

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/09/2015**

Bill/Resolution No.: SB 2158

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2158 changes the individual income tax law governing the tax credit for gifts made to a North Dakota qualified endowment fund. It will create an exception to the application of the \$5,000 minimum contribution requirement in the case of endowments benefiting institutions of higher education.

- 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.*

To qualify for the credit with respect to a qualified endowment fund, current law requires an individual to contribute at least \$5,000 to that fund during the tax year. SB 2158 will allow contributions made to two or more qualified endowment funds to be combined for purposes of satisfying the \$5,000 minimum contribution requirement, provided all of the funds are under the control of a single nonprofit organization established and operated for the benefit of a North Dakota institution of higher education, its staff, faculty, and students.

If enacted, SB 2158 may reduce state general revenues for the 2015-17 biennium. The amount of the reduction cannot be determined because the potential amount of new or existing contributions benefiting from this change is unknown.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/18/2015

**2015 SENATE FINANCE AND TAXATION**

**SB 2158**

## 2015 SENATE STANDING COMMITTEE MINUTES

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

SB2158

1/20/2015

Recording job number 22181

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

*Wesley E. Perez*

#### Explanation or reason for introduction of bill/resolution:

Relating to aggregation of contributions for purposes of the income tax credit for charitable gifts if those gifts are made to qualified endowments under the control of a nonprofit corporation established and operated for the benefit an institution of higher education in this state, its staff, its faculty, or its students; and to provide an effective date.

#### Minutes:

Attachments: #1

**Chairman Cook** opened the hearing on SB2158. Senator Laffen is out of town, we have Laura Block.

**Laura Block**, University of North Dakota Foundation, Chief Financial Officer, and Planned Giving Specialist: I am here to introduce SB2158; it amends one piece of a rule concerning the North Dakota Endowment Tax Credit. The ND Endowment Tax Credit has been successful from a philanthropic standpoint. Joel Becker briefs me on the number of tax returns that are being filed and are claiming this tax credit. Since 2007, when it was enacted, it has more than tripled. In 2013 it was over \$5 million in tax credits. This bill would take a rule that dealt with having a minimum endowment of \$5,000 and apply an aggregation rule to the contributions. UND has many institutionally related foundations. Donors who give for their college tends to give to a multitude of causes. They sometimes are partnered, where one spouse could be in nursing, one in accounting and when they give they may want to benefit more than one area at an institution. This bill allows, for aggregation purposes, that minimum of \$5,000 to apply to a gift, half of it could go to a nursing scholarship half of it for an accounting scholarship but it would still be a \$5,000 contribution to UND. In the past the interpretation of the rule was that you have to give \$5000 to a particular fund, not to the charity. This bill would clarify just for the rule of aggregation.

**Senator Oehlke**: Where would the \$5,000 come from, would it be beneficial to your organization, or other charitable organization, if it was \$1000, \$500 for matching purposes?

**Laura Block**: Most charities have a minimum amount of an endowment. An endowment is a perpetual fund, it gets invested and there is a percentage payout. If the amount of an endowment is too small the payout will not be meaningful. At the UND Foundation, and a lot of nonprofits, you'll find that a minimum singular endowment is \$25,000. Many times that is for a named fund that meets those particular criteria. Many nonprofits, like Lake Region,

will have a combined scholarship fund, so making a contribution in a smaller amount would not be as meaningful. It is probably a mixed bag, and a mixed answer that in a consolidated account a \$1000 could be meaningful. In a singular endowment fund you have to get some economies of size or scale to make it meaningful.

**Senator Connie Triplett:** I assume there will be additional accounting requirements and such that would make it burdensome at some point for an institution to have too many small and unmeaningful accounts

**Laura Block:** There is the administrative burden as well. I believe \$5,000 was thought of as a meaningful amount. We generally see that donors pledge \$5000/yr. for 5 years to get to \$25,000 and try to have an account that would be named in their own name for a particular purpose they are passionate about, i.e. engineering you would find the "Laura Block Civil Engineering Scholarship" so \$5,000 would be a very popular amount. At Lake Region we see more combined scholarship accounts where there is a pot of money that benefits a number of students. At UND we have over 1,400 endowments. We are quite a large shop with some CPAs involved and we are able to administer that but not every nonprofit would have the same infrastructure.

