MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2363

2007 SENATE FINANCE AND TAXATION

SB 2363

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2363**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2007

Recorder Job Number: # 3380

Committee Clerk Signature	Sharon Renfrow

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2363.

Sen. Horne: the prime sponsor of the bill appeared in support with written testimony and handouts. (See attached)

Mike Hannaher: Director of Development of F-M Foundation appeared in support with written testimony. (See attached)

Caitlin McDonald: YMCA's of ND appeared in support with written testimony. (See attached)

Kevin Dvorak: Pres. Of the ND Community Foundation appeared in support stating the concept behind the startup of the ND Community Foundation was to capture some of the money that was leading ND in a number of ways. Talking about the transfer of wealth and the unfortunate circumstance of 75 to 80% of that transfer needing to stay in ND. The foundation is a more charitable vehicle that can capture some of that money and put it back to work in ND to make ND a better place. This will encourage that even further.

Steve Schons: the Village Family Service Center appeared in support with written testimony. (See attached)

Ken Kitzman: President of Minot Area Community Foundation appeared support with written testimony. (See attached)

No Opposition.

Mary Loftsgaard: Tax Dept. appeared to answer questions for the committee.

Sen. Cook: what keeps a non-profit from dismantling and dividing up the assets between the remaining members?

Mary: can't answer

Sen. Urlacher: what do the amendments do?

Mary: the biggest change is in the longer amendment 0201 is that this would now allow the credit to be acclaimed by the estates of trust, secondly the credit would not be carried forward, any unused credit would be carried forward for up to 3 years rather than 2.

Mary Loftsgaard: Sen. Horne, your intent was to limit the credit for propriations, as the bill was originally written it would have allowed the credit for any charitable contribution. If I understand the amendment you are now limiting that to endowment and planned gifts?

Sen. Horne: yes, this amendment would clean it up and make it uniform throughout limiting the tax credit ability of corporations so that it's giving to endowments and foundations only. Not to existing charity or on-going charitable organizations. But individuals would still be able to get cash credits by giving to qualified charitable organizations or planned gifts to foundations and endowments, so an individual would have an opportunity to do both.

Mary: we do have concerns about some of the language that appears to have been removed in amendment 0201. It makes it a returnable tax credit. We may have to take some of the language out to make it consistent.

Sen. Horne: agrees with Mary's suggestions.

Mike Hannaher: answer to Sen. Cook's question of what happens when a church or non-profit dissolves, a non-profit has to specifically say what happens when they dissolve and it has to direct it go to a similar organization of like charitable means. Churches often times aren't incorporated .But I believe State statute requires that upon dissolution the assets be distributed to like ____ purposes. So I think it's governed by the State. I know in dissolving or merging a non-profit corporation with another non-profit organization, the attorney general is all over that.

Sen. Cook: so are you saying that if something like this articles of incorporation, that Secretary of State or somebody is going to be brought to his or her attention whenever there is amendments are being made to the Constitution?

Mike: the amendments to Articles and Corporation have to go through the Secretary of State's Office. And if there are articles that are going to dissolve it, I believe they refer it to the Attorney General's Office.

Speaking to the amendments: taking away the charitable deduction for businesses that give directly to non-profit makes sense to us because otherwise you wouldn't be promoting endowment. If you get businesses to make donations to endowment that's what the credit limit it to. It's really just giving businesses the same thing you gave individuals 2 yrs ago.

Sen. Oehlke: I'm surprised that businesses couldn't make contributions in the past. I will Move the amendments 0201 and 0202, seconded by Sen. Tollefson.

Sen. Triplett: clarification on amendments being moved.

Voice vote: 7-0-0, amendments carry

Sen. Tollefson made a Motion for **DO PASS as Amended**, seconded by Sen. Oehlke

Roll call vote: 7-0-0 Sen. Horne will carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/15/2007

Amendment to: Reengrossed SB 2363

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2363 Second Engrossment with House Amendments modifies the existing income tax credit for planned gifts to nonprofit organizations, enablig the tax credit to be claimed by corporations and pass-through entities.

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.*

There is no information available on the extent to which corporations currently participate or will participate in planned gifting that will be subject to a tax credit under the provisions of this bill. The corporation income tax credit is limited to $10,000 per tax year under the provisions of the bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	03/15/2007

FISCAL NOTE

Requested by Legislative Council
02/13/2007

Amendment to: SB 2363

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. SB 2363 modifies the existing income tax credit for planned gifts to nonprofit organizations, enablig the tax credit to be claimed by corporations and pass-through entities.

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.*

There is no information available on the extent to which corporations currently participate or will participate in planned gifting that will be subject to a tax credit under the provisions of this bill. The corporation income tax credit is limited to $10,000 per tax year under the provisions of the bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/14/2007

FISCAL NOTE

Requested by Legislative Council
01/23/2007

Bill/Resolution No.: SB 2363

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2363 modifies the existing income tax credit for planned gifts to nonprofit organizations, enablig the tax credit to be claimed by corporations and pass-through entities. The bill also allows a tax credit for corporations for charitable contributions.

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.*

There is no information available on the extent to which corporations currently participate or will participate in planned gifting or the extent of current charitable contributions or future contributions that will be subject to a tax credit under the provisions of this bill. The corporation income tax credit is limited to $10,000 per tax year under the provisions of the bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/09/2007

70534.0201
Title.

Prepared by the Legislative Council staff for
Senator Horne
January 29, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2363

Page 4, line 4, overstrike "taxpayer" and overstrike "taxes" and insert immediately thereafter "tax"

Page 4, line 7, overstrike "any" and after "~~Dakota~~" insert "a"

Page 4, line 8, overstrike "by"

Page 4, line 9, overstrike "a taxpayer", overstrike "from all sources", and after the second "a" insert "taxable"

Page 4, line 10, remove "for an individual"

Page 4, line 11, replace "persons" with "individuals" and overstrike "The credit allowed under this section may not exceed"

Page 4, overstrike lines 12 through 17

Page 4, remove lines 20 through 23

Page 4, line 24, remove "a." and replace "credit" with "tax credit against the tax imposed by section 57-38-30"

Page 4, line 27, remove "from all sources"

Page 4, line 28, remove "The credit allowed under this section may not exceed the"

Page 4, replace lines 29 through 31 with:

"4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift, or forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts, made to a qualified nonprofit organization or qualified endowment. The maximum credit allowed under this subsection for contributions made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries are allowed to claim their share of the credit against the tax imposed by section 57-38-29, 57-38-30, or 57-38-30.3. A beneficiary must claim the credit in the beneficiary's taxable year in which the taxable year of the estate or trust ends. The provisions of subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit."

Page 5, remove lines 1 through 6

Page 5, line 7, replace "4." with "5."

Page 5, line 16, after the underscored period insert "The partner, shareholder, or member must claim the credit in the partner's, shareholder's, or member's taxable year in which the taxable year of the partnership, subchapter S corporation, or limited liability company ends. The provisions of subsections 6 and 7 apply to the partner, shareholder, or member.

6. The amount of the contribution upon which an allowable credit is computed must be added to federal taxable income in computing North Dakota taxable income in the taxable year in which the credit is first claimed, but only to the extent that the contribution reduced federal taxable income.

7. An unused credit may be carried forward for up to three taxable years.

8. If a contribution for which a credit was claimed is recovered by the taxpayer, an amount equal to the credit claimed in all taxable years must be added to the tax due on the income tax return filed for the taxable year in which the recovery occurs. For purposes of subsection 4, this subsection applies if the estate or trust recovers the contribution and the estate or trust and its beneficiaries are liable for the additional tax due with respect to their respective shares of the apportioned credit. For purposes of subsection 5, this subsection applies if the partnership, subchapter S corporation, or limited liability company recovers the contribution, and the partner, shareholder, or member is liable for the additional tax due."

