

2009 SENATE FINANCE AND TAXATION

SB 2383

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2383

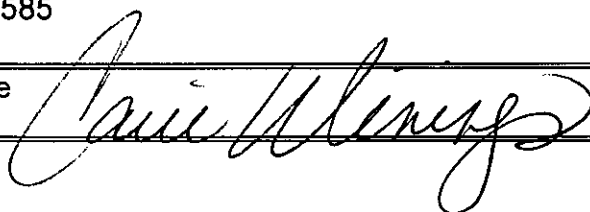
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8585

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on SB 2383.

Senator Tom Fiebiger, District 45: Testified in support and as a sponsor of SB 2383 relating to individual and corporate income tax credit for employment of individuals with disabilities; and provide an effective date. The bill is designed to provide tax credits as incentives to individuals, corporations, to not just employ people with disabilities but to increase the number of disability people that they employ. See Attachment #1 as part of testimony provided from the Department of Human Services. According to the Tax Department we may not need paragraphs 5 & 6 on page 2. I anticipate getting some amendment to this bill, shortly after working with the Tax Department to address the details.

Chairman Cook: Senator Fiebiger what you are telling us is that you have a bill here with a concept that needs work. A reminder that the clock is running.

3.12 Senator Tim Mathern, District 11: Testified in support of the bill. I believe that everyone has a need for food, clothing, shelter, education and a decent paying job. We do a fairly good job meeting the first four but we have a ways to go in making sure everyone has creative work. That is what this bill is out. Work is not only a matter of income it is a matter of creating a sense of self-worth. I urge support of this bill and amendments.

4.24 **Janelle Malpert, Executive Director, Arc of Cass County** : See Attachment #2 for testimony in support of the bill.

6.02 **Senator Hogue**: Question on attachment #1.

Janelle Malpert: That is not my testimony.

7.20 **Barbara Murry, Executive Director, North Dakota Association of Community**

Providers: See Attachment # 3 in support of the bill.

8.50 **Chairman Cook**: Could you answer Senator Hogue's question?

Barbara Murry: said she hadn't seen the chart but she is assuming that they are making diagnostic criteria.

Vice Chairman Miller: What is your estimation on cost saving on medication for a person with disability that is working?

Barbara Murry: Where the cost saving comes in is where the people are stabilized that are working and they are out of more expensive settings. The job coaching and the job support is a less expensive cost overall.

Vice Chairman Miller: question on addiction.

Barbara Murry: We worked with serious addiction people and one of the main things we looked at was trying to keep people employed because that additional stability really began to build their own self sufficiency. It has cut down on admissions to the state hospital.

Vice Chairman Miller: I would say that it is something separate when they are given something to do to keep them occupied. I would see a benefit having the disabled out in the work force.

13.44 **Barbara Murry**: I would agree with you on that. Also agree that this would be more beneficial for a level of disability that could get out in the work force. Not necessarily for the more severe development disabled.

Chairman Cook: How do you make that determination on what this bill covers?

Barbara Murry: I think that needs to be tightened up in this bill because I don't think it is clear at this point.

Chairman Cook: Who do you think has the expertise to do that.

Barbara Murry: There are a variety of organizations like my own that could help with the language to tighten up the language along with the Dept. of Human Services.

Chairman Cook: Have you read the bill, and can you tell me what an existing employment incentive program is. Does it exist today?

Barbara Murry: There are some existing programs but she could not give the details.

15.08 **Veronica Zietz, Executive Director, Arc of Bismarck:** See Attachment #4 in support of the bill.

17.15 **Senator Hogue:** Do the individuals that work at your facility do they have to be paid minimum wage? Also do you get any other incentives for employing them?

Veronica Zietz: Individuals are paid minimum wage or more. We currently do not receive any other incentives for employing individuals with disabilities.

Senator Hogue: Are there any other available incentives out there for employing individuals with disabilities.

Veronica Zietz: Currently, there are not.

Senator Anderson: (Unimportant)

19.25 **Todd Christlieb, Fargo resident:** See Attachment #5 for testimony in support of the bill, and expressed an idea for an amendment to be considered. A couple of examples were given as to why it should be considered.

23.25 **Tom Alexander, Project Director, North Dakota Medicaid Infrastructure Grant:** See Attachment #6 for testimony in support of the bill.

27.45 **Chairman Cook:** In the last paragraph you mention existing incentive programs.

Tom Alexander: There are a vast variety of work incentive programs for people with disabilities to seek employment. One incentive that was passed in 2005 legislature was the Workers with Disability coverage in ND. The #1 fear of someone with disabilities is keeping employment and the fear of losing medical insurance. There are also a variety of social security work incentives.

Chairman Cook: For the employer?

Tom Alexander: No the worker. Discussed with Senator Cook the lack of incentives listed on a website of what states are doing in this area and ND isn't even on the list.

Chairman Cook: From other states....

Tom Alexander: There are over 1000 individuals that are coming out of prison that have some disability and need jobs. Potential employers are worried about them stealing from them. There is a bonding system available from the federal government free of charge to these businesses that employ them.

Senator Hogue: I noticed that in your testimony you quoted a Cornell University study that ND has the highest employment rates for the number of non-institutionalized individuals who have a disabilities. Yet you referenced on the website we don't have as many incentive programs as other states or have none. We are not listed Can you explain that. It seems to contradict.

Tom Alexander: In the Cornell study, North Dakota has one of the lowest unemployment rates, and the highest percentage per capita of working age people working. He explained why ND was not listed.

34.25 ? **Langlie, Daughter of Bob Langlie:** See Attachment #7 for testimony from her father in support of the bill. She gave an example of her own experience with her sister.

37.53 Leon Dietrich, Resident of District 35: See attachment #8 for testimony in support of the bill.

40.02 Lisa Cadelcan, Human Resources Manager, Bismarck Public School: Testified in support of the bill. As a school district we would not get any tax credits, but in my job I have had the experiences that have shown me that this would be very important. When I have employed people with disabilities it has been very positive. It does take more time to train and work with the employee but in the end the employer benefits in the long run. I believe these incentives would really make a difference for people to say "yes, I am willing to take the chance and put in extra effort at the beginning knowing that in the long run I will get that pay back."

Senator Hogue: As an HR professional, is it your experience that they pay a little less?

Lisa C.: We have not experienced that. We have always employed them at the same rate if they are able to do the job. Most employers look at the job and pay accordingly.

44.25 Mary Loftsgard, Tax Department: Testified in a neutral position on the bill. We are willing to help with any amendments that may be needed. First we need a definition of a disability.

Chairman Cook: That has to be a black lined definition?

Mary Loftsgard: As black as possible. Also how this credit would interplay with the credit that already exists.

Chairman Cook: And what credit is this?

Mary Loftsgard: 57-38-01.16 The existing tax is an income tax credit for employment of developmentally disabled or chronically mentally persons. She explained how it worked.

Chairman Cook: I suggest that you present that question to the sponsors of the legislation to see how they want to deal with that.

Senator Oehlke: The corporate tax you just mentioned, that is corporate only? An individual or LLC wouldn't be able to take advantage of this?

ML: That is correct.

Senator Hogue: asked if she could comment on if other states have anything similar to this and how many other states do.

ML: I do not know.

Vice Chairman Miller: I was thinking how this could be implemented better, there are different levels of disability, and I would think that you would have to classify them by level. Then there are some that are just working to keep busy. \$5000 is a lot of money.

ML: We are neutral on the bill, if the sponsors would like that we will help with it.

Senator Hogue: had a question on the code and who would be eligible.

ML: admitted she gave the wrong answer to Senator Hogue. The credit is available to corporation and to individuals on the long form. If you look at the definition on taxpayer it does not include pass through entities.

52.50 Senator Oehlke: I think because some are paid through a non-profit, they don't pay taxes.

Chairman Cook: We will have more discussion when they get it cleaned up. Closed hearing on SB 2383.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2383

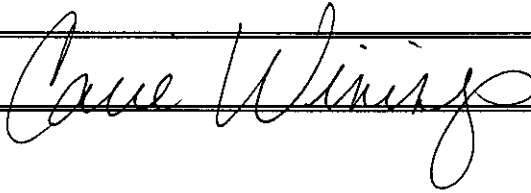
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8673

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SB 2383. If someone comes with a really good idea to get this back, I will do my best to get it done.

Senator Triplett: What does that mean?

Chairman Cook: I will do my best within my limitations. The most difficult challenge anyone is going to have with this type of a program, I would guess, is coming up with that black line test between who is disabled and would allow the employer to qualify and who is not. That is not going to be easy.

Senator Triplett: I understand that.

Senator Anderson: Senator Fiebiger said that he was going to do something on this, and after my discussion with him, I am all for the bill.

Chairman Cook: You are for a concept, but our job is to kick out a bill that will work and I understand your dilemma and the only you get out of it is you somehow find a way to make sure that this will work and sell it.

Senator Anderson: The way it is now, I can't, it is not right.

Chairman Cook: Don't let anyone put that monkey on your back.

Senator Hogue: Motioned for a Do Not Pass.

Vice Chairman Miller: Seconded.

Chairman Cook: Discussion?

A Roll Call Vote was taken: Yeas 6, Nays 0, Absent 1 (Senator Oehlke).

Senator Cook will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2383

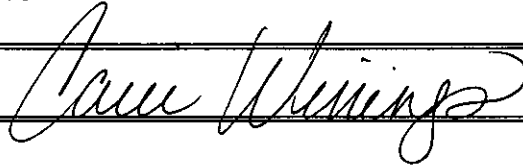
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 0209/2009

Recorder Job Number: 9016

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SB 2383.

Senator Tom Fiebiger, District 45: Introduced proposed amendments, attachment #1.