**Senator Jim Dotzenrod:** This is a good tool to provide a way to encourage donors to donate. There is some interest in reducing our income tax rates. If we lower, or eliminate, the income tax do you have a backup plan to make this work? Would it be the end of charitable contributions incentive?

**Laura Block:** We have a lot of tools for philanthropy. Not all of our donors are from ND, less than half of the donations to the UND come from ND. We have used the ND Challenge Match Grant, UND was allotted \$10 million if we could attract \$20million of investments. That was one tool we created thru donations matches. Philanthropists are very much into leverage, it can be in the form of a charitable tax donation. We find that \$5,000 is a magical number because at 49% tax credit that is about \$2,000. A lot of north Dakotans don't have a large tax bill because our rates are so efficient compared to other states. The ND Challenge Match Grant we have used up, we are looking in the biennium to hopefully reestablish it and create matches where a donor may say here is money you can use for whatever you want and we say to other donors if you would give money we'll use some of this other donor money and in fact leverage your money. We try to use leverage every way we can. Many philanthropists are driven by this kind of tactics and without them may gravitate to other kind of causes. **(Attachment #1)**

**Murray Sagzven,** Chief of Staff University System Office: I have worked with the foundations that support the UND system at the eleven institutions. It is my observation that a combination of the Challenge Grant Program, that had reached \$29 million into \$87million the past biennium, plus this program which allows the tax credit for \$5,000 and a few other tools you are giving the foundations a tool to better support higher education. The Board supports this bill

Being there no additional testimony **Chairman Cook** closed the hearing.

Senator Triplett moved for a do pass.

Senator Unruh seconded.

No Discussion

Roll call vote 5-0-2.

Carrier Senator Laffen

Date: 1/20/2015

Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL NO 2158**

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Senator Triplett Seconded By Senator Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	x		Senator Jim Dotzenrod	x	
Vice Chairman Lonnie Laffen	ABS		Senator Connie Triplett	x	
Senator Brad Bekkedahl	ABS				
Senator Dave Oehlke	x				
Senator Jessica Unruh	x				

Total (Yes) 5 No 0

Absent 2

Floor Assignment Senator Laffen

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

**REPORT OF STANDING COMMITTEE**

**SB 2158: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2158 was placed on the Eleventh order on the calendar.



**2015 HOUSE FINANCE AND TAXATION**

**SB 2158**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2158  
3/10/2015  
24580

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Mary Brucher*

### Explanation or reason for introduction of bill/resolution:

A bill relating to aggregation of contributions for purpose of income tax credit for charitable gifts if those gifts are made to qualified endowments under the control of nonprofit corporations established and operated for the benefit of an institution of higher education in this state, its staff, faculty, or students.

### Minutes:

Attachment #1

**Chairman Headland:** Opened hearing.

**Senator Laffen:** Introduced bill. This bill is a change to our income tax credit for donations to endowments for higher education. If you make a contribution of \$5,000 or more you get a 40% income tax credit. This bill would change it so that you can aggregate your donations within one year within that one University of North Dakota foundation; you can split your check between endowments for that one foundation and still get the 40% income tax credit.

**Chairman Headland:** We'll take testimony in support of SB 2158? Is there any opposition to SB 2158?

**Kevin Dvorak, President of the North Dakota Community Foundation and North Dakota Association of Nonprofit Organizations:** Distributed testimony in opposition. See attachment #1.

**Chairman Headland:** I would tend to agree with you that when we passed the endowment in 2011 we gave a sizeable tax credit because we were trying to encourage large donations. I believe it does weaken the endowment process and it creates an unfair advantage for the university endowments. Is there further testimony in opposition? Are there any questions for the tax department? Seeing none we will close the hearing on 2158.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2158  
3/10/2015  
24595

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Mary Brucker*

### Explanation or reason for introduction of bill/resolution:

A bill relating to aggregation of contributions for purpose of income tax credit for charitable gifts if those gifts are made to qualified endowments under the control of nonprofit corporations established and operated for the benefit of an institution of higher education in this state, its staff, faculty, or students.

### Minutes:

No attachments.

**Representative Dockter:** Made a motion for a do not pass.

**Representative Klein:** Seconded.

**Chairman Headland:** I think we all heard about the unfairness it would create in the other endowments. I agree with the do not pass.