Renumber accordingly

70534.0202
Title.

Prepared by the Legislative Council staff for
Senator Horne
February 1, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2363

Page 4, line 24, replace the second "a" with "the present value of the aggregate amount of the"

Page 4, line 25, after "gift" insert "portion of planned gifts" and remove "qualified nonprofit organization or"

Page 5, line 8, remove "charitable"

Page 5, line 9, remove "gifts, or forty percent of"

Renumber accordingly

70534.0203
Title.0300

Adopted by the Finance and Taxation Committee
February 12, 2007

2-12-07
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2363

Page 4, line 4, overstrike "taxpayer" and overstrike "taxes" and insert immediately thereafter "tax"

Page 4, line 7, overstrike "any" and after "~~Dakota~~" insert "a"

Page 4, line 8, overstrike "by"

Page 4, line 9, overstrike "a taxpayer", overstrike "from all sources", and after the second "a" insert "taxable"

Page 4, line 10, replace "for an individual" with an underscored comma

Page 4, line 11, replace "persons" with "individuals"

Page 4, overstrike lines 13 through 17

Page 4, line 19, overstrike the period

Page 4, remove lines 20 through 23

Page 4, line 24, remove "a.", after the first "a" insert "tax", after "credit" insert "against the tax imposed by section 57-38-30", and replace the second "a" with "the present value of the aggregate amount of the"

Page 4, line 25, remove "charitable", after "gift" insert "portion of planned gifts", and remove "qualified nonprofit organization or"

Page 4, line 27, remove "from all sources"

Page 4, replace lines 30 and 31 with:

"4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift, or forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts, made to a qualified nonprofit organization or qualified endowment. The maximum credit allowed under this subsection for contributions made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section 57-38-29, 57-38-30, or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit."

Page 5, remove lines 1 through 6

Page 5, line 7, replace "4." with "5."

Page 5, line 8, remove "charitable"

Page 5, line 9, remove "gifts, or forty percent of"

Page 5, line 16, after the underscored period insert "The partner, shareholder, or member may claim the credit only in the partner's, shareholder's, or member's taxable year in which the taxable year of the partnership, subchapter S corporation, or limited liability company ends. Subsections 6 and 7 apply to the partner, shareholder, or member.

6. The amount of the contribution upon which an allowable credit is computed must be added to federal taxable income in computing North Dakota taxable income in the taxable year in which the credit is first claimed, but only to the extent that the contribution reduced federal taxable income.

7. An unused credit may be carried forward for up to three taxable years.

8. If a contribution for which a credit was claimed is recovered by the taxpayer, an amount equal to the credit claimed in all taxable years must be added to the tax due on the income tax return filed for the taxable year in which the recovery occurs. For purposes of subsection 4, this subsection applies if the estate or trust recovers the contribution and the estate or trust and its beneficiaries are liable for the additional tax due with respect to their respective shares of the apportioned credit. For purposes of subsection 5, this subsection applies if the partnership, subchapter S corporation, or limited liability company recovers the contribution, and the partner, shareholder, or member is liable for the additional tax due."

Renumber accordingly

Date: 2.12.07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2363

Senate **Finance & Tax** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass As amended

Motion Made By Sen. Tollefson Seconded By Sen. Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		**Sen. Anderson**	✓	
Sen. Tollefson	✓		**Sen. Horne**	✓	
Sen. Cook	✓		**Sen. Triplett**	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Horne

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

REPORT OF STANDING COMMITTEE

SB 2363: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2363 was placed on the Sixth order on the calendar.

Page 4, line 4, overstrike "taxpayer" and overstrike "taxes" and insert immediately thereafter "tax"

Page 4, line 7, overstrike "any" and after "~~Dakota~~" insert "a"

Page 4, line 8, overstrike "by"

Page 4, line 9, overstrike "a taxpayer", overstrike "from all sources", and after the second "a" insert "taxable"

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Page 4, line 25, remove "charitable", after "gift" insert "portion of planned gifts", and remove "qualified nonprofit organization or"

Page 4, line 27, remove "from all sources"

Page 4, replace lines 30 and 31 with:

"4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift, or forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts, made to a qualified nonprofit organization or qualified endowment. The maximum credit allowed under this subsection for contributions made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section 57-38-29, 57-38-30, or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit."

Page 5, remove lines 1 through 6

Page 5, line 7, replace "4." with "5."

Page 5, line 8, remove "charitable"

Page 5, line 9, remove "gifts, or forty percent of"

Page 5, line 16, after the underscored period insert "The partner, shareholder, or member may claim the credit only in the partner's, shareholder's, or member's taxable year in which the taxable year of the partnership, subchapter S corporation, or limited liability company ends. Subsections 6 and 7 apply to the partner, shareholder, or member.

6. The amount of the contribution upon which an allowable credit is computed must be added to federal taxable income in computing North Dakota taxable income in the taxable year in which the credit is first claimed, but only to the extent that the contribution reduced federal taxable income.

7. An unused credit may be carried forward for up to three taxable years.

8. If a contribution for which a credit was claimed is recovered by the taxpayer, an amount equal to the credit claimed in all taxable years must be added to the tax due on the income tax return filed for the taxable year in which the recovery occurs. For purposes of subsection 4, this subsection applies if the estate or trust recovers the contribution and the estate or trust and its beneficiaries are liable for the additional tax due with respect to their respective shares of the apportioned credit. For purposes of subsection 5, this subsection applies if the partnership, subchapter S corporation, or limited liability company recovers the contribution, and the partner, shareholder, or member is liable for the additional tax due."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2363

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2363

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-14-07

Recorder Job Number: 3486

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on SB 2363 at 10:00 am on February 14, 2007 regarding tax credit.

Senator Robert Horne, District 3, Minot Area gave oral testimony in support of SB 2363. He presented amendment #70534 .0301 for the committee to consider. This amendment was suggested by Mike Haniker, Director of Fargo Area Community Foundation. There was further discussion regarding trusts and endowments.

Senator Seymour had questions regarding the tax credit regarding donations. He was told that under the current law now your allowed 20% tax credit up to $5,000.00 a year. This bill would increase that to 40%. It is to encourage more charitable giving.

Senator Mathern moved a DO PASS THE AMENDMENT, Senator Krauter seconded, motion carried.

Senator Robinson moved a DO PASS AS AMENDED, Senator Tallackson seconded.

Senator Holmberg asked if there was further discussion.

Senator Grindberg had questions regarding the fiscal note and business's involvement regarding the tax credit.

Senator Mathern commented about liking the bill because the money stays in North Dakota and it really supports the North Dakota Foundations.

Senator Robinson expressed agreement with Senator Horne.

A roll call vote was taken resulting in 8 yeas, 5 nays, and 1 absent. The motion carried.

Senator Horne from Finance and Tax will carry the bill.

The hearing on SB 2363 was closed.