Discussion: A discussion occurred between Chairman Cook and Senator Feibiger in regards to how to determine if someone is disabled, if there is a clear definition or not. It was stated that the Human Services Department is the one that determines who those individual are. Also it was discussed the issue of the employee completing one year before the business would be eligible for the credit, that would be a good point for the incentive, and easier for the tax department.

6.00 Chairman Cook: Asks Senator Fiebiger if the credit was still \$5000 and \$2000.

Senator Fiebiger: Yes, that is only if they have an increase in the number.

Senator Fiebiger: See Attachment #2, a copy of the bill with amendments written in.

Senator Dotzenrod: If you hire 2 people and you have had them for 12 months and you keep them on, then you have qualified and the next year you can claim the credit, if the number of people you have employed hasn't changed over the next several years, you still have those 2 people, you only get that credit then for that first year after the 12 months has run out?

Senator Fiebiger: That is correct. Then there is also the provision in 4 that firms up that we aren't using job service North Dakota any more.

Senator Anderson: What happens if a business changes their name, would it still be the same employer?

Senator Fiebiger: I believe that would be correct.

Chairman Cook: My thought is that you would have a whole new company filing a whole new income tax without any base year.

Vice Chairman Miller: With that, I think you would only have to qualify every couple of years; it is not like every year.

Chairman Cook: It is one time.

Senator Fiebiger: They would have to increase the net number; even that new company would have to increase the numbers they had.

Discussion: A short discussion over clarifying the point of a new business and new hires.

Senator Triplett: This credit is not big enough to justify changing out one form of business for kicks.

Senator Dotzenrod: Have you found employers that are anxious to do this?

Senator Fiebiger: I think they have in Fargo in the hospitality industry that is interested.

Chairman Cook: The only other question that I have to get clear in my mind is the language "existing employment incentive programs", I would like to know what that is. Are there programs that for example if I hired a person with a disability are there programs that pay their health insurance so that I don't have to? I would think some of the jobs they would qualify for health insurance. Are there programs out there that change the wage scale so that minimum wage doesn't apply? Can you hire someone with disabilities for \$3.00/hr. and is there an incentive program out there that would allow that?

Senator Fiebiger: I don't know for certainty. I don't know that there are other programs in place.

Chairman Cook: It mentions other programs and I just wanted to know.

Senator Anderson: So you have 2 people that you employed in 2008 and now you hired on January 1st two more ADA qualified people and now have 4, so you would be able to get that credit for 2 people after 12 months?

Senator Fiebiger: I believe that is correct.

Senator Anderson: So then what would happen if midway through the year the original 2 couldn't work anymore?

Senator Fiebiger: I believe that it is the total number of people, not the exact people.

Chairman Cook: Ask of Tom Alexander in the room what other programs are out there?

21.25 Tom Alexander, Project Director, North Dakota Medicaid Infrastructure Grant: If you are talking about people receiving lower than minimum wage, North Dakota does have a law that pays people who are enrolled in developmental disabilities non-profit organizations, that non-profit organization can pay those individuals who are receiving services sub minimum wage where they are paid through task analysis according to their capabilities.

Chairman Cook: If I hire someone to stock shelves in a grocery store, then what?

Tom Alexander: Those would not, that would probably have a job coach assisting them with their tasks and they would probably receive minimum wage, but some might receive sub minimum wage. There are other incentive programs, which were passed in the 2003 session, workers with disability coverage. People are allowed to maintain their Medicaid benefit and the employer can use their insurance as wrap-around coverage for that person. There are 540 people enrolled in that right now. That was one of the fears, losing their benefits. This was an incentive to get them to work and still receive their benefits.

Chairman Cook: So there are some insurance benefit programs out there for them? Anything else?

Tom Alexander: That is about it as far as North Dakota.

Chairman Cook: If there is a tax credit, should it be tied through the wages the company pays?

Tom Alexander: I don't have any recommendations on that. I know that is something we have looked at with employers. There is a huge pool of employees that want to work and an incentive would help employers to look that direction. That is something North Dakota hasn't had.

Chairman Cook: Question on specific person and whether they were enrolled?

Tom Alexander: Six months ago there were about 2200 people receiving sub minimum wage in our state that have a disability.

Chairman Cook: Does the employer set that wage?

Tom Alexander: It is based on productivity. I believe people should be paid minimum wage no matter the disability they have.

Chairman Cook: What are the committee's wishes?

Senator Triplett: Moved to reconsider the bill.

Senator Anderson: Seconded.

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Senator Triplett: Moved the amendments on 90981.0101.

Vice Chairman Miller: Seconded.

Discussion: The committee agreed that the amendments addressed the issues.

Vice Chairman Miller: The amount of \$5000 concerns me.

Chairman Cook: Let's work on these amendments and then address that concern.

A voice vote was taken: 7 yeas, 0 nays, 0 absent.

Senator Triplett: Moved Do Pass As Amended.

Senator Anderson: Seconded.

Chairman Cook: What about the dollar amount?

Discussion: A discussion followed on what would be a good incentive instead of the \$5000 credit. If the employee did not make very much in the year then the credit would be close to what they paid out. A suggestion to make it a percentage of the wages paid was made to directly link it to the amount the employer actually was putting out; also the idea of putting a minimum on the amount as well.

Chairman Cook: Decided that 50% and a \$5000 cap would be best.

Committee: Agreed.

Senator Hogue: Suggested still doing a minimum of \$1000, and take out part-time and full-time to where it would be straight percentage.

Chairman Cook: Asked Senator Triplett to get it drawn up in legal form.

Suspended discussion on the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2383

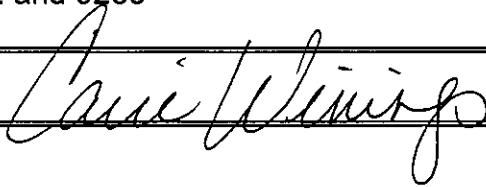
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 02/11/2009

Recorder Job Number: 9262 and 9263

Committee Clerk Signature



Minutes:

Chairman Cook: Reopened discussion on SB 2383. Passed out amendments, Attachment #1.
(These amendments were voted on and passed the last time they met.)

Senator Hogue: In looking at page 1, line 19, I think that has to say 50% of wages paid.

Senator Oehlke: Do we need that? It doesn't say that now.

Chairman Cook: Asks intern if they need to put that in.

Discussion: A brief discussion occurred on whether that was necessary.

Chairman Cook: Asked intern to make note of that and have Legislative Council take care if that.

(9263 starts here)(The committee needed to vote on the bill as amended)

Senator Oehlke: Moved a Do Pass As Amended and Re-Referred to Appropriations.

Senator Dotzenrod: Seconded the Motion.

A Roll Call vote was taken: Yea 6, Nay 0, Absent 1 (Senator Triplett).

FISCAL NOTE
Requested by Legislative Council
02/13/2009

Amendment to: SB 2383

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 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.*

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 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).*

Engrossed SB 2383 creates a new individual and corporation income tax credit for employment of individuals with disabilities.

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.*

Engrossed SB 2383 authorizes a tax credit equal to fifty percent of the wages paid up to \$5000 for each net new employee with a disability, who is receiving qualifying state services. It is not known how many additional employees with disabilities will be employed, so the fiscal impact cannot be computed.

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.*

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|----------------------|----------------------|-----------------------|----------------------------|
| Name: | Kathryn L. Strombeck | Agency: | Office of Tax Commissioner |
| Phone Number: | 328-3402 | Date Prepared: | 02/16/2009 |

FISCAL NOTE
Requested by Legislative Council
01/27/2009

Bill/Resolution No.: SB 2383

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 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.*

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 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 2383 creates a new individual and corporation income tax credit for employment of individuals with disabilities.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2383 authorizes a tax credit of \$5000 for each net new full-time and \$2000 for each net new part-time employee with a disability, who is receiving qualifying state services. It is not known how many additional employees with disabilities will be employed, so the fiscal impact cannot be computed.

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: | 01/31/2009 |

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2383

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Hogue Seconded By Miller

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | ✓ | |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | ✓ | |
| Sen. Dave Oehlke | | | | | |
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Total (Yes) 6 No 0

Absent 1 Oehlke

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

SB 2383: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2383 was placed on the Eleventh order on the calendar.

Date: 02/09/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2383

Senate Finance and Taxation Committee

Check here for Conference Committee more to Reconsider

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Triplett Seconded By Sen. Anderson

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | ✓ | |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | ✓ | |
| Sen. Dave Oehlke | ✓ | | | | |
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Total: Yes 7 No 0

Absent 0

Floor Assignment _____

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2383

Page 1, line 2, replace "individual and" with "an"

Page 1, line 3, remove "corporate"

Page 1, line 10, remove ", rather than seasonal or"

Page 1, line 11, remove "part-time," and replace "providing employment" with "in which an individual is employed"

Page 1, line 12, remove "to an individual", replace "thirty-two" with "twenty-five", and after "week" insert "and does not include seasonal employment"

Page 1, after line 12, insert:

"b. "Individual with disabilities" means an individual with a disability as defined under the Americans with Disabilities Act of 1990, and as amended by the ADA Amendments Act of 2008 [Pub. L. 110-325, 122 Stat. 3553], and who is receiving services directly related to the disabilities."

Page 1, line 13, replace "b." with "c." and replace "providing" with "in which an individual is employed"

Page 1, line 14, remove "employment" and remove "to an individual"

Page 1, line 15, after "week" insert "and does not include seasonal employment"

Page 1, line 18, after "57-38-30.3" insert "for the employment of an individual with disabilities"

Page 1, line 21, remove "who is receiving state services directly related to such disabilities"

Page 1, line 22, remove the underscored colon

Page 2, line 1, replace "a. The" with "the"

Page 2, line 2, replace "within the ninety-day" with "from the number of individuals with disabilities employed by the taxpayer at the end of the preceding taxable year."