**Roll call vote:** 14 yes 0 no 0 absent

**Representative Froseth will carry this bill.**

Date: 3-10-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2158

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Dockter Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Froseth

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

**REPORT OF STANDING COMMITTEE**

**SB 2158: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2158 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**SB 2158**

## NDLA, S FIN - Grove, Alice

82158

#1  
12015

**From:** Laura Block <LauraB@undalumni.net>  
**Sent:** Friday, January 23, 2015 11:52 AM  
**To:** Becky Greer; NDLA, S FIN - Grove, Alice  
**Subject:** testimony

Mr. Chairman and members of the committee, my name is Laura Block from UND Foundation. I am the CFO and also serve a planned gift specialist.

I wish to introduce Senate bill no 2158 relating to aggregations of contributions for the ND endowment tax credit.

If I could provide some history, the ND endowment tax credit was pass in 2011 legislative session and has been highly successfully. It has proven a terrific incentive to benefit philanthropy. We have seen substantial growth in endowments we feel are due to this positive law.

Joe Becker from the tax department provides summary of utilization when requested. Here are the most current numbers communicated:

In 2011: 239 North Dakota tax returns for 1,259,830 in credits

In 2012: 622 ND tax returns for 3,389,439 in credits

2013: 968 tax returns for 5,066,221 in credits

What an impact for the benefit of charities, for us students!

Bill 2158 clarifies and amends—that gifts to a ND charity for endowment can be aggregated for purposes of satisfying the five thousand minimum contribution.

Open for questions...

Laura Block, '81, '10 CPA CFP® | Chief Financial Officer  
P 701.777.3734 | 800.543.8764 | C 218.791.5797  
3501 University Ave Stop 8157 | Grand Forks, ND 58202



Consider UND in your estate plans!

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SB 2158  
3-10-15  
#1

Kevin J. Dvorak, President & CEO  
701-222-8349 kdvorak@ndcf.net www.ndcf.net

**Testimony – SB 2158 – March 10, 2015**

Chairman Headland and members of the Committee-I am Kevin Dvorak President and CEO of the North Dakota Community Foundation and a volunteer member of the ND Association of Nonprofit Organizations (NDANO) Public Policy Committee. I am here to testify in opposition to SB 2158.

SB2158 carves out special tax treatment for donors who give to university foundations. This is patently unfair to other nonprofits whose donors are currently treated equally/fairly under the existing law. Also, the aggregation of endowment gifts to meet the \$5,000 threshold goes against one of the main principles of the original legislation. Many small nonprofits rely on annual non-endowment gifts in the \$50 to \$2000 range to operate their organizations. If you lower that threshold for someone who supports multiple endowment funds to reach the \$5,000 threshold, they will insist that each gift be for endowment so that they can take the tax credit and those organizations will be out that operating money for that year. No one believes in endowment more strongly than I, but this is a valid concern and it was a major part of the discussion with NDANO and those crafting the original bill. This was very important to the NDANO membership at the time because most did not have endowment and were concerned that too low a threshold would severely negatively impact their ability to raise annual dollars.

Another point of the \$5000 per endowment fund gift was to make donors “stretch” their giving so that they made a meaningful gift to endowment. Building endowment at \$5000 per gift makes much more sense than building it with \$1000 per gift. The experience of my colleagues in the community foundation universe has been similar to our experience at the NDCF in that we get many, many more \$5000 gifts to endowment from donors who used to give much less. If you take that incentive away as this bill is designed to do, fewer donors will make \$5000 gifts.

To sum up, this bill carves out university foundations for special advantageous treatment which is patently unfair. Second, if passed it will reverse one of the main premises of the existing law which requires that donors who receive the tax credit “stretch” their giving to reach the \$5000 per endowment fund threshold. The original law was good policy at the time it was passed and remains good policy today. It has accomplished exactly what it promised. In the words of those who testified when the SB2158 was introduced in the Senate:

“If I could provide some history, the ND endowment tax credit was passed in the 2011 legislative session and has been highly successfully. It has proven a terrific incentive to benefit philanthropy. We have seen substantial growth in endowments which we feel are due to this positive law.”

If you pass SB2158, you will weaken the law and give an unfair advantage to gifts to university foundations. Please leave this section of the Century Code untouched for the benefit of all North Dakota’s nonprofits by defeating SB2158.