Prepared by the Legislative Council staff for
Senator Horne
February 14, 2007

2-14-07

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2363

Page 4, line 21, replace "the present value of the aggregate amount" with "a charitable gift"

Page 4, line 22, remove "of the gift portion of planned gifts"

Page 4, line 27, remove ", or forty percent of the present value of the aggregate amount of the"

Page 4, line 28, remove "charitable gift portion of planned gifts, made" and remove "qualified nonprofit organization or"

Page 5, line 8, replace "the present" with "a"

Page 5, line 9, remove "value of the aggregate amount of the" and remove "portion of planned gifts, made"

Renumber accordingly

Date: 2/14/07
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2363

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70534.0301

Action Taken Amended

Motion Made By Mathern Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm			Senator Aaron Krauter		
Senator Bill Bowman, V Chrm			Senator Elroy N. Lindaas		
Senator Tony Grindberg, V Chrm			Senator Tim Mathern		
Senator Randel Christmann			Senator Larry J. Robinson		
Senator Tom Fischer			Senator Tom Seymour		
Senator Ralph L. Kilzer			Senator Harvey Tallackson		
Senator Karen K. Krebsbach					
Senator Rich Wardner					

Total (Yes) ______ No ______

Absent ______

Floor Assignment Horne,

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

Date: 2/14/07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2363

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass as Amended

Motion Made By Robinson Seconded By Tallackson

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm		✓	Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann			Senator Larry J. Robinson	✓	
Senator Tom Fischer		✓	Senator Tom Seymour	✓	
Senator Ralph L. Kilzer		✓	Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach		✓			
Senator Rich Wardner	✓				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Sen Fin + Tax Sen Horne

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

REPORT OF STANDING COMMITTEE

SB 2363, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2363 was placed on the Sixth order on the calendar.

Page 4, line 21, replace "the present value of the aggregate amount" with "a charitable gift"

Page 4, line 22, remove "of the gift portion of planned gifts"

Page 4, line 27, remove ", or forty percent of the present value of the aggregate amount of the"

Page 4, line 28, remove "charitable gift portion of planned gifts, made" and remove "qualified nonprofit organization or"

Page 5, line 8, replace "the present" with "a"

Page 5, line 9, remove "value of the aggregate amount of the" and remove "portion of planned gifts, made"

Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

SB 2363

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2363 A

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 28, 2007

Recorder Job Number: 4110

Committee Clerk Signature Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on SB 2363 and asked for testimony in support.

Sen. Robert Horne: (See Attachment #1)

I think it was this amount as a result of not being aware of the opportunities the law provides and it wasn't promoted like it should have been.

Of course North Dakota has a ND Community Fund, plus other community funds so that's what I'd like to see if the benefit will be seen.

I've attached two charts to my testimony to help illustrate this point.

Up to 75 % of estate checks are issued out of state and what that says is we're losing a lot of it's transfer of wealth to folks and heir's living in another state and the goal is to capture some of that and keep it here in ND.

Mike Hannaher, Director of Development of Fargo-Moorhead Area Foundation: (See Attachment #2)

Chairman Belter: You mentioned churches, but would churches qualify under this?

Mike Hannaher: If they are qualified public charities and they need the definition, I believe the definition of a qualified public charity is set forth in the proposed legislation does qualify. So not all churches are incorporated which is a reference to 501c 3's. There's also a reference in this

ND statute as well as the tax code where churches default by public charities and I believe the vast majority of them were.

Chairman Belter: We'll need the Tax Dept to clarify this. It seems to me that there must be some real hoops that you would have to jump through, otherwise, why wouldn't every church qualify for this so that all their members can get a tax credit for their donations?

Mike Hannaher: The key to that is that it's got to go to qualified endowments. So the church wouldn't be able to spend that dollar that's given to them into their endowment. They're spending earnings on that endowed dollar. But they couldn't use it to fix the roof tomorrow. And that's the distinction between the many churches have and we have funds that help community foundations where the churches and their members have given us dollars that out of the community foundations dollars then that don't belong to the church, the fund that they open, directs that the income earned resumes to our spending policies is spent on that church every year. And so that the endowment portion has to remain there, so I don't know what the percentage would be but I believe there would be a large number of churches that don't have a qualifying endowment. But on the other hand there are churches that do have qualifying endowments.

Representative Owens: You said that it had to go to a qualified endowment. Yet the way it reads is; the charitable gift portion of planned gifts made by the taxpayer during the year to a qualified non profit organization or qualified endowment. Now we're still contributing to it.

Mike Hannaher: That's the planned gifting component of this Bill. There are two distinct portions of the Bill. In 2005, you passed planned giving credit. So planned gifts for instance by an individual and they'd say, charitable annuity. Charitable annuity which gives the individual what source of income for life but then upon his death, the proceeds go to the charity. That's a planned gift. So in 2005, the legislature passed a credit that gave an individual 20% of the value of that planned gift. Those planned gifts, we already have the legislation in place that gives it 20% of the value of the planned gift credit. As Sen. Horne said, we've only used about $19,000 dollars of credit in the two years since that Bill was passed. The change in this Bill expands the planned credit, first of all to make it up to 40% of the planned gift and extends the carry over period from 2 years to 3 years. So that's the one component. The other component that I address specifically in my remarks is a gift to a qualified endowment by a business, or corporation. The planned just go to the charities and they'll be able to spend that right away, it's not through an endowment.

Representative Owens: There was one other thing in here that maybe you can or the Tax Dept. because it's bothering me a little bit is, would deleting the part where it said a tax exempt organization under 26 US Cities, 501 c, to which contributions qualify for a federal charitable income tax and qualified non profit to just an established tax exempt organization under 501 c, which now, if I'm reading some of the IRS correctly, that would open up contributions to people like social warfare organizations which labor unions, trade associations, fraternity organizations, social clubs and my favorite yet, any political organization, or any organization and it just continues on...

Mike Hannaher: I'm not aware of any intent to change the beneficiaries off of these charitable gifts beyond the 501 c-3 public charity. And if that means in that fashion that I'm not sure is, I don't read it that way, but I'd have to read it again. I don't think that it expands here. That's not the intent anyway.

Representative Owens: I believe the way it's reading right now it does because; just referencing IRS publications, a contributions allowable, all of these organizations under 501 c, because we're not think 501 c-3. Well now we get into business leagues, Chamber of Commerce, Real Estate Boards, Labor, Agricultural, and they're not charitable organizations.

Contributions allowed are not under federal, since we don't identify that, it opens the door, it appears to me. State charter credit unions, life long benefit for us, there's a number and its two pages long and my favorite is still political organizations and labor unions. So I just need to talk to the Tax Dept. and Secretary of State to verify this.

Mike Hannaher: It certainly is not our intent.

Vice Chairman Drovdal: This planned gifts, is that strictly cash?

Mike Hannaher: You can bump a planned gift with appreciated securities. So if you buy an annuity from an insurance company, you could pay for it with appreciated securities, if it were to be sold, to buy the premium and then the insurance proceeds for the planned gift proceeds yet are attached. That's what's received by the charity.

Vice Chairman Drovdal: So therefore a corporation could give assets to the sold with the benefits of that sale going to this endowment and get a credit?

Mike Hannaher: Yes, and you asked about planned gifts. Planned gifts are the individuals making planned gifts. One of the reasons I believe that Montana did both is that businesses can't make planned gifts. Businesses can't enter into the charitable annuity and get income back. Those are for individuals and that's what the Legislature did in 2005 for planned gifts. Businesses are shut out of that because they don't make planned gifts. And planned gifts have the ability for a long term permanent business, so the idea is to give the business an opportunity to make a long term permanent difference for the charity by giving it to an endowment. So if a charity had a business owned stock in Microsoft, that had a very low basis and wanted to avoid the capital gain on the sale of that stock, they could give that to a community foundation which would in terms sell it, get the cash and that cash would remain in the charitable endowment for the benefit of the charity.

Vice Chairman Drovdal: And they would get a percentage. Would that corporation get a percentage of the total value of that stock that they sold or the original investment?

Mike Hannaher: That's the way it is on regular. They get that now. They don't get credit, they get a deduction.

Vice Chairman Drovdal: So they get a deduction and a credit if this Bill passes?

Mike Hannaher: You wouldn't get a deduction.