Page 2, remove lines 3 through 6

Page 2, line 7, replace "credit allowed under this section for the employment of individuals with" with "taxpayer may claim the credit in the first tax year beginning after the individual hired for the full-time or part-time employee job has completed the employee's first twelve consecutive months of employment with the taxpayer"

Page 2, remove line 8

Page 2, line 9, remove "employment of such individuals by one or more"

Page 2, line 11, remove "The taxpayer is not required to make a"

Page 2, remove lines 12 and 13

Page 2, line 15, remove "incentive" and replace "pursuant to" with "under"

Page 2, line 17, remove "or job service North Dakota"

Page 2, line 18, replace "The taxpayer shall file a plan with the commissioner on a form prescribed by the" with "A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 2, remove lines 19 through 25

Renumber accordingly

Date: 02/09/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. : 2383

Senate Finance and Taxation Committee

Check here for Conference Committee

Amendments

Legislative Council Amendment Number

90981.0101

Action Taken

Do Pass

Do Not Pass

Amended

Motion Made By

Senator Triplett

Seconded By

Senator Miller

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | | | Sen. Arden Anderson | | |
| Sen. Joe Miller - Vice Chairman | | | Sen. Jim Dotzenrod | | |
| Sen. David Hogue | | | Sen. Constance Triplett | | |
| Sen. Dave Oehlke | | | | | |
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Miller favor

Total: Yes 7 No 0

Absent

Floor Assignment

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

Date: 02/11/09

Roll Call Vote #:)

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: 2383

Senate Finance and Taxation Committee

Check here for Conference Committee

Amendments Proposed
02/11/09
+ Be- Referred to Approp.

Legislative Council Amendment Number _____

Action Taken

Do Pass Do Not Pass Amended AS

Motion Made By

Senator Oehlke

Seconded By

Senator Dotzenrod

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|-------------------------|-----|----|
| Sen. Dwight Cook - Chairman | ✓ | | Sen. Arden Anderson | ✓ | |
| Sen. Joe Miller - Vice Chairman | ✓ | | Sen. Jim Dotzenrod | ✓ | |
| Sen. David Hogue | ✓ | | Sen. Constance Triplett | | |
| Sen. Dave Oehlke | ✓ | | | | |
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Total: Yes 6 No 0

Absent 1 Triplett

Floor Assignment Senator Dotzenrod

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

See note on standing committee report

REPORT OF STANDING COMMITTEE

SB 2383: Finance and Taxation Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2383 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "individual and" with "an"

Page 1, line 3, remove "corporate"

Page 1, line 9, replace the underscored colon with ", "individual with disabilities" means an individual with a disability as defined under the Americans with Disabilities Act of 1990, and as amended by the ADA Amendments Act of 2008 [Pub. L. 110-325, 122 Stat. 3553], and who is receiving services directly related to the disabilities."

Page 1, remove lines 10 through 15

Page 1, line 18, after "57-38-30.3" insert "for the employment of an individual with disabilities"

Page 1, replace line 19 with "fifty percent of wages paid up to a maximum of five thousand"

Page 1, line 20, remove "part-time"

Page 1, line 21, remove "who is receiving state services directly related to such disabilities"

Page 1, line 22, remove the underscored colon

Page 2, line 1, replace "a. The" with "the"

Page 2, line 2, replace "within the ninety-day" with "from the number of individuals with disabilities employed by the taxpayer at the end of the preceding taxable year."

Page 2, remove lines 3 through 6

Page 2, line 7, replace "credit allowed under this section for the employment of individuals with" with "taxpayer may claim the credit in the first tax year beginning after the individual hired has completed the employee's first twelve consecutive months of employment with the taxpayer"

Page 2, remove line 8

Page 2, line 9, remove "employment of such individuals by one or more"

Page 2, line 11, remove "The taxpayer is not required to make a"

Page 2, remove lines 12 and 13

Page 2, line 15, remove "incentive" and replace "pursuant to" with "under"

Page 2, line 17, remove "or job service North Dakota"

Page 2, line 18, replace "The taxpayer shall file a plan with the commissioner on a form prescribed by the" with "A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the credit determined at the entity level must be passed"

through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 2, remove lines 19 through 25

Renumber accordingly

9-2-09
→ No ~~appropriations~~ records
Found
No mention made of
Appropriations Bill
States

2009 HOUSE FINANCE AND TAXATION

SB 2383

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2383**

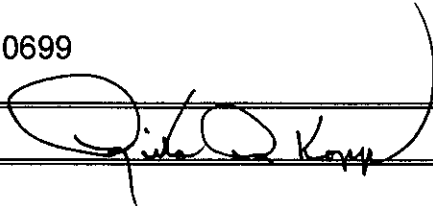
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10699

Committee Clerk Signature



Minutes:

Chairman Belter: We will open the hearing on SB 2383. Senator Fiebiger.

Senator Fiebiger: District 45. (Testimony 1).

Representative Weiler: Senator, you mentioned in your testimony that an employer only gets the credit if they have a net increase in the number of individuals and I apologize if the Tax Department needs to answer this question, but do businesses currently have to keep track of how many individuals with disabilities they hire so if this goes into effect that they are able to show that they have a net increase? Is that something they currently have to do?

Senator Fiebiger: Perhaps the Tax Department would be able to answer that. I think by way of an example, the idea is not to reward someone for just hiring an individual; it is to have an increase in the number.

Representative Headland: Are there currently some types of incentives to business other than a tax credit for hiring a person with a disability?

Senator Fiebiger: There are some, but I don't believe there is anything that provides anything exactly like this. I am not exactly sure of the specifics; perhaps the Tax Department will be able to answer that as they deal with the ramifications of that on a more regular basis.

Representative Drovdal: I received testimony by email by an individual who is unable to attend so he asked me to distribute this to the committee for consideration (**Testimony 2 – Paul Leier**).

Paul Alexander, Project Director, ND Medicaid Infrastructure Grant: (Testimony 3)

(04:36-7:00) Just as an example, driving here from Minot this morning, it was announced on the radio that Sykes in Minot, which is a call center that has been there since probably the early to mid 90's is closing. They say on the radio the reason for closing is that Minot does not have enough people to fill the positions within that center. The Bismarck Center, I guess, is safe because they have enough people. (09:06) Representative Weiler asked if there were other incentives. There are a few federal incentives, but currently ND does not have any incentives in place that offers an incentive to ND employers. This handout shows some federal incentives (**Attachment 4**), some state incentives, and a list we put together from some other states that gives you a summary, tells you what the state is, a summary of the tax credit, the eligibility criteria and any other additional detail that is within that tax credit. This sheet also list some supports for individuals to seek and maintain employment that they can use either through social security or CMS or other variety of programs that exist. By passing 2383 you would be providing the key incentive to ND employers. One of the things we discovered in 2006 was that to market to this underutilized population; there aren't a lot of incentives for folks to look at. By passing 2383, you would be allowing vocation relocation and other employment providers in the state an opportunity to recruit businesses and have this tax incentive as part of their marketing to convince them to hire individuals with disabilities. I would be happy to answer any questions you have.

Representative Froseth: On the first page of your testimony, you have the percentages of people with disabilities employed in ND (58%); that leaves 42% unemployed. Do you have

any percentages of those 42% who are able to be employed or who want to be employed that can't find jobs or are getting tired of the search?

Paul Alexander: I don't have that with me, but I sure can go back to my office and get that information for you. We pull that information in from Cornell. There are a variety of national organizations that have various statistics on employment for people with disabilities. The Department of Labor just came out with some other data about a month ago that I can research and get that answer for you.

Representative Grande: On the bill here, it says the credit provided under this section is granted only to a taxpayer that participates in an existing employment program, under which the person with disabilities is being served by the Department of Human Services. Can you give me an example of what they mean when they say "existing employment programs" and

what about those with disabilities that are not being served by the Department of Human Services? There are people, my nephew right offhand, who don't have that so then he doesn't qualify for any of this?

Paul Alexander: I believe the purpose in this amendment on the Senate side was to allow those individuals who are the higher population of non-working people with disabilities who are probably receiving some type of service through the Department of Human Services. As an example, in 2003, the legislative body passed a worker's with disability program, a Medicaid buy in program that allows folks who seek and maintain employment to maintain their Medicaid. They would pay a premium for their Medicaid instead of the high risk liability. They would end up paying more to receive the liability than their wages. That program has grown to well over 500 individuals. That person would qualify and the employer would receive a \$5,000 or up to a \$5,000 tax credit.

Representative Grande: Existing employment program; I don't understand what they would be.

Paul Alexander: Well, one of the categories of Medicaid is workers with disabilities and that is an employment program. It was passed by the legislative body in 2003-2005. There are other folks that receive some type of service through the Department of Human Services.

Representative Grande: I still don't think you are getting the gist of where I am at. Where does my nephew fit into this? He is basically paraplegic. He is working; is he qualified? Does his employer qualify in any way?

Paul Alexander: It is my understanding that, as the bill is written right now, that he would not if he doesn't receive any services from the Department of Human Services. It kind of limits the population of people with disabilities for employers to receive this tax credit.

Representative Headland: Can you tell me how many people with disabilities that are already employed that the business that employs them would now be eligible for this tax credit?

Paul Alexander: I don't have that answer for you. At the present time, I don't know of any research that is available for that. There are a variety of people with developmental disability providers that provide employment programs to people with disabilities, but they wouldn't qualify for the tax credit because they are a non-profit organization.

Representative Drovda: You mention in your testimony that ND has the highest employment rates for non-institutionalized individuals with disabilities. You also mentioned that human services has some programs out there and I believe they do have a number of programs that the state is already offering to help with their employment opportunities for disabilities. Can you give us a list of what the state is doing to help achieve this 58% such as providing job coaches, transportation (I think we are providing some of that) and I am sure there must be

some other things we are doing. Can we be made aware of what the state is doing? Do you know of a list?

