 22 g. Be certified as an angel fund that meets the requirements of this section by the
23 department of commerce.
- 24 h. Be in compliance with the securities laws of this state.
- 25 i. Within thirty days after the date on which an investment in an angel fund is made,
26 the angel fund shall file with the tax commissioner and provide to the investor
27 completed forms prescribed by the tax commissioner which show as to each
28 investment in the angel fund the following:
- 29 (1) The name, address, and social security number or federal employer
30 identification number of the taxpayer or passthrough entity that made the
31 investment;

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

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

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

6 **SECTION 8. AMENDMENT.** Subsections 5 and 7 of section 57-38-01.32 of the North
7 Dakota Century Code are amended and reenacted as follows:

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

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

15 **SECTION 9.** A new section to chapter 57-38 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Financial institutions - Net operating losses - Credit carryovers.**

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

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

24 b. Is binding until the earlier of:

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

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

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

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

- 1 b. Any unused credit carryovers earned by a financial institution under chapter
2 57-35.3 for tax years beginning before January 1, 2013, may be carried forward
3 in the same number of years the financial institution would have been entitled
4 under chapter 57-35.3.
- 5 c. Any unused net operating losses incurred by a financial institution under chapter
6 57-35.3 for tax years beginning before January 1, 2013, may be carried forward
7 for the same number of years the financial institution would have been entitled
8 under chapter 57-35.3.

9 **SECTION 10. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-38-30. Imposition and rate of tax on corporations.**

12 A tax is hereby imposed upon the taxable income of every domestic and foreign corporation
13 which must be levied, collected, and paid annually as in this chapter provided:

- 14 1. For the first ~~twenty-five~~fifty thousand dollars of taxable income, at the rate of one and
15 ~~sixty-eight~~twenty-six hundredths percent.
- 16 2. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty-~~
17 ~~thousand dollars, at the rate of four and twenty-three hundredths percent.~~
- 18 3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~three and
19 ~~fifteen~~thirtyeighty-seven hundredths percent.

20 **SECTION 11. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota
21 Century Code is amended and reenacted as follows:

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

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1 an individual's filing status used for federal income tax purposes. For an estate or
2 trust, the schedule in subdivision e must be used for purposes of this subsection.

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

4 If North Dakota taxable income is: The tax is equal to:
5 Not over ~~\$34,500~~ ~~\$50,000~~ ~~\$36,250~~ 1.51% ~~0.90%~~ 1.13%
6 Over ~~\$34,500~~ ~~\$50,000~~ ~~\$36,250~~ \$520.95 ~~\$450.00~~ \$410.53 plus
7 ~~2.82%~~ ~~1.90%~~ 2.12%

8 but not over ~~\$83,600~~ ~~\$125,000~~ ~~\$87,850~~ of amount over
9 ~~\$34,500~~ ~~\$50,000~~ ~~\$36,250~~
10 Over ~~\$83,600~~ ~~\$125,000~~ ~~\$87,850~~ \$1,905.57 ~~\$1,875.00~~ \$1,501.87 plus
11 ~~3.13%~~ ~~2.90%~~ 2.35%

12 but not over ~~\$174,400~~ but not over \$183,250 of amount over
13 ~~\$83,600~~ ~~\$125,000~~ ~~\$87,850~~
14 Over ~~\$174,400~~ Over \$183,250 \$4,747.61 plus 3.63% \$3,741.39 plus
15 2.72%

16 but not over ~~\$379,150~~ but not over \$398,350 of amount over ~~\$174,400~~ of amount
17 over \$183,250
18 Over ~~\$379,150~~ Over \$398,350 \$12,180.04 plus 3.99% \$9,597.49 plus
19 2.99%
20 of amount over ~~\$379,150~~ of amount
21 over \$398,350

22 b. Married filing jointly and surviving spouse.