Kevin Dvorak, President & CEO of the North Dakota Community Foundation: (See Attachment #3)

Sen. Robert Horne: Mr. Chairman, before the next testifier comes, I have testimony that came from **Ken Kitzman of the Minot Area Community Foundation** and was unable to be here but I'd like to pass it out if I could? Thank you! **(See Attachment #4)**

Gordon Benck, Bismarck State College Foundation: What I'd like to state is the endowment said for example our college foundation does make a big difference and most of our endowments go towards scholarships. Those scholarships are something that is given out every year and long after I'm gone those scholarships are going to continue to reward and encourage students to come to our Universities, our Colleges and they do make a difference. It helps keep the cost of tuition down and does support students. On the marketing side, I've been doing farm grazing in ND for 23 years for either health care or institutions of higher education and we are a conservative state and we need an encouragement, incentive to do things like this and it does make a difference. As the tax laws have changed as Kevin indicated that the estate tax is less and less of an issue for North Dakotan's. We need other incentives for those folks to think about making a endowed gift to charities. I would encourage you to support this Bill.

Rod Backman, University of Mary: From the standpoint of the private Higher Education Institution we think it is positive. This will help to raise funds. As an accountant, I sit here and listen to testimony and I always try to put these numbers into perspective as to what your pay back might be and the tax breaks you're giving now. I would give you an example; that Higher Ed. in ND, the taxpayers giving approximately $20,000 dollars for four year higher education. In the private sector schools can raise them down with money, that's $20,000 dollars less the taxpayers are paying. Just to put it into perspective in terms of a pay back. Anytime that we could help these private institutions (can't hear).

Chairman Belter: Further testimony in Support of 2363? Any testimony in opposition to 2363? Any neutral testimony for 2363? Could the Tax Dept. answer some questions? As far as these charitable trusts and all these things that, they are all have to qualify under IRS rules? I mean that's the ones who make the rules?

Donnita Wald: Yes that is correct.

Chairman Belter: What can constitute, I mean if Rep. Brandenburg and I were to set up some type of charitable trusts to make sure that hog houses weren't built in ND. Could some type of Activist group set up a trust and get it to qualify under Higher Ed. Schools and we'd subsidizing groups like that?

Donnita Wald: With respect to whether you qualify for 501 c organizations. I doubt it, they look at those things.

Chairman Belter: I mean like for instance, the Humane Society. Do they qualify under some of these IRS rules?

Donnita Wald: Yes, 501-c.

Chairman Belter: So contributions to them would qualify under this Bill?

Donnita Wald: If the Humane Society had an endowment, they would. It has to be a planned gift and it has to be put into an endowment before that contribution will qualify.

Representative Owens: Just in answering the Chairman's question, you said 501 3-c. This Bill doesn't address c-3, it just addresses "c", which could be 501 c-7; social and recreational clubs according to the IRS is a Country Club. If they wanted to establish an endowment for the Country club for a membership, then that would be deductible.

Donnita Wald: That's correct. There are a number of different types of entities.

Representive Vig: This Bill would be mostly for North Dakotan's or North Dakota based?

Donnita Wald: If you look on page 4 of the Bill, lines 1-3. That organization has to have an established business presence or situs in North Dakota.

Sen. Robert Horne: In my understanding when we wrote this Bill and my advisors are over here on the side that are in this profession, and I'm an amateur trying to help stimulate what they're doing to help our communities. I thought we had a 501 c-3 designation in here, and I believe that was our goal. So if you're in favor of this and think it's a good idea, I would certainly be acceptive to amendments being added to this to correct this 501 c-3 as listed on page 4 of the Bill, line 2. And I hope this will answer some of the concerns that you've expressed around the table this morning.

Chairman Belter: Any more discussion? We will close the hearing on SB 2363.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2363 B

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2007

Recorder Job Number: 4413

Committee Clerk Signature Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on 2363 and asked Rep. Owens if he had amendments.

Representative Owens: (See attachment #1) Just to let everyone know as you're aware during the hearing I had a little problem with the way paragraph D, lines 1-3 were worded on page 4. If you read the federal tax law and by definition of what they had lined through on lines 1 and 2 on page 3, it opened the door to a number of organizations that could set up these trusts. So all the amendment does is add in, we could have done this one of two ways; we could've amended line 2 after 501 (c), we could've just simply put in parenthesis, add parenthesis- 3 -close parenthesis, that would have locked it down. Or, because there is just a couple that are outside (c) 3 that qualify for tax deductions that we were acknowledging before under existing law or that we are now or if we just simply add in this to which contributions qualify for federal charitable income tax deduction. And that limits it to mostly (c) 3, as a matter of fact, something like 90% (c) 3. And it does rely on income tax, labor unions, country clubs, fraternity organizations, those don't qualify if we add this. If we don't add this, they can put up a trust and you can have and they can give scholarships for country club, which may not be a bad idea. So this amendment inserts that language back in here to limit it again. That's all this amendment does.

Representative Owens: I would move the amendments, 0401.

Representative Froseth: Second it.

Chairman Belter: Is there any discussion? If not all of those in favor of the proposed amendments signify by saying aye. The motion carries. We will hold this Bill yet. We'll close the hearing on HB 2363.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2363 C

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4926

Committee Clerk Signature Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 2363. This is Senator Horne's planned gift Bill.

Representative Owens: We discussed these amendments on the 501 c. didn't we? I don't remember if we moved those amendments or not.

Representative Headland: We passed the amendment.

Representative Owens: And I have one little small amendment just to close a minor loophole. On page 2, line 23; following the word qualified, insert; "non profit organization or qualified ", and then the word endowment. That's the language that's already on line 17, page 1.

Representative Headland: Is this just a correction in the language or does it actually have an impact on the Bill?

Representative Owens: It has a small impact in that it deals with prohibiting assignment of annuities. While we talk about in the first part of the Bill that we talk about the assignment of the annuities and describing what a planned gift is to both qualify a non profit organizations or qualified endowments, when we get over there, all of a sudden we've left out non profit organizations. So now we've changed in the middle of the Bill we've changed the meaning of the Bill. So that's just to correct that so that we don't have that problem. If you neglect to prohibit the assignment of the planned gift to non profit organizations, then it get's into some tax area's where, cause the whole idea behind the planned gift and endowment is, after you're dead, so you could actually take the tax credit and then benefit from the income while you're still alive. That's not what we want to do.

Chairman Belter: Taking advantage after you're dead?

Representative Owens: No, before you're dead, but we didn't want to do that. I guess we could leave it. I guarantee you; some folks will figure it out and find it.

Representative Froseth: The maximum credit that can be offered under this Bill is $30,000 dollars, is that right? The maximum credit allowed in a taxable year is $10,000 dollars and that's a three year limitation. You could claim that $30,000 dollar tax credit over 3 years under this Bill.

Representative Owens: $10,000 dollars over 3 years. **I would move that motion for the amendments.**

Chairman Belter: I'll accept the motion for the amendments but we're not going to act on this today.

Representative Froseth: Second it.

Chairman Belter: Is there any discussion? If not, all those in favor of the amendments signify by saying aye. The motion carries. Didn't we have some other amendments on this also?

Representative Owens: Yes, that was to restrict the 501 c.

Chairman Belter: We'll close the hearing on HB 2363.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2363 D

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4968

Committee Clerk Signature Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on SB 2363.

Chairman Belter: Ok, we've adopted amendments according to my record here. We adopted two amendments.

Representative Owens: Yes the 501c, limiting it to the federally charitable organizations. The second one adds the definition of non profit organizations to line 23, page 2.

Representative Grande: He only passed out one set of amendments, but the other one we did verbally.

Chairman Belter: Ok, so what are your wishes on this?