Paul Alexander: I can probably contact the Department of Human Services and get that list within a day or two.

Representative Pinkerton: I have a niece that has spina bifida. Even though she has substantial private insurance, she also is covered under Medicaid in some manner or form. I would wonder whether if Representative Grande's nephew would not have some form of Medicaid coverage that would qualify him. I think a lot of those with severe disabilities have that.

Paul Alexander: In that situation, as the bill is written now, that would qualify him. (17:36)

Representative Weiler: The bill states that it is the net increase of employment. Are businesses required now to keep track of how many individuals with disabilities that they employ because if they do not, how are we going to be able to find out if they have a net increase or not?

Paul Alexander: Currently no individual has to self disclose if they have a disability. If they go to Job Service, they don't have to check a box if they have a disability. For an example, if a person who has a disability is hired and has a visual disability, a spinal cord injury or such, but if it is a mental illness, a person might not self disclose to an employer that they have a disability and the employer would not be eligible. If that employer went to the Tax Department and requested the tax credit, they have to prove that this person has a disability. If the person does not disclose that, the employer wouldn't be eligible for that.

Representative Weiler: Conceivably, an employer that employs 400 people and 100 of them have disabilities, he could conceivably hire five more the following year; he could conceivably come out pretty good on this because there is no reporting requirements. So how do we know

how many they have and how many of a net increase they will have? There is no way of knowing that

Paul Anderson: It is my understanding that you are only eligible for this tax credit one time for one person and you would have to increase that to two in the next year's (inaudible). That person would have to be employed for 13 months and that person would have to self disclose too. That would be something an employer could probably conduct a staff meeting so he could keep that confidential that our company would be eligible for a disability credit or to receive some service from the Department of Human Services.

Chairman Belter: Are people who fall under the human service requirement here to be eligible for this program, do they fall under the minimum wage salary or not?

Paul Anderson: Currently there is the below minimum wage for waitresses and there is a program through the Department of Labor but there is a sub-minimum wage law that ED providers in the state use for folks with developmental disabilities. It is based on productivity. There are some people considered employed who are making \$.25 a day or \$2 a week and that is based on productivity. I do know that there are over 2,000 people in those providers that qualify for the sub-minimum wage law.

Chairman Belter: The other question is what would stop it if an employer has a person who is currently working for them that qualifies that they could lay these people off and then rehire them and qualify for the program?

Paul Anderson: I am not sure I can answer that. Maybe the Tax Department can, but I am not sure if there is any current law that would help prevent that or not.

Barbara Murry, Executive Director of the ND Association of Community Providers:

(Testimony 5) (2:33-24:41) I did want to touch on Representative Grande's question if I may. Several of the programs (inaudible) are on an all inclusive list that is out there for people who

are out there with disabilities through the human service centers but are often provided and handler (?) providers are supported employment which is a voc rehab funded program.

Extended service features the program that follows supported employment and may be funded through development disabilities, the mental health component of the Department of Human Services or again for broader disabilities by voc rehab. There is also a variety of other vocational programs that voc rehab funds with sometimes different names in different regions that would be eligible. Part of the thinking in limiting the opportunities for people to those who had been in contact with the Department of Human Services was to give some sort of control to this so there would be some assurance and comfort level to the people funding this that people couldn't simply say, "I have a disability" when they did not and use self disclosure erroneously. We certainly would be open to an expansion if people chose to amend it to

loosen that up. There was one other question with regards to workforce that I thought I could answer and I have forgotten. Oh yes, about minimum wage. Developmental disability providers throughout the state use subminimum wage and what used to be called our sheltered workshops is now funded through a program called pay support by the Department of Human Services. The ED providers aren't eligible for this tax credit and the intent is not to use this tax credit for people earning subminimum wage (26:45) even when those individuals are out in the community, maybe doing some crew (?) work. If they earning subminimum wage, most of the time they are under employment through the provider rather than through the hotel for instance. The subminimum wage certificate is held by the provider and that group of people is not covered in this bill.

Janell Malpert, Executive Director for the Arc of Cass County: (Testimony 6) (27:49)

Leon Dietrich: (Testimony 7) (31:00)

Veronica Zietz, Executive Director of The Arc of Bismarck: (Testimony 8) (32:53)

Katie Langlie read Testimony of Bob Langlie, Father of daughter with disabilities:

(Testimony 9) (35:14) I would also like to elaborate on that as he is talking about my sister. Kris has actually had her job longer than I have been at mine. When Kris graduated from high school in 2006, she would give one word answers; her sentences would maybe be a couple of words at a time, she didn't talk on the phone, didn't carry on a conversation. In January Kris came and gave testimony on HB 1012; she wrote it herself and she got up there by herself and gave it. My dad called me last week and asked me to call Kris because she had called him five times while he was in a meeting. Kris communicates all of the time now, sometimes it is a little bit too much but she is communicating all of the time. That was not seen before she had a job. Any questions?

Chairman Belter: Any questions? Any further testimony in support of 2383? (38:41)

David Boeck, Lawyer for Protection and Advocacy Project: (Testimony 10) We serve to protect people with disabilities from abuse, neglect and exploitation and we advocate for people with disabilities for disability related rights. We have a special program right now that is called Protection in Advocacy for Beneficiaries of Social Security. That is a program that is designed to help people with disabilities who are receiving social security disability benefits or supplemental security income disability benefits. The whole thrust of this program is to help people with disabilities get jobs, stay in jobs. We have had good success I think with it, but one of the problems that we encounter is stereotyped attitudes where people think this person is in a wheelchair; he can't do a job. It is just going to involve all sorts of extra demands on my time and I have to do all sorts of things to enable this person to work here. Or a person who is blind or has substantial vision impairment; the natural reaction is to think that this is mostly a

charitable act; this isn't really getting someone who is going to do the job for me. As has been described by other people here, that is not the case. There are lots of people with disabilities who can work successfully. I think that Mr. Dietrich described this as a tremendous benefit for the person with a disability, as well as for the employer. People want to get out and contribute to the economy and accordingly then, they will become taxpayers, which I am sure everyone likes to see. In terms of the programs that qualify for this benefit, you have talked about Medicaid. The main program I think is rehabilitation consulting and services, which is the full name for vocational rehabilitation. Lots of people with disabilities get some step up from (?); whether that is too limiting of criteria or not, I can't say but that is something the committee has already raised as an issue and is something you need to decide--whether you want to broaden that or remove that provision for qualification. There was a question also presented

about whether if you have 400 employees and 100 have disabilities, what kind of benefit do you get? If that is what you have when the law is enacted, you don't get any benefit. The benefit is for increasing the number so if you go from 100 employees with disabilities to 101, then you get a tax credit for that extra employee but not for the first 100 you already had working there. I think that some of the details of the bill will have to be put in place by the Tax Department. There will need to be rules promulgated like what are the programs under the Department of Human Services that qualify someone for this tax credit? If you have an employee who is there ten months, but not on the day you file your tax form, does that count as having been employed with a disability? Those are matters on the practical side of this that the Tax Department will have to promulgate in its rules. Thank you for the opportunity to testify; I will be happy to entertain any questions.

Chairman Belter: Are there any questions? Further testimony in support of 2383? Any other testimony in support of 2383? If not, is there any opposition to 2383? Any questions of the Tax Department?

Representative Winrich: Mary, reference was made in some of the testimony here to the fact that people with disabilities don't need to self identify when they are applying for work. I assume that is intended to be a protection to avoid discrimination. Does that create a problem in administering this for the Tax Department?

Mary Loftsgaard, Associate Director of Tax Administration for the Office of the State Tax Commissioner: We can only administer what an employer can provide documentation for so if an employer wants to take advantage of this credit, they are going to have to provide us some documentation that an employee gives receiving services. So to answer your question, if an employee chooses not to self identify, then that employer is not going to be able to take that credit. It is really going to be up to the employer how they want to try to utilize this program with disabled individuals.

Chairman Belter: Are there other types of programs that deal with this issue that you currently administer?

Mary Loftsgaard: There is a tax credit at the present time. I apologize because I can't tell you when it was enacted. It is ND century code 57-38-01.16; it is an income tax credit for employment of developmentally disabled and chronically mentally ill persons. It is available only to corporations and on the long form for individuals. The credit is a portion of wages, 5% of up to \$6,000 in wages paid during the first 12 months of employment for each developmentally disabled or chronically mentally ill employee.

Chairman Belter: But that is only available on the long form?

Mary Loftsgaard: That is correct or to a corporation.

Representative Drovdal: Mary, would you repeat that century code.

Mary Loftsgaard: 57-38-01.16. Mr. Chairman, I think I should point out that that credit is a little more limited because it is only for developmentally disabled or chronically mentally ill employees. The bill that you have before you today covers all disabilities so it might be that under SB 2383, you would be talking about people with physical disabilities but no intellectual or mental health issues.

Chairman Belter: The way the bill is currently written, do you see any problem with administration of this bill?

Mary Loftsgaard: At this time, no. In terms of verifying whether the employee for the credit claimed is actually disabled, like a lot of other things, it becomes an audit issue after the fact. As with many tax credits, we do ask employers and taxpayers to attach documentation to their return so if this credit proceeds and this bill passes, we would be looking at our instructions to try to tell employers what kind of information they would have to attach or have available.

Representative Froseth: On the fiscal note, Mary, it says "authorizes a tax credit of 50% of the wages paid up to \$5,000". Is that 50% of the first \$5,000 wages or is that a \$5,000 full tax credit that an employer can take for each individual?

Mary Loftsgaard: That is a \$5,000 credit on each individual.

Chairman Belter: Any other questions? If there is no further testimony on 2383, I will close the hearing on SB 2383.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2383

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10749

Committee Clerk Signature

Minutes:

Chairman Belter: Let's see. Were there any amendments proposed?

