

Fifty-seventh  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2374**

Introduced by

Senators Robinson, Wardner

Representative N. Johnson

A BILL for an Act to amend and reenact subsection 1 of section 57-35.3-05 and section 57-38-01.7 of the North Dakota Century Code, relating to financial institutions tax and income tax credits for contributions to support institutions of higher education; and to provide an effective date.

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

**SECTION 1. 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~~ an institution of higher education located within the in this state, a foundation or other organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] and established to support an institution of higher education in this 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 five and seven-tenths percent of the tax before credits allowed under this section, 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 five and seven-tenths percent of the tax before credits

allowed under this section, or two thousand five hundred dollars, whichever is less.

c. For the purpose of this subsection, the term "~~nonprofit private~~ institution of higher education" means only a ~~nonprofit private~~ an 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.

**SECTION 2. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for ~~charitable~~ contributions to educational institutions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year ~~to nonprofit private institutions~~ an institution of higher education ~~located within the~~ in this state, a foundation or other organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] and

established to support an institution of higher education in this state, or to the North Dakota independent college fund.

a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.

b. In the case of a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state.

a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.

b. In the case of a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

3. For the purpose of this section, the term "~~nonprofit private~~ institution of higher education" means only a ~~nonprofit private~~ an educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, 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

1 located in North Dakota which normally maintains a regular faculty and curriculum  
2 approved by the state department of public instruction, which normally has a  
3 regularly organized body of students in attendance at the place where its  
4 educational activities are carried on, and which regularly offers education to  
5 students in the ninth through the twelfth grades.

- 6 4. For purposes of this section, a taxpayer may elect to treat a contribution as made  
7 in the preceding taxable year if the contribution and election are made not later  
8 than the time prescribed in section 57-38-34 for filing the return for that taxable  
9 year, including extensions granted by the commissioner.

10 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
11 December 31, 2000.