Representative Owens: I'll move a Do Pass as Amended.

Representative Pinkerton: Second it.

Chairman Belter: Is there any discussion? If not, will the clerk read the roll; **8-y; 6-n; 0-absent; Rep. Owens will carry the Bill.** We will close the hearing on SB 2363.

SB 2363
3-6-07 AM

#1

70534.0401
Title.

Prepared by the Legislative Council staff for
Representative Owens
March 1, 2007

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2363

Page 4, line 2, after "501(c)" insert "to which contributions qualify for federal charitable income tax deductions"

Renumber accordingly

70534.0402
Title.0500

Adopted by the Finance and Taxation Committee
March 1, 2007

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2363

Page 2, line 23, after "qualified" insert "nonprofit organization or qualified"

Page 4, line 2, after "501(c)" insert "to which contributions qualify for federal charitable income tax deductions"

Renumber accordingly

Date: 3-13-07
Roll Call Vote #: 2363

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Finance & Tax Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended

Motion Made By Rep. Owens Seconded By Rep. Pinkerton

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter		✓	Rep. Froelich	✓	
Vice Chairman Drovdal		✓	Rep. Kelsh	✓	
Rep. Brandenburg		✓	Rep. Pinkerton	✓	
Rep. Froseth		✓	Rep. Schmidt	✓	
Rep. Grande		✓	Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham		✓			

Total (Yes) 8 No 6

Absent 0

Floor Assignment ~~Rep. Pinkerton~~ Rep Owens

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

REPORT OF STANDING COMMITTEE

SB 2363, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2363 was placed on the Sixth order on the calendar.

Page 2, line 23, after "qualified" insert "nonprofit organization or qualified"

Page 4, line 2, after "501(c)" insert "to which contributions qualify for federal charitable income tax deductions"

Renumber accordingly

2007 TESTIMONY

SB 2363

FARGO-MOORHEAD AREA FOUNDATION

February 12, 2007

To: Sen. Herbert Urlacher, Chairman, and the members of the North Dakota State Senate Committee on Finance and Taxation

Re: SB 2363

Attached please find an outline of my testimony in support of the above-referenced bill regarding income tax credits for planned gifts and endowment gifts to North Dakota nonprofit organizations.

I appreciate being given the opportunity to speak to you about this splendid proposal.

Very truly yours,

Michael J. Hannaher
Director of Development
mike@areafoundation.org

502 First Ave. N., #202, Fargo, ND 58102-4804
Phone: 701-234-0756 • Fax: 701-234-9724 • E-Mail: office@areafoundation.org
www.areafoundation.org

MICHAEL J. HANNAHER TESTIMONY - FEBRUARY 12, 2007

I submit this testimony in support of SB2363, and to specifically supplement the testimony and comments of Senator Robert Horne and those of Kevin Dvorak of the North Dakota Community Foundation.

The focus of my testimony, and one of the primary goals of this bill, is to promote endowment.

ENDOWMENT: A HOT TOPIC TODAY

1. To the best of my knowledge, only four other states offer any sort of charitable income tax credit. There is considerable interest in the charitable and foundation world about state tax credits for endowed gifts.
2. The Fargo-Moorhead Area Foundation sponsored two seminars last fall about charitable tax tools, including North Dakota's credit for planned gifts. Over one hundred North Dakota nonprofit representatives and professional advisors attended these seminars. There was particularly strong interest in the North Dakota credit and how to use it. There was also considerable discussion about endowment and how it impacts rural North Dakota.
3. Bill and Melinda Gates and Warren Buffet. The publicity and interest generated by their charitable endowment activities in 2006 has been unprecedented.
4. Endowed charitable funds by businesses are a new and important way for businesses to make a difference in their communities.

THE POWER OF ENDOWMENT

Does endowment work? Consider this example: One of the oldest funds we have at the Fargo-Moorhead Area Foundation was started by a Fargo couple with bequests from their wills, one in the 1960's, another in the 1970's. These bequests amounted to $450,000. Over the years the principal amount of this fund has been invested and re-invested, and the income distributed for scholarships. Today the fund is valued at over $1.7 million, and a like amount of approximately $1.7 million has been distributed from the fund for scholarships for hundreds of students. Does endowment work? Yes.

THE POTENTIAL OF ENDOWMENT

By encouraging endowed gifts with this tax credit I believe you are truly looking at positive outcomes for everyone. The tax credit may reduce income tax revenue; however the resulting benefits to nonprofits and the nonprofit constituencies would most certainly benefit the state in the long term.

Nonprofits that do not have endowments would be encouraged to start planning for the future by starting endowments. Arguably this could result in less dependence on other revenue sources such as local tax dollars or charitable gaming.

Communities with access to substantial reserves of charitable capital are demonstrably better off than those without. Our job at the community foundation is to see that some of the net worth of each generation is set aside for future needs, and I submit that is a worthy goal for state government as well. By providing for this tax credit for endowed gifts the State of North Dakota is telling its citizens, its schools and colleges, it churches and charities, and indeed we're telling the rest of this nation, that perpetual charitable capital is important to us.

Thank you.

Addendum regarding the definition of "Qualified Endowment"

The language in the proposed bill defining "qualified endowment" is taken directly from the Montana statute. Apparently there have been no issues in Montana with that definition, but I will raise one concern.

The bill defines a qualified endowment as a permanent irrevocable fund, which in turn is defined as a fund comprising assets which are "invested for the production or growth of income, or both, which may either be added to principal or expended." (proposed NDCC 57-38-01.21 (1)(a)).

While the word irrevocable is used, it seems to me that the principal of such an irrevocable fund could in fact be invaded so long as a portion of the principal remained.

Again, Montana apparently has had no issues with this, so it may be an imaginary issue that is of no concern. However, I would submit the following language as an alternative:

> ***"Qualified endowment" means a permanent, irrevocable fund that is held by:***
>
> ***i. A Qualified Nonprofit Organization as that term is defined in NDCC 57-38-01-21 (1b); or***
>
> ***ii. Is a bank, trust company or financial institution that is holding the fund on behalf of a North Dakota Qualified Nonprofit Organization which is tax-exempt under 26 U.S.C. 501(c)(3);***
>
> ***And which fund, by irrevocable terms set forth in the fund, receives principal gifts and bequests that are accepted subject to a requirement that the principal be perpetually maintained intact and invested to create a source of income for the tax exempt organization.***

February 12, 2007

SENATE FINANCE & TAXATION COMMITTEE SB 2363

SENATOR URLACHER AND COMMITTEE MEMBERS:

My name is Caitlin McDonald. I am appearing today on behalf of the YMCAs of North Dakota. We strongly support SB 2315 and urge your favorable consideration.

Your committee last session gave a do pass to SB 2391 that encourages North Dakotans to contribute to local nonprofit organizations such as their local YMCA as well as other groups. It is now law and it is working very well for North Dakota based charitable organizations.

This legislation just expands a bit on what you did in 2005 by making contributions to North Dakota qualified endowments also eligible for this tax credit. It also refines some of the definitions used in the original legislation.

I'm not an attorney or an accountant, so I will leave the specific explanations to others who are testifying. We believe this will encourage more local rather than national donations and so respectfully urge a DO PASS.