23 If North Dakota taxable income is: The tax is equal to:
24 Not over ~~\$57,700~~ ~~\$85,000~~ ~~\$60,650~~ 1.51% ~~0.90%~~ 1.13%
25 Over ~~\$57,700~~ ~~\$85,000~~ ~~\$60,650~~ \$871.27 ~~\$765.00~~ \$686.86 plus
26 ~~2.82%~~ ~~1.90%~~ 2.12%

27 but not over ~~\$139,350~~ ~~\$210,000~~ ~~\$146,400~~ of amount over
28 ~~\$57,700~~ ~~\$85,000~~ ~~\$60,650~~
29 Over ~~\$139,350~~ ~~\$210,000~~ ~~\$146,400~~ \$3,173.80 ~~\$3,140.00~~ \$2,500.47 plus
30 ~~3.13%~~ ~~2.90%~~ 2.35%

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1 but not over ~~\$212,300~~ but not over \$223,050 of amount over
2 ~~\$139,350~~ \$210,000 \$146,400
3 Over ~~\$212,300~~ Over \$223,050 \$5,457.14 plus 3.63% \$4,299.83 plus
4 2.72%
5 but not over ~~\$379,150~~ but not over \$398,350 of amount over ~~\$212,300~~ of amount
6 over \$223,050
7 Over ~~\$379,150~~ Over \$398,350 \$11,513.79 plus 3.99% \$9,072.37 plus
8 2.99%
9 of amount over ~~\$379,150~~ of amount
10 over \$398,350
11 c. Married filing separately.
12 If North Dakota taxable income is: The tax is equal to:
13 Not over ~~\$28,850~~ \$42,500 \$30,325 1.51% 0.90% 1.13%
14 Over ~~\$28,850~~ \$42,500 \$30,325 \$435.64 \$382.50 \$343.43 plus
15 2.82% 1.90% 2.12%
16 but not over ~~\$69,675~~ \$105,000 \$73,200 of amount over
17 ~~\$28,850~~ \$42,500 \$30,325
18 Over ~~\$69,675~~ \$105,000 \$73,200 \$1,586.90 \$1,570.00 \$1,250.24 plus
19 3.13% 2.90% 2.35%
20 but not over ~~\$106,150~~ \$111,525 of amount over
21 ~~\$69,675~~ \$105,000 \$73,200
22 Over ~~\$106,150~~ Over \$111,525 \$2,728.57 plus 3.63% \$2,149.92 plus
23 2.72%
24 but not over ~~\$189,575~~ but not over \$199,175 of amount over ~~\$106,150~~ of amount
25 over \$111,525
26 Over ~~\$189,575~~ Over \$199,175 \$5,756.90 plus 3.99% \$4,536.19 plus
27 2.99%
28 of amount over ~~\$189,575~~ of amount
29 over \$199,175
30 d. Head of household.
31 If North Dakota taxable income is: The tax is equal to:

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1	Not over \$46,250	\$65,000 <u>\$48,600</u>	1.51%	0.90% <u>1.13%</u>
2	Over \$46,250	\$65,000 <u>\$48,600</u>	\$698.38	\$585.00 <u>\$555.40</u> plus
3			2.82%	1.90% <u>2.12%</u>
4	but not over \$119,400	\$180,000 <u>\$125,450</u>		of amount over
5	\$46,250	\$65,000 <u>\$48,600</u>		
6	Over \$119,400	\$180,000 <u>\$125,450</u>	\$2,761.21	\$2,770.00 <u>\$2,175.78</u> plus
7			3.13%	2.90% <u>2.35%</u>
8	but not over \$193,350	but not over \$203,150		of amount over
9	\$119,400	\$180,000 <u>\$125,450</u>		
10	Over \$193,350	Over \$203,150	\$5,075.84 plus 3.63%	\$3,999.79 <u>plus</u>
11			2.72%	
12	but not over \$379,150	but not over \$398,350		of amount over \$193,350
13	of amount	over \$203,150		
14	Over \$379,150	Over \$398,350	\$11,820.38 plus 3.99%	\$9,314.11 <u>plus</u>
15			2.99%	
16				of amount over \$379,150
17	of amount	over \$398,350		
18	e. Estates and trusts.			
19	If North Dakota taxable income is:			The tax is equal to:
20	Not over \$2,300	\$5,000 <u>\$2,450</u>	1.51%	0.90% <u>1.13%</u>
21	Over \$2,300	\$5,000 <u>\$2,450</u>	\$34.73	\$45.00 <u>\$27.75</u> plus
22			2.82%	1.90% <u>2.12%</u>
23	but not over \$5,450	\$10,000 <u>\$5,700</u>		of amount over \$2,300
24	Over \$5,450	\$10,000 <u>\$5,700</u>	\$123.56	\$140.00 <u>\$96.49</u> plus
25			3.13%	2.90% <u>2.35%</u>
26	but not over \$8,300	but not over \$8,750		of amount over
27	\$5,450	\$10,000 <u>\$5,700</u>		
28	Over \$8,300	Over \$8,750	\$212.77 plus 3.63%	\$168.09 <u>plus 2.72%</u>
29	but not over \$11,350	but not over \$11,950		of amount over \$8,300
30	of amount	over \$8,750		
31	Over \$11,350	Over \$11,950	\$323.48 plus 3.99%	\$255.21 <u>plus 2.99%</u>