Representative Grande: I look at it and it is all feel good, but our statistics show we do a good job in ND of hiring disabled. I don't feel it is workable and I don't like how narrow it is. It is not reaching out to really those who are disabled and want to be out working. They are limiting them to a service program with the Department of Human Services. When I asked Donna ? , there really was; you have to be a part of this and then you can go do this. I didn't appreciate that so I move a "do not pass".

Chairman Belter: We have a motion for a "do not pass" from Representative Grande and a second from Representative Brandenburg. Is there any discussion?

Representative Pinkerton: I think the young lady from Fargo that spoke last was very articulate; her family was from the collision center; she was very articulate. She certainly left you with the feeling that a lot of good can be done. I don't think that the gentleman from Minot State was articulate in talking about the bill. It doesn't really have a fiscal note as far as I know; it is a tax credit so it would not have to go to appropriations. I wonder if it would be worthwhile trying to get someone more articulate to speak to it. We have a very successful program in Minot (inaudible).

Chairman Belter: The problem is we are running out of time.

Representative Grande: That proves the point. We already have programs that are working and they are working very well. Speaking to the gal who talked about her sister working in Fargo, already working and it is working great for her. I don't think this is the motivation that is going to change that. The other side of that, do you know who was the most articulate in the whole thing? The young guy. When he told his story, that answered it all for me. He has had the fortitude to stay in there working. He doesn't need an incentive to be like this and guess what; he has spent 24 years in the workforce. None of his employers would get this benefit. I just think that in this case that the vehicle is not correct.

Representative Pinkerton: I am sorry; I didn't catch Representative Grande's... Leon Deitrich, is that the person?

Representative Grande: I thought he did the best job out of all who got up to speak.

Representative Pinkerton: These programs struggle with placement. In Minot vocational works office started by Harold Porter (a prominent person in Minot who is very well regarded), without Minot Air Force Base as a large employer that is going to work with developmentally disabled, I don't know if would have gone nearly so well. I don't know if other communities have been able to replicate that program. Minot Vocational Workshop is one of the largest employers in Minot. We have been fortunate to have people who were able to drive the project that were very good business people like Gary Porter; do you guys know Gary Porter, the ex-chairman of the Republican Party? It was his dad's deal. The first director just retired, one of my client's is the new director and she is really talented. But I don't think other cities have been able to replicate that. I am on the Salvation Army Board and we are just right in the middle of working out a relationship with the Salvation Army. We could give other communities a chance to be as successful as Minot has and it would help her too. Every person that we

can keep on the workforce that is working compared to people on welfare or sitting at home, I think they are great programs. (inaudible).

Representative Grande: These programs will go on and they receive funding and they work very well. If I go buy groceries in Fargo, I can guarantee you it is most likely a handicapped person, a disabled person that bags my grocery. They usually have a helper, bringing them down the line if necessary, stocking the groceries and doing all that and it is working and it is fine. In the grocery stores, the hotels, and I have even seen in the service industries that they are hiring, they are hiring those people when they come in the door. This is not going to be the tool that changes that.

Representative Pinkerton: It might be the tool that enhances that though.

Representative Grande: Only if you are a qualified program. This doesn't help even the grocer; it has to be an existing employment program and the person has to qualify under the Department of Human Services. That doesn't affect any one of the people I just mentioned that want to work.

Representative Pinkerton: Mr. Chairman, don't you think that almost all of those people that Representative Grande is dealing with there have gone through some sort of government approved agency?

Representative Grande: Maybe, maybe not; but why limit it to that?

Representative Kelsh: We heard testimony that because of confidentiality, you are not required to disclose a disability on a job application so in order for the employer to take advantage of this credit, they have to be approved by the Human Service Program and that states an employer (inaudible)disability so that is why the Senate added that amendment.

Chairman Belter: The question for me is a \$5,000 tax credit per employee. If you take, let's use Wal-Mart, how many employees might Wal-Mart be able to hire and get a \$5,000 tax credit in this state?

Representative Pinkerton: Mr. Chairman, I think those are only on new employees, an increase on what they had before. If they had 10 developmentally challenged employees and with the criteria they added five more, then they would get that \$25,000. But if they had 10 and three of them left and they replaced them with three, they would get no tax credit. That is my understanding of the bill.

Representative Grande: These are people who are underpaid typically and so they are going to get this tax credit with the new hires; of course it is going to be really easy to go out and hire, but what was the purpose behind it? Was it to benefit them or how long are you keeping them there? Only for the tax credit and then they are gone? I just don't see the purpose of this.

Representative Drovdal: First of all, this bill applies to businesses that go out and make money because you wouldn't get any credit on your taxes if you didn't make money so it is not for government entities. Secondly, the people who are out there making money hire people who can do the job they need to do so they need job training people to help the disabled. The credit isn't what is going to drive their hiring them; it is having that person trained; it is going to be a job trainer and we have that out there already. We have a lot of stuff out there to help them, which is good. That is great. We have the highest percentage in the nation and we all admit that we are never going to have 100% because some of these people are not trainable to a point where a business that is out there to make money can't really afford to have them because they have to hire a second person just to have a disabled person there. That credit isn't going to make any difference anyway. I think there are incentives out there and there may

be other incentives that might work. I really don't feel this one is going to drive the private sector to hire more people. It puts a lot of bookkeeping on it; it puts liability on the owners and I guess I would rather spend the money on other programs. It is not going to take away anything from all the programs we currently have out there. They will continue to be successful; we know why they are successful; build on those programs so they can be more successful but I don't believe this is the one that is going to do it. I am going to support the "do not pass" on it.

Representative Schmidt: I just think that for the handicapped people, if we pass this, it is going to give them a little hope. There is no fiscal note yet. If it gets too big two years from now, we can pull it back or something but I think we should give it a shot. There are handicapped people I know who will read the paper that will say that the legislature passed a bill for us. I think I have to vote for it.

Representative Pinkerton: We just have never hired a person who is developmentally disabled because in a business like ours, everything has to carry its weight and make money. We are resistant to that, worrying it is going to slow us down and that \$5,000 tax credit would probably (whether we would hire or not, I am certainly not going to say that) but I think in a business like mine (veterinarian), they could use somebody to wash kennels and walk dogs and clean floors and things and we would probably look at it. It looks a little cleaner to work with than some of the other federal or state programs that are out there. I think for a small business like a grocery store or like us, it might be the turning point. I am not going to guarantee that we are going to hire somebody because of that \$5,000. We're not; we're a business just like every other business. The bottom line always has to match. It is a tool that looks more useful than some of the other things we have looked at. We don't use any of the job training; they just don't seem to work for a small business (inaudible).

Representative Brandenburg: When we listened to the testimony, there is no question that they have their hearts in the right spot and I believe that what they are doing is what they believe in, but I have worked with people in my farming operation and custom harvesting operation, people who are slow and we are all part of the team. People work together and we know that person can't do everything that everybody else does so the other people put the guy in the grain cart so we make sure we watch him by the combine, and keep their eye on him. When he jumps up on the truck, they make sure he doesn't run into the truck and that is how it works. I really think it is about when you are working with those people because you care about them and you want them to be part of the team and they can do a job, but you have to work with them. I just don't see you would hire them because of a \$5,000 credit. I am just more worried more about the equipment. It is more about working together as a team and making them part of the group. I think that is more important than this credit. I just don't see it.

Chairman Belter: Any more discussion? If not, will the clerk read the roll for a **"do not pass"** on SB 2383. **A roll call vote resulted in 7 ayes, 4 nays, 2 absent/not voting.**

Representative Grande will carry SB 2383.

Date: March 11, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2383

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Grande Seconded By Brandenburg

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|--------------------------|-----|----|
| Chairman Wesley R. Belter | / | | Representative Froelich | | |
| Vice Chairman David Drovdal | / | | Representative Kelsh | | / |
| Representative Brandenburg | / | | Representative Pinkerton | | / |
| Representative Froseth | / | | Representative Schmidt | | / |
| Representative Grande | / | | Representative Winrich | | / |
| Representative Headland | / | | | | |
| Representative Weiler | | | | | |
| Representative Wrangham | / | | | | |
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Total (Yes) 7 No 4

Absent 2 (Froelich + Weiler)

Floor Assignment Grande

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

REPORT OF STANDING COMMITTEE

SB 2383, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **DO NOT PASS** (7 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2383 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2383

#1

**Number of Person receiving Services from
the Department of Human Services'
Regional Human Service Centers**

- 1) In SFY 2008, 18,679 clients were served at the regional human service centers with **addiction (AD), developmental disabilities (DD) and/or mental health (MH)** issues:

These numbers are unduplicated by Service Category and in total:

| Service Category | Statewide |
|-------------------|---------------|
| AD and DD only | 9 |
| AD and MH only | 2,790 |
| AD and other | 1 |
| AD Only | 2,876 |
| AD, MH, and DD | 23 |
| DD and Other only | 1 |
| DD Only | 1,973 |
| MH and DD Only | 969 |
| MH and Other only | 8 |
| MH Only | 10,028 |
| Other Only | 1 |
| Total | 18,679 |

Example: there were 9 individuals with both addiction and developmental disabilities served in SFY 2008.

Note: Not all of the 18,679 listed above would meet the level of having a disability or being disabled.

- 2) In Federal Fiscal Year 2008, the **Vocational Rehabilitation (VR)** program served 6,472. All of these 6,472 individuals have a disability affecting their ability to be gainfully employed.

The total from section #1 (18,679) and section #2 (6,472) are not unduplicated. A portion of the 6,472 may also be represented in the table.