If you have any questions, I'd be glad to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION

MEMO

To: Chairman Senator Herbert Urlacher, and
Members of Senate Finance & Taxation Committee

From: Steven Schons
The Village Family Service Center

Date: February 12, 2007

Subject: Senate Bill 2363

My name is Steve Schons and I am the Director of Planned Giving for The Village Family Service Center. As many of you know, The Village Family Service Center is headquartered in Fargo with offices in Bismarck, Grand Forks, Minot, Jamestown and Devil's Lake. In 1891, the Village was established to "serve as" as a friend and protector of homeless, neglected and destitute children throughout North Dakota. Today, the Village continues its mission of improving the lives of children and families by providing programs such as the Big Brother Big Sister, Adoption, Intensive In-home Counseling, Family Group Decision Making, Counseling services for individuals, children and families, Nokomis Daycare, and The Village Business Institute. Last year, the Village provided services to over 67,000 individuals.

I stand before you today in strong support of Senate Bill 2363. During the 1950's, the board leadership at The Village established a foundation to provide "another" avenue for North Dakota residents to express their generosity to The Village. Over the years, the Village has received a number of planned gifts, in support of the foundation, to support the services offered at the Village. Since approximately 30% of our annual revenues must come from charitable contributions, the revenue stream from our foundation is critical to keep services available and viable.

It is my belief that SB 2363 will provide an opportunity to strengthen foundations and endowments of North Dakota non-profits, and allow them to continue to provide essential services to the citizens of ND such as the Village provides.

I further believe that SB 2363 will encourage more North Dakota non-profit organizations to establish a foundation or an endowed fund to strengthen their fiscal position, making them more viable and able to continue their necessary mission.

I also believe that SB 2363 will strongly encourage North Dakota residents to express their philanthropic spirit to North Dakota based non-profit organizations; hence, North Dakota dollars will stay in North Dakota.

Thank you for listening to my testimony.

Steve Schons
Director of Planned Giving
The Village Family Service Center
1201 25th St. South
Fargo, ND 58103
1-701-451-4955
sschons@thevillagefamily.org

Ken Kitzman, Minot Area Community Foundation: Testimony: SB 2363 - 02/12/07

Chairman Urlacher and Members of the State Senate Committee on Finance & Taxation.

Good Morning. My name is Ken Kitzman, President of the Minot Area Community Foundation. I appear today to speak in favor of SB 2363.

Since we are a relatively new in the Minot area, I'm often asked "what is a community foundation"? The easiest answer is simply we act as a "chamber of commerce" for giving. We are facilitators who link charitable donors to area community needs. We represent all area non-profit organizations and partner with them to create a better quality of life for all our citizens. One of our core beliefs is that every gift to our area is substantial, large or small, whether to us or any other non-profit, we all benefit.

I would like to again reiterate a couple of key points of Senator Horne's testimony. In the past we've viewed the out migration of our states youth as a lost opportunity of our future workforce. Our Community Foundation was the one that did the Intergenerational Wealth Transfer Study and then a follow-up survey of local estate planning professionals and trust departments. The amount of transferred wealth and percent leaving our area, Ward County, was an "eye-opener" for our organization and our community leadership. In short this out-of-state transfer of capital has had a significant negative impact on every community in North Dakota.

Although Americans are the most generous society in the world, less than one percent of all wills leave provisions for supporting non-profit organizations.

As the area's center for community giving, we have now taken a leadership role in promoting "giving something back" and encourage those individuals who wish to invest in our communities the opportunity to do so. This is somewhat of a daunting task given the small percentage of individuals who give through their estate plan.

We've approached this process by utilizing local estate planning professionals as ambassadors to introduce and promote the idea of leaving a small portion of their estate to organizations they supported during their lifetime. This bill will give professionals a tool to approach the concept of giving with their clients and individuals an incentive to support their communities.

If we can capture just a fraction of this transfer of capital, we can create a long term source of funds and improve the quality of life for every citizen in our state.

Senate Bill 2363 will have a significant impact on every community and area in North Dakota.

Thank you for your consideration and support.

Senator Robert Horne
Testimony on SB 2363 Feb. 12, 2007

Mr. Chairman and members of the committee.
For the record, my name is Robert Horne, Senator representing District 3, which includes the east side of Minot and several adjacent townships in Ward County.

SB 2363 will amend section 57-38-01.21 of the North Dakota Century Code, relating to an individual or corporate income tax credit for planned gifts to nonprofit organizations and contributions and to qualified endowments held by nonprofit organizations.

Mr. chairman, my goal is to stimulate giving by individuals to qualified nonprofit organizations or endowments and by corporations/businesses to foundations by offering an income tax credit of up to $10,000 per year per individual ($20,000 for a married couple filing a joint return) and up to $10,000 per year per corporation.

SB 2363 would allow a corporation a credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The credit may not exceed the corporate taxpayer's income tax liability.

Likewise, an individual's tax credit may equal up to forty percent of the present value of the aggregate amount of the charitable gift portion of the planned gifts made by the taxpayer during the year. The credit cannot exceed the taxpayer's income tax liability.

This bill is patterned after Montana law which has proven very successful in stimulating giving to foundations and endowments. My goal is to stimulate the creation of community foundations and other foundations which will provide long term stability and help for both communities and the non profit organizations they are designed to support.

The legislature began this process in the 2005 session with SB 2391, which limited the individual tax credit to $5,000, or on planned gifts up to $25,000, but did not allow tax credits for corporations.

It did allow unused tax credits to be carried forward for two years, which this bill does not, but a proposed amendment would extend the carry over to three years. As of December 31, 2006, only 15 taxpayers used the law to gain $19,349 dollars in credit.

In Montana, since enacted in 1997, the tax credit has stimulated private giving of over $100 million in permanent wealth built to stabilize charities. $10 million was donated to the Montana Community Fund.

Giving to universities is included in the total, as are gifts to museums, church foundations, the Girl Scout Foundation, community foundations and others. This bill stimulated the formation of foundations to support communities and worthy charitable organizations.

This is the time to seize the moment to encourage giving. America's "Greatest Generation" and their descendents, like you and I, are poised to transfer the greatest amount of wealth in history to the next generation.

Research says that in North Dakota alone, the estimated transfer will be in excess of $94 billion, as shown on the handout. US wealth transfer could be over $41 trillion.

In my county of Ward, up to $8.6 billion may be transferred. Up to 75 per cent of estate checks are issued out of state, according to local attorneys and trust officers.

If Ward County could capture only 2%, or $172 million of that $8.6 billion dollars, the return at 5% would be $8.6 million - - - EVERY YEAR!

Think what could be accomplished for the communities and organizations. Think how better would be our quality of life. Think of the potential to attract new folks and retain our youth.

The fiscal impact is difficult to predict. If this is a major concern, we could esblish a cap for the first four years to minimize the impact. Montana has no cap and has averaged about $1.75 million in credits allowed per year over the last few years.