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:

1 c. Reduced by the amount equal to the earnings that are passed through to a
2 taxpayer in connection with an allocation and apportionment to North Dakota
3 under ~~chapter 57-35.3~~section 9 of this Act.

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

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

10 (2) ~~The qualified dividend income that is taxed at the same rate as long-term~~
11 ~~capital gain for federal income tax purposes under Internal Revenue Code~~
12 ~~provisions in effect on December 31, 2008.~~Qualified dividends as defined
13 under Internal Revenue Code section 1(h)(11), added by section 302(a) of
14 the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27;
15 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax
16 rate that is lower than the regular federal income tax rates applicable to
17 ordinary income. If, for any taxable year, qualified dividends are taxed at the
18 regular federal income tax rates applicable to ordinary income, the reduction
19 allowed under this subdivision is equal to thirty percent of all dividends
20 included in federal taxable income. The adjustment provided by this
21 subdivision is allowed only to the extent the qualified dividend income is
22 allocated to this state.

23 f. Increased by an amount equal to the losses that are passed through to a
24 taxpayer in connection with an allocation and apportionment to North Dakota
25 under ~~chapter 57-35.3~~section 9 of this Act.

26 **SECTION 13.** Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code
27 are created and enacted as follows:

28 7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year
29 ending December 31, 2012, payment of the tax under this chapter is due six months
30 after the due date of the return as required under this section. The provisions of
31 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.

- 1 a. Sixty-four percent of the amount must be allocated among the seventeen
2 counties with the greatest population, in the following manner:
3 (1) Thirty-two percent of the amount must be allocated equally among the
4 counties; and
5 (2) The remaining amount must be allocated based upon the proportion each
6 such county's population bears to the total population of all such counties.
7 b. Thirty-six percent of the amount must be allocated among all counties, excluding
8 the seventeen counties with the greatest population, in the following manner:
9 (1) Forty percent of the amount must be allocated equally among the counties;
10 and
11 (2) The remaining amount must be allocated based upon the proportion each
12 such county's population bears to the total population of all such counties.

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

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

27 A city shall deposit all revenues received under this subsection in the city general
28 fund. Each city shall reserve a portion of its allocation under this subsection for further
29 distribution to, or expenditure on behalf of, park districts and other taxing districts
30 within the city, excluding school districts. The share of the city allocation under this
31 subsection to be distributed to a park district must be equal to the percentage of the

1 city share of state aid distribution fund allocations that park district received during
2 calendar year 1996, up to a maximum of thirty percent. The governing boards of the
3 city and park district may agree to a different distribution.

4 **SECTION 17. REPEAL.** Chapter 57-35.3 of the North Dakota Century Code is repealed.

5 **SECTION 18. EFFECTIVE DATE.** ~~This~~Section 17 of this Act is effective for taxable events
6 occurring after June 30, 2014, and the remainder of this Act is effective for taxable years
7 beginning after December 31, 2012.