#2



The Arc of Cass County
215 North University Drive • Fargo, ND 58102
(701) 293-8191 • Fax (701) 293-3095

Testimony of Support
Senate Bill 2383
February 4, 2009

Chairman Cook and members of the Committee, my name is Janell Malpert and I am the Executive Director for The Arc of Cass County. The Arc is an advocacy organization for people with intellectual and developmental disabilities.

I am here today to provide support for SB 2383. This bill would provide a tax credit to employers for hiring people with disabilities and keeping them employed for 12 consecutive months.

People with disabilities make up the largest minority group in America and roughly two-thirds of this labor pool is untapped. Employers are reluctant to hire people with disabilities even though studies show that they have average to above average work performance and attendance.

I believe that SB 2383 would give employers an additional incentive for hiring qualified people with disabilities and strongly encourage your endorsement of this bill.

Thank you for your time and attention.

#3

TESTIMONY
SENATE BILL 2383 – CORPORATE INCOME TAX CREDITS FOR
EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES
Senator Cook, Chairman
February 4, 2009

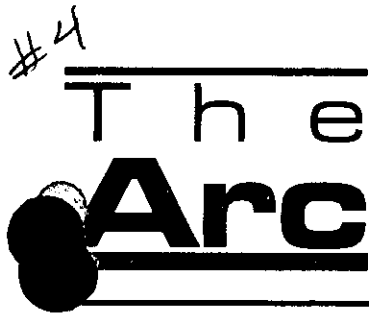
Chairman Cook, members of the Finance and Taxation Committee, I am Barbara Murry, Executive Director of the North Dakota Association of Community Providers. I am here today to testify on SB 2383.

The North Dakota Association of Community Providers is made up of 26 organizations across the state. We represent approximately 4,500 staff, 3,900 of whom are Direct Support Professionals, or DSP's. We serve approximately 4,800 individuals with developmental disabilities. Services are most often, lifelong.

Nationally, people with disabilities are vastly under-employed in today's job market. This holds true in North Dakota, as well. The ND Department of Commerce, through the Governor's Workforce Initiative has identified people with disabilities as one of the groups that needs to be targeted to meet North Dakota's growing workforce challenges. The importance of work for people with disabilities is highlighted as a key issue in reducing the increasing costs of Medicaid, as cited in "The Perfect Storm: The Impending Collapse of Medicaid and a Plan for Transformation," by Tom Nerney of the Center for Self Determination.

Yet employers remain apprehensive in hiring workers with disabilities. I believe passage of this legislation will increase employment opportunities for people with disabilities and decrease their reliance on public funding.

Chairman Cook, this concludes my testimony. I would be happy to answer any questions.



The Arc of Bismarck

1211 Park Avenue
Bismarck, ND 58504
Phone/Fax: 701-222-1854
arcbis@midconetwork.com
www.thearcofbismarck.org

Testimony of Support Senate Bill No. 2383 February 4, 2009

Good morning Chairman Cook and members of the Finance and Tax Committee. My name is Veronica Zietz (#166); I am the Executive Director at The Arc of Bismarck, and am here today as an employer of individuals with disabilities.

I support Senate Bill No. 2383 because it would provide employers a tax credit for hiring and permanently employing individuals with disabilities. Employing individuals with a disability is a big issue in North Dakota. The US Census Bureau found that only 51% women and 60% of men with a disability are employed compared to 67% of women and 80% of men without a disability. This is a huge rate of disparity in employment for individuals with a disability. Many people with a disability are stereotyped and many employers haven't considered them to be a viable labor pool. However, this is completely incorrect people with disabilities are often loyal and hardworking, and perhaps it is legislation such as this that will provide employers with an incentive to hire individuals with disabilities and give them a fair chance in the workplace.

The Arc of Bismarck operates a Thrift Store which employs multiple people with disabilities. I have found through experience that it is these employees who have a strong work ethic, dedication, and spirit. These individuals make a huge difference in the ordinary work day. I have come to expect them to always have a positive attitude and generally enjoy their work. They approach new tasks and assignments with determination, always excited to take on a new challenge. It is also these individuals that always keep busy, try their very best and outwork just about anybody. I believe individuals with disabilities are a very valuable resource to any business and perhaps passing this bill could provide many businesses in North Dakota the incentive to give these individuals an opportunity for employment.

The legislation that is being recommended in Senate Bill No. 2383 will provide for a much needed tax credit for employers of individuals with disabilities. The passage of this bill would result in the increased employment of individuals with disabilities and would empower them to become self-sufficient and further integrate into our community. Please support your local businesses and the many individuals with disabilities that could benefit from this bill.

Thank you for your time and attention.

#5

Senate Bill No. 2383

Finance and Taxation Committee

Chairman Dwight Cook

February 4, 2009

Chairman Cook, and members of the Finance and Taxation Committee, my name is Todd Christlieb, and I live in Fargo. I am here to testify in support of SB 2383. I would also like to express an idea for an amendment to be considered.

I support this bill for a couple of reasons. First, during the twelve month period, an employer and the employee would have a chance to explore what each other have to offer. Secondly, it would allow the opportunity for persons with disabilities and their co-workers to develop good working relationships, needed for personal development.

In addition to SB 2383, I believe it would be beneficial, both to the employer and potential employee, to have the person with a disability be required to be assessed of his or her skills and interests. From personal experience, as a person with a disability, I believe it is important to have meaningful and fulfilling employment. Also, this would help ensure employers that they will be investing in productive and happy employees.

Again, I would like to ask your support of SB 2383, and an amendment calling for an assessment process.

Thank you for your consideration.

#u

**Senate Finance and Taxation
Dwight Cook, Chairman
Lewis and Clark Room
SB 2383
Tom Alexander Testimony
Wednesday, February 4, 2009**

Chairman Cook and members of the Committee, my name is Tom Alexander. I am the Project Director for the ND Medicaid Infrastructure Grant (NDMIG) with the North Dakota Center for Persons with Disabilities at Minot State University. I am here in support of SB 2383. NDMIG is a project that works to promote the employment of people with disabilities through the removal of barriers to employment and to bring consumers, stakeholders and professionals together to build a comprehensive employment system through policy and infrastructure.

In 2007, Workforce Associates, Inc. submitted a report to the ND Department of Commerce titled, "*The State of the North Dakota Workforce: 2007.*" Within the Executive Summary it states, "ND's educational system at all levels shows exemplary performance. That said, however, the state must capitalize on the high quality of its talent development pipeline by finding ways to attract and retain people in North Dakota as productive contributors of a 21st century workforce. Proposed strategies for increasing the present workforce included recruiting from other states and keeping the talent that's already present in the state."

The statement, "keeping the talent that's already present in the state," really tells me that the ND business community needs to look at hiring more individuals with disabilities. According to the US Census Data, it is estimated that of the 642,000 ND residents, over 58,000 have a disability and are of working age, between the ages of 16 and 64.

According to a report published by Cornell University in 2007, ND has the highest employment rates for both the number of non-institutionalized individuals who have a disability (58%) and those without disabilities (85.5%) who are of working age. That tells me that ND citizens have a very strong work ethic whether they have a disability or not. However, that still leaves a huge gap between those working with a disability and those

working without a disability. That leaves a significant number of individuals who are disabled, totaling a difference of 30 percentage points, out of the workforce.

In 2006, the NDMIG project completed 19 employment related focus groups across the state of North Dakota. Eight of the focus groups were stakeholder driven, four of the focus groups surveyed the business community and the other seven focused on non-English speaking, mental health and Native American populations. In each of the focus groups, a critical issue was consistently cited as a primary concern--businesses need to expand their knowledge and dispel myths about hiring people with disabilities. It's a myth that individuals with disabilities do not have the right skills for business. It's a myth that supports in the workplace are costly. Employers in a study conducted by *Work Trends* reported that their workers with disabilities did not require accommodations with the most requested accommodation being a flexible schedule. It's a myth that hiring people with disabilities makes businesses vulnerable to litigation. It's a myth that getting information on how to hire people with disabilities is time-consuming and complicated. It's a myth that serving people with disabilities will adversely affect businesses' bottom line. Many of today's innovative and technological advancements, from which we all benefit, are the result yesterday's creative accommodations for people with disabilities. (Center for Workforce Preparation – An Affiliate of the US Chamber of Commerce)

To date, there are work incentive programs for individuals with disabilities to seek and maintain employment. There must be more incentives for businesses to hire people from this vast talent pool. By passing SB 2383 you would be providing a key incentive to North Dakota employers. Therefore, I urge the Committee to recommend a "do pass" on SB 2383.

I am available to answer any questions that you may have.

Thank you for your time.

Tom Alexander, Project Director
North Dakota Center for Persons with Disabilities
Memorial Hall
Minot State University
500 University Ave West
Minot, ND 58707

tom.alexander@minotstateu.edu
701-858-3436
1-800-233-1737
Fax 701-858-3483

#7
January 28, 2009

RE: SB 2383

Chairman Cook and members of the Finance and Taxation Committee,

My name is Bob Langlie and I have a 21 year old daughter with developmental disabilities. I would like to encourage you to support SB 2383 which provides a tax credit for employing people with disabilities.

As Kris neared the end of high school we worried about the direction her life would take. Would she be confined to home, needing supervision? Would her development reverse without the stimulation of people in the outside world? We worried needlessly. She has been employed in housekeeping at the Ramada and her skills have soared. She works with a job coach and a team of others with disabilities. Kris contributes to society through her work and her communication skills have grown considerably in the two years of employment. Our daughter's life has been blessed by her work and we are proud that she is a contributing member of society.

As an employer myself, manager of Luther Collision in Fargo, I understand the responsibilities and risks involved with hiring people with disabilities. But through my daughter's example, I believe that both the business and the person benefit from this program. The Ramada benefits from Kris' employment because of her willingness to do any task asked of her without complaint. Her responsibilities may be mundane for many people, but she is proud to complete the tasks assigned to her each day. By providing tax credits for businesses with the opportunity to employ people with disabilities you are encouraging businesses to consider hiring a population that is often overlooked for what they can do. This tax credit will indicate your belief that people with disabilities have the ability to do many things and therefore are able to contribute to society.