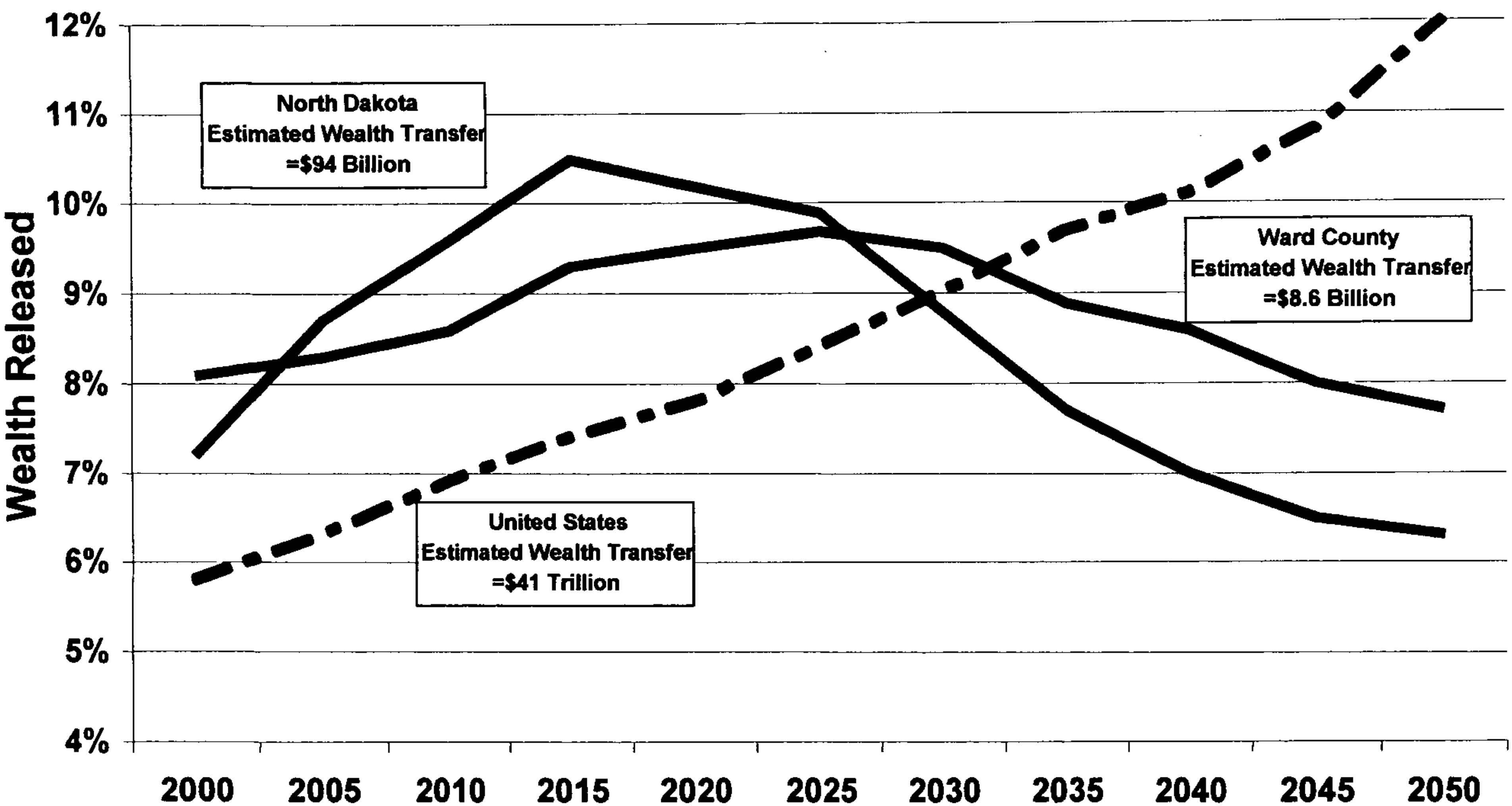
I am also suggesting two amendments. The longest looks complicated but does two things: first, it will include S corporations and estates/trusts in the corporate organizations eligible for tax credits; also, it will extend the tax credit carry-over to three years.

The second amendment will make uniform the goal that corporations and businesses can receive a tax credit only for donating to foundations, not to eligible charitable organizations. Again, the goal is to stimulate foundations and provide for their long term stability.

Mr. Chairman and members of the committee, this concludes my remarks. I would be willing to answer questions. In addition, Mary Loftsgard and Donita Wald of the ND Tax Department are here to respond to technical tax questions.

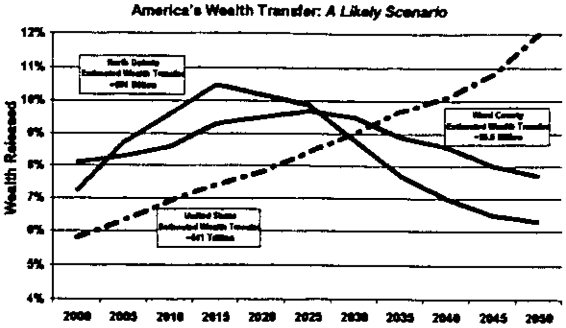
Why Now

America's Wealth Transfer: *A Likely Scenario*



Why Now

America's Wealth Transfer: *A Likely Scenario*



Magnitude & Urgency

Out Migration of Children

Local study of Attorneys & Trust Officers reveal that,

75%

of checks are issued out of state.

center for community giving

But what if . . .

- **Ward County = 8.6 Billion**
- **2% Capture = 172 Million**
- **5% Annual Payout = 8.6 Million**

EVERY YEAR

center for community giving

SB 2363-A
#1 2-28-07 am

Senator Robert Horne
Testimony on SB 2363 HOUSE Feb. 28, 2007

Chairman Belter and members of the committee.
For the record, my name is Robert Horne, Senator representing District 3, which includes the east side of Minot and several adjacent townships in Ward County.

SB 2363 will amend section 57-38-01.21 of the North Dakota Century Code, relating to an individual or corporate income tax credit for planned gifts to nonprofit organizations and contributions and to qualified endowments held by nonprofit organizations.

Mr. chairman, my goal is to stimulate giving by individuals to qualified nonprofit organizations or endowments and by corporations/businesses to foundations by offering an income tax credit of up to $10,000 per year per individual ($20,000 for a married couple filing a joint return) and up to $10,000 per year per corporation.

SB 2363 would allow a corporation a credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The credit may not exceed the corporate taxpayer's income tax liability.

Likewise, an individual's tax credit may equal up to forty percent of the present value of the aggregate amount of the charitable gift portion of the planned gifts made by the taxpayer during the year. The credit cannot exceed the taxpayer's income tax liability.

This bill is patterned after Montana law which has proven very successful in stimulating giving to foundations and endowments. My goal is to stimulate the creation of community foundations and other foundations which will provide long term stability and help for both communities and the non profit organizations they are designed to support.

The legislature began this process in the 2005 session with SB 2391, which limited the individual tax credit to $5,000, or on planned gifts up to $25,000, but did not allow tax credits for corporations.

It did allow unused tax credits to be carried forward for two years; this bill would extend the carry over to three years. As of December 31, 2006, only 15 taxpayers used the law to gain $19,349 dollars in credit in North Dakota.

In Montana, since enacted in 1997, the tax credit has stimulated private giving of over $100 million in permanent wealth built to stabilize charities. $10 million was donated to the Montana Community Fund.

Giving to universities is included in the total, as are gifts to museums, church foundations, the Girl Scout Foundation, community foundations and others. This bill stimulated the formation of foundations to support communities and worthy charitable organizations.

This is the time to seize the moment to encourage giving. America's "Greatest Generation" and their descendents, like you and I, are poised to transfer the largest amount of wealth in history to the next generation.

6.41 Research says that in North Dakota alone, the estimated transfer will be in excess of $94 billion, as shown on the handout. US wealth transfer could be over $41 trillion.

In my county of Ward, up to $8.6 billion may be transferred. Up to 75 per cent of estate checks are issued out of state, according to local attorneys and trust officers.

If Ward County could capture only 2%, or $172 million of that $8.6 billion dollars, the return at 5% would be $8.6 million - - - EVERY YEAR!

Think what could be accomplished for the communities and organizations. Think how better would be our quality of life. Think of the potential to attract new folks and retain our youth.

The fiscal impact is difficult to predict. If this is a major concern, we could esblish a cap for the first four years to minimize the impact. Montana has no cap and has averaged about $1.75 million in credits allowed per year.

Mr. Chairman and members of the committee, this concludes my remarks. I would be willing to answer questions. ND Tax Department experts are here to respond to technical tax questions.

MICHAEL J. HANNAHER TESTIMONY - FEBRUARY 28, 2007

I submit this testimony in support of SB2363.

This Bill has two major components. The first is expanding the tax credit for charitable planned gifts. North Dakota first enacted this credit in 2005. The Tax Department reports that taxpayers have not used this credit in any significant way, and hopefully expanding it will help promote charitable giving. The second component of this Bill is to provide a tax credit for businesses that make gifts to qualified charitable endowments.

I would like to focus my testimony on charitable endowment and how important it is for North Dakota.

ENDOWMENT: A HOT TOPIC TODAY

1. To the best of my knowledge, only four other states offer any sort of charitable income tax credit. There is considerable interest in the charitable and foundation world about state tax credits for endowed gifts.
2. The Fargo-Moorhead Area Foundation sponsored two seminars last fall about charitable tax tools, including North Dakota's credit for planned gifts. Over one hundred North Dakota nonprofit representatives and professional advisors attended these seminars. There was particularly strong interest in the North Dakota credit and how to use it. There was also considerable discussion about endowment and how it impacts rural North Dakota.
3. Bill and Melinda Gates and Warren Buffet. The publicity and interest generated by their charitable endowment activities in 2006 has been unprecedented. There was a lengthy article in *USA Today* this week about the Gates/Buffet effect.
4. Endowed charitable funds by businesses are a new and important way for businesses to make a difference in their communities. Community Foundations, and in particular the community foundation where I work, are working very hard to promote charitable business endowed funds, and this credit can only help to invigorate these charitable efforts.

THE POWER OF ENDOWMENT

Does endowment work? Consider this example: One of the oldest funds we have at the Fargo-Moorhead Area Foundation was started by a Fargo couple with bequests from their wills, one in the 1960's, another in the 1970's. These bequests amounted to $450,000. Over the years the principal amount of this fund has been invested and re-invested, and the income distributed for scholarships. Today the fund is valued at over $1.7 million, and a like amount of approximately $1.7 million has been distributed from the fund for scholarships for hundreds of students. Does endowment work? Yes.

As others will testify, there is an incredible transfer of wealth about to occur in this country and in the State of North Dakota. As we talk to this new generation of donors, community foundations can use this tax credit as an additional tool to promote the power of endowment here in North Dakota - to keep the wealth here.

THE POTENTIAL OF ENDOWMENT

By encouraging endowed gifts with this tax credit I believe you are truly looking at positive outcomes for everyone. The tax credit may reduce income tax revenue; however the resulting benefits to nonprofits and the nonprofit constituencies would most certainly benefit the state in the long term.

Nonprofits that do not have endowments would be encouraged to start planning for the future by starting endowments. Arguably this could result in less dependence on other revenue sources such as local tax dollars or charitable gaming.

Communities with access to substantial reserves of charitable capital are demonstrably better off than those without. Our job at the community foundation is to see that some of the net worth of each generation is set aside for future needs, and I submit that is a worthy goal for state government as well. By providing for this tax credit for endowed gifts the State of North Dakota is telling its citizens, its schools and colleges, it churches and charities, and indeed we're telling the rest of this nation, that perpetual charitable capital is important to us.

Thank you.

#3 SB 2363-A
2-28-07 AM

Kevin J. Dvorak,
President & CEO
North Dakota Community Foundation

Testimony on SB 2363

Chairman and members of the committee:

For the record, my name is Kevin Dvorak, President & CEO of the North Dakota Community Foundation, a statewide public charitable foundation. The North Dakota Community Foundation has distributed over $37 million in grants since its inception in 1977. Assets have grown to over $33,000,000 as of December 31, 2006. Each year, as we grow, our contributions also increase. In 2006, we gave over $1.2 million in gifts to North Dakota Charitable organizations.

The concept behind the start-up of the North Dakota Community Foundation was to capture money that was leaving North Dakota and put it to work making North Dakota a better place. Senator Horne talked about the transfer of wealth that is taking place as we speak. He also stated that 75% of that money is leaving North Dakota for places like Denver, Minneapolis, Phoenix, or wherever heirs might reside. Also, national charities, tv evangelists and others take a substantial bite out of the North Dakota charitable pie each and every year.

This bill and its suggested amendments will give North Dakotans and North Dakota businesses added incentives to give to North Dakota charities. We trust that you will agree that keeping more of that huge wealth transfer in our State is a worthy undertaking. Passage of this Bill will allow the North Dakota Community Foundation and other North Dakota charities to make our state a better place. SB 2363 will assist our churches, schools, universities, community foundations, abuse centers, hospitals, and other community charitable programs.

Since the increase in exemption amounts for the estate tax, we have noticed a falloff among some financial advisors to recommend charitable bequests. The donors respond positively as always to suggestions of charitable gifts in their estates. However, some estate planners are so focused on taxes that unless the estate now exceeds $2million and is subject to estate tax, they less often mention charitable giving. SB 2363 will help us to motivate those tax and estate advisors to recommend charitable gifts. Once recommended, many donors are pleased to include charity in their estate and financial plans.

Please vote to pass SB2363. It will give North Dakota's charities a very powerful tool to set us apart from outside interests and allow us to market our organizations to those who can help.

Thank you.

Kevin J. Dvorak
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#4 SB 2363-H
2-28-07 am

Ken Kitzman, Minot Area Community Foundation: Testimony: SB 2363 - 02/28/07

Chairman Belter and Members of the House Committee on Finance & Taxation.

I apologize for not being able to appear in person today, please accept this written testimony as our organizations support of SB 2363.

As a community foundation, we represent all non-profits in our area to improve the quality of life of all our citizens. We are "giving" facilitators who link charitable donors to area community needs. One of our core beliefs is that every gift to our area is substantial, large or small, whether to us or any other non-profit, ultimately we all benefit. This is true for the entire state of North Dakota.

I would like to focus on a couple of key points of Senator Horne's testimony. In the past we've viewed the out migration of our states population as a lost opportunity for our youth and future workforce. Our Community Foundation conducted the Intergenerational Wealth Transfer Study for our area to determine other options of funding to address the issue of poverty. After that study, MACF conducted a follow-up survey of local estate planning professionals and trust departments. The amount of transferred wealth, 8.6 billion dollars for Ward County, and 75 percent of probate and trust checks issued to those outside our area, was an truly an "eye-opener" for our organization and our community leadership. In short this out-of-state transfer of capital has had a significant negative impact on every community in North Dakota.

Although Americans are the most generous society in the world, less than one percent of all wills leave provisions for supporting non-profit organizations.

MINOT AREA COMMUNITY FOUNDATION
center for community giving

As the area's center for community giving, we have now taken a leadership role in promoting "giving something back" and encourage those individuals who wish to invest in our communities the opportunity to do so. This is somewhat of a daunting task given the small percentage of individuals who give through their estate plan.

We've approached this process by partnering with local estate planning professionals as "giving" ambassadors to introduce and promote the idea of encouraging their clients to leave a small portion of their estate to organizations they have supported during their lifetime. We have found that these professionals are often un-easy about suggesting "community giving". This bill will give professionals another tool to approach the concept of giving with their clients and individuals an incentive to support their communities.

If we can capture just a fraction of this transfer of capital, we can create a long term source of funds and improve the quality of life for every citizen in our state.

And finally, as we speak about the impact of this bill, we often measure its impact in dollars. It's more important to remember that the ultimate impact of this bill is measured in the lives and faces of our people; youth, elderly, disabled, disadvantaged. This bill encourages those who care to share their blessings with others, to make to make a true difference now and in the future. Senate Bill 2363 is an investment which will provide an alternate source of funding to make a difference to those thousands of faces in our communities and our state.

Senate Bill 2363 will have a significant impact on every community and every citizen in North Dakota.

Thank you for your consideration and support. We encourage you to vote, do pass.