I hope you will see the benefit of providing a tax credit for employers who hire individuals with disabilities and support SB 2383. I would also encourage you to expand the tax credits to any business that pursues the opportunity to employ people with disabilities. By only allowing employers that presently hire people with disabilities to receive the tax credit, employers are not encouraged to seek this opportunity. Additionally, people with disabilities often have a limited physical and mental endurance and a 32-hour work week may not be possible. Please consider revising that stipulation.

Respectfully,

Bob Langlie
Parent
Manager of Luther Collision

8

*Some
given to
House*

**Testimony of Support
Senate Bill No. 2383
February 4, 2009**

Good morning Chairman Cook and members of the Finance and Tax Committee. My name is Leon Dietrich; I live in district 35. I am in support of Senate Bill No. 2383. It would give a good incentive to employers to hire people with disabilities.

I have been working with the Bismarck Public Schools for 22 years. I started working in a classroom with kids that have disabilities. Then after eight years I was burned out on that job and applied for a custodian position with the same school. I worked part-time in this job for 14 years. Last August a full time custodian position opened up and I was hired on the spot. Now I work more hours and make a little more money. I never had benefits before and now I do. Now that I have full time job I feel more secure and better about myself. I never worry about money anymore and I am very happy.

People with disabilities are hard workers and deserve to have a chance to be productive and have a job. I think if this bill passes it will provide more job opportunities for people with disabilities. That way self-advocates who get jobs could feel good about themselves, just like I do.

In closing I urge you to support Senate Bill 2383. Thank you for your time and consideration.

Sincerely,
Leon Dietrich

Leon Dietrich

Amendments passed out

#1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2383

Page 1, line 2, replace "individual and" with "an"

Page 1, line 3, remove "corporate"

Page 1, replace lines 10 through 15 with:

"a. "Individual with disabilities" means an individual with a disability as defined under the Americans with Disabilities Act of 1990, and as amended by the ADA Amendments Act of 2008 [Pub. L. 110-325, 122 Stat. 3553], and who is receiving services directly related to the disabilities."

Page 1, line 18, after "57-38-30.3" insert "for the employment of an individual with disabilities"

Page 1, replace line 19 with "fifty percent up to a maximum of five thousand"

Page 1, line 20 remove "part-time"

Page 1, line 21, remove "who is receiving state services directly related to such disabilities"

Page 1, line 22, remove the underscored colon

Page 2, line 1, replace "a. The" with "the"

Page 2, line 2, replace "within the ninety-day" with "from the number of individuals with disabilities employed by the taxpayer at the end of the preceding taxable year."

Page 2, remove lines 3 through 6

Page 2, line 7, replace "credit allowed under this section for the employment of individuals with" with "taxpayer may claim the credit in the first tax year beginning after the individual hired has completed the employee's first twelve consecutive months of employment with the taxpayer"

Page 2, remove line 8

Page 2, line 9, remove "employment of such individuals by one or more"

Page 2, line 11, remove "The taxpayer is not required to make a"

Page 2, remove lines 12 and 13

Page 2, line 15, remove "incentive" and replace "pursuant to" with "under"

Page 2, line 17, remove "or job service North Dakota"

Page 2, line 18, replace "The taxpayer shall file a plan with the commissioner on a form prescribed by the" with "A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 2, remove lines 19 through 25

Renumber accordingly

#2

90981.0100

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2383

Introduced by

Senators Fiebiger, Mathern, Oehlke

Representatives N. Johnson, Onstad

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to
2 subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to ~~individual and an~~
3 ~~corporate~~ income tax credit for employment of individuals with disabilities; and to provide an
4 effective date.

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

6 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Tax credit for employment of individuals with disabilities.**

9 1. As used in this subsection, unless the context otherwise requires:

10 a. "Full-time employee job" means a permanent, rather than seasonal or
11 part-time, employment position providing employment for at least twelve
12 consecutive months to an individual for at least ^{twenty-five} ~~thirty-two~~ hours per week. *and does not*

13 *Insert: "4. Individuals with disabilities?"*
14 *c. b.* "Part-time employee job" means a part-time employment position ^{in which an} providing
15 employment for at least twelve consecutive months to an individual for at least
16 ten hours per ^{week} ~~week~~ and does not include seasonal employment.

17 2. A taxpayer that is an employer in this state is entitled to a tax credit as determined
18 under this section against state income tax liability under section 57-38-29,
19 57-38-30, or 57-38-30.3. *for the employment of an individual with disabilities*
20 The amount of the credit to which a taxpayer is entitled is
21 five thousand dollars for each net new full-time employee job and two thousand
22 dollars for each net new part-time employee job for an individual with disabilities
who is receiving state services directly related to such disabilities. The tax credit
under this section is available if

- 1 ~~a. The employment of the individual creates a net increase in the number of~~
2 ~~individuals with disabilities employed by the taxpayer within the ninety-day~~
3 ~~period immediately preceding the employment; and~~ *from the number of individuals*
4 ~~b. The taxpayer provides the employment for at least twelve consecutive months~~
5 ~~and for no less than the minimal hours per week for respective full-time~~
6 ~~employee jobs and part time employee jobs.~~
7 3. ~~The credit allowed under this section for the employment of individuals with~~
8 ~~disabilities hired for the full-time or part-time employee job has completed the~~
9 ~~employee's first twelve consecutive months of employment with the taxpayer~~
10 ~~employment of such individuals by one or more and applies in subsequent tax~~
11 ~~years in which further net increases occur above the level of such employment~~
12 ~~established when the credit was last taken. The taxpayer is not required to make a~~
13 ~~capital investment in a qualified business enterprise to receive the credit allowed~~
14 ~~by this section for the employment of individuals with disabilities.~~
15 4. ~~The credit provided under this section may be granted only to a taxpayer that~~
16 ~~participates in an existing employment incentive program pursuant to which~~
17 ~~individuals with disabilities are being served by the department of human services~~
18 ~~or job service North Dakota.~~ *Insert*
19 ~~The taxpayer shall file a plan with the commissioner on a form prescribed by the~~ *pass through 5. →*
20 ~~commissioner to qualify for the credit. The taxpayer shall file the form on or before~~
21 ~~the last day of the tax year in which employment begins and shall state the number~~
22 ~~of individuals with disabilities newly employed.~~ *entry*
23 6. ~~The commissioner may conduct audits or require the filing of additional information~~
24 ~~necessary to substantiate or adjust the amount of credit allowed by this section and~~
25 ~~to determine that the taxpayer has complied with all statutory requirements so as to~~
26 ~~be entitled to the job tax credit.~~ *language*

27 **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North
28 Dakota Century Code is created and enacted as follows:

29 Tax credit for employment of individuals with disabilities under section 1 of
30 this Act.

31 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
December 31, 2008.

SB 2385

Examples of State Employer Tax Incentives – Presented to Senate Finance and Taxation Committee

| State | Summary | Eligibility Criteria | Additional Detail |
|----------|--|---|---|
| Maryland | <p>Maryland Disability Employment Tax Credit Businesses that hire people with disabilities may be entitled to a tax credit for wages paid to the employees and for child care or transportation expenses paid on behalf of employees. The credit is allowed for the first two years of employment of the individual with a disability for both the wages paid and the child care or transportation expenses.</p> | <p>To qualify as an employee: Disability determination made by state vocational rehabilitation for people with disabilities or state office verifying a service-related disability.</p> <p>To qualify as an employer: The company must hire an individual with a disability and obtain a determination by the state regarding disability or disabled veteran status.</p> | <p>First Year</p> <ul style="list-style-type: none"> Wages: 30% of the first \$6,000 paid in the first year for a maximum allowable credit of \$1,800 Child care or transportation expenses: Up to \$600 of expenses paid in the first year <p>Second Year</p> <ul style="list-style-type: none"> Wages: 20% of the first \$6,000 of wages paid in the second year for a maximum allowable credit of \$1,200. Child care or transportation expenses: Up to \$500 of expenses paid in the second year. |
| Utah | <p>Employers Who Hire Person With Disabilities Tax Credit An employer may take a nonrefundable credit against the corporate franchise or income tax based on amounts paid to persons with disabilities who work for the employer.</p> | <p>To qualify as an employee: Must meet one of two criteria: (1) have been receiving services from a program certified by state department of human services or (2) be eligible for services from the Division of Services for People with Disabilities at the time the individual began working for the employer.</p> <p>To qualify as an employer: Must meet the following: (1) individual must work in the state for at least six months for the employer; and (2) is paid at least minimum wage.</p> | <p>The credit shall be equal to 10% of gross wages earned in the first six months of the taxable year by the employee; plus, 20% of the gross wages earned in the remainder of the taxable year.</p> <p>The credit is limited to \$3,000 per employee with a disability during the taxable year. The credit is allowed only for the first two years of employment.</p> |
| New York | <p>Economic Development Services Workers With Disabilities Employment Tax Credit New York State's initiative to assist people with disabilities in securing employment.</p> | <p>To qualify as an employee: Must meet eligibility requirements for certification under one of three state offices: vocational rehabilitation, state education department of vocational and educational services for individuals with disabilities, or state commission for the blind and visually impaired.</p> <p>To qualify as an employer: Qualified wages are counted under the federal Work Opportunity Tax Credit (a federal tax credit program) during the first year of employment. This means the employee is required to work for the employer for two years for the employer to qualify for the state tax incentive.</p> | <p>The tax credit equal 35% of the first \$6,000 in wages paid during the second year of employment.</p> <p>Note: The Work Opportunity Tax Credit (WOTC) tax credit is 40% of the first \$6,000 in wages.</p> |

| | | | |
|---------------------|---|--|--|
| <p>Pennsylvania</p> | <p>Employment Incentive Payment Tax Credit</p> <p>A state tax incentive program that operates concurrently with the federal WOTC in the state of Pennsylvania.</p> | <p>To qualify as an employee:</p> <ul style="list-style-type: none"> • Meets any one of the ten eligibility categories under the federal WOTC (Title IV-A recipient, food stamp recipient, qualified veteran, vocational rehabilitation referral, ex-felon, SSI recipient, etc) or; • Receives Pennsylvania Cash Assistance in the GA or TANF category or; • Vocational rehabilitation referral <p>To qualify as an employer: New hires, with a disability, must remain on the payroll for a full year before an employer is entitled to a full tax credit.</p> | <p>Maximum Amount of Credit</p> <ul style="list-style-type: none"> • First Year: 30% of Qualifying Wages* • Second Year: 20% of Qualifying Wages* • Third Year: 10% of Qualifying Wages* <p>*An additional \$1,800 in credit may be earned over the three years of eligibility if the employer provides or reimburses for child care or transportation to work.</p> <p>Qualifying Wages capped at \$9,000</p> |
| <p>Iowa</p> | <p>Iowa Assistive Device Tax Credit</p> <p>Available to employers who buy or rent products or equipment to make physical changes to the workplace to help an employee get or keep a job.</p> | <p>To qualify as an employee: None cited.</p> <p>To qualify as an employer:</p> <ul style="list-style-type: none"> • Must employ 14 or less employees or; • Earn \$3 million or less in yearly gross receipts | <p>Eligible for a tax credit equal to ½ of \$5,000 spent with a \$2,500 annual cap.</p> |
| <p>Iowa</p> | <p>Iowa Small Business Tax Deduction</p> <p>Given in addition to the federal WOTC for small Iowa businesses for the hiring of an employee with a disability.</p> | <p>To qualify as an employee: None cited.</p> <p>To qualify as an employer:</p> <ul style="list-style-type: none"> • Must employ 20 or less employees or; • Earn \$3 million or less in yearly gross revenue | <p>Eligible for a tax deduction equal to 65% of wages in the first year.</p> <p>\$20,000 ceiling per employee</p> |

SB 2383

Representative Belter and members of the House Finance and Taxation Committee, my name is Tom Fiebiger, Senator, District 45 – Fargo. I appear today in support of SB 2383.

Senate Bill 2383 is a “win-win” bill. It provides an income tax credit for employment of individuals with disabilities. The bill provides real and new opportunities for people with disabilities to be productive and earn income. The bill also helps businesses that help themselves and others with disabilities.

Section 1 of the bill defines individual with a disability to mean an individual with a disability as defined in the Americans With Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008.

The amount of the credit is limited to 50% of wages paid up to a maximum of five thousand dollars. An employer only gets the credit if they have a net increase in the number of individuals with disabilities employed by the employer at the end of the preceding taxable year. The credit may only be granted to a taxpayer that participates in an existing employment program under which individuals with disabilities are being served by the department of human services.

There is a representative from the tax department here to answer any tax questions.

Our citizens with disabilities want to work and be productive. This bill provides a meaningful way to give employers an incentive to help make that happen. Please give SB 2383 a DO PASS recommendation.

March 11, 2009

To: The Sixty First Legislative Assembly of North Dakota

RE: Senate Bill # 2383 (Tax credit for employment of individuals with disabilities)

Dear ND House of Representatives:

My name is Paul Leier. My wife I are encouraging you to support SB 2383 which provides a tax credit for employing people with disabilities.

We have a son who is 17 years of age. He has Williams Syndrome, which is genetic disorder caused by a defective 7th chromosome. He sought a part-time job at a grocery store in Fargo 2 summers ago and was hired. Initially he was to be trained as a cashier, shelf re-stocker plus be available to bag and carryout customer's groceries. Being disabled, we – both the employer and our son – soon discovered that his multi-tasking capacity was limited. This creates unique economic challenges for a business. Thus, the incentives provided in SB 2383 are needed and will be welcomed by employers who have the "heart" and desire to employ people with disabilities.

In the above situation the store management has given our son the opportunity to become a bagger, a carryout person and remain employed part-time. We are thankful for this. We know the sacrifice that the employer is making. The employer's ability to maximize store capacity during busy times when more cashiers are needed is limited because our son is unable to perform as a cashier due to his Williams Syndrome disability. So, if an employer can offset some of their employment costs and challenges encountered with disabled people then employers and employees both benefit.

Our son takes great pride in his work. He is dependable. Many people – friends and the store management – have said he is polite, dedicated and focused on customer service. We know that special needs people create a caring atmosphere that "pulls people together". Disabled or special needs employees create a unique human dimension at a business by the respect they give and receive.

There are many benefits that will result with SB 2383's approval. First, disabled people will be employed and be able to "be the best they can be". Second, this will slightly decrease their need for state and federal services. Third, the public will admire employers who create unique employment opportunities. And fourth, there is nothing more heart warming than to see a disabled person taking pride in their work, smiling, and knowing they are making a difference to their employers and customers.

Thank you for taking the time to consider this legislation. I hope you see the multiple benefits that will occur with SB 2383.

Passing such a bill will have a positive public impact on many lives with the benefits outpacing any perceived costs to the state of North Dakota. Let us stand together, reward employers and the disabled by passing SB 2383.

Thank you for your consideration. It is deeply appreciated.

Sincerely,

Paul Leier – Parent of an employed child with disabilities
3714 15th St. South
Fargo, ND 58104-6353

**House Finance and Taxation
Wesley Belter, Chair
Fort Totten Room
SB 2383**

**Tom Alexander Testimony
Wednesday, March 11, 2009**

Chairman Belter and members of the Committee, my name is Tom Alexander. I am the Project Director for the ND Medicaid Infrastructure Grant (NDMIG) with the North Dakota Center for Persons with Disabilities at Minot State University. I am here in support of SB 2383. NDMIG is a project that works to promote the employment of people with disabilities through the removal of employment barriers and to bring consumers, stakeholders and professionals together to build a comprehensive employment system through policy and infrastructure.

In 2007, Workforce Associates, Inc. submitted a report to the ND Department of Commerce titled, "*The State of the North Dakota Workforce: 2007.*" Within the Executive Summary it states, "ND's educational system at all levels shows exemplary performance. That said, however, the state must capitalize on the high quality of its talent development pipeline by finding ways to attract and retain people in North Dakota as productive contributors of a 21st century workforce. Proposed strategies for increasing the present workforce included recruiting from other states and keeping the talent that's already present in the state."

The statement, "keeping the talent that's already present in the state," really tells me that the ND business community needs to look at hiring more individuals with disabilities. According to the US Census Data, it is estimated that of the 642,000 ND residents, over 58,000 have a disability and are of working age, between the ages of 16 and 64.

According to a report published by Cornell University in 2007, ND has the highest employment rates for both the number of non-institutionalized individuals who are of working age who have a disability (58%) and those without disabilities (85.5%) who are of working age. That tells me that ND citizens have a very strong

work ethic whether they have a disability or not. However, that still leaves a huge gap between those working with a disability and those working without a disability. That leaves a significant number of individuals who are disabled, totaling a difference of 30 percentage points, out of the workforce.

Based on ND's economic statistics we know ND has many new jobs, however we are in great need of people to fill those jobs. Additionally, ND has been encouraged by national experts to focus on underutilized talents pools such as people with disabilities.

In 2006, the NDMIG project completed 19 employment related focus groups across the state of North Dakota. Eight of the focus groups were stakeholder driven, four of the focus groups surveyed the business community and the other seven focused on non-English speaking, mental health and Native American populations. In each of the focus groups, a critical issue was consistently cited as a primary concern--businesses need to expand their knowledge and dispel myths about hiring people with disabilities!

- It's a myth that individuals with disabilities do not have the right skills for business.
- It's a myth that supports in the workplace are costly. Employers in a study conducted by *Work Trends* reported that their workers with disabilities did not require accommodations with the most requested accommodation being a flexible schedule.
- It's a myth that hiring people with disabilities makes businesses vulnerable to litigation.
- It's a myth that getting information on how to hire people with disabilities is time-consuming and complicated.
- It's a myth that serving people with disabilities will adversely affect businesses' bottom line. Many of today's innovative and technological advancements, from which we all benefit, are the result yesterday's creative accommodations for people with disabilities. (Center for Workforce Preparation – An Affiliate of the US Chamber of Commerce)

To date, there are work incentive programs for individuals with disabilities to seek and maintain employment. There must be more incentives for businesses to hire people from this vast talent pool. By passing SB 2383 you would be providing a key incentive to North Dakota employers. Therefore, I urge the Committee to recommend a "do pass" on SB 2383.

I am available to answer any questions that you may have.

Thank you for your time.

Tom Alexander, Project Director
North Dakota Center for Persons with Disabilities
Memorial Hall
Minot State University
500 University Ave West
Minot, ND 58707

tom.alexander@minotstateu.edu

701-858-3436

1-800-233-1737

Fax 701-858-3483



Federal Employer Incentives

Work Opportunity and Welfare-to-Work Tax Credit

The WOTC has two purposes:

1. To promote the hiring of individuals who qualify as a member of a target group, and
2. To provide a federal tax credit to employers who hire these individuals.

An employer may qualify for a tax credit of up to \$8,500 if the employee is a member of a designated target group and meets that group's specific requirements.

There are nine target groups for WOTC eligibility:


1. Qualified recipients of Temporary Assistance to Needy Families (TANF).
2. Qualified veterans who are receiving Food Stamps.
3. Qualified economically disadvantaged ex-felons hired no later than one year after conviction or release from prison.
4. High-risk youth ages 18 through 24 who reside in a federally designated Empowerment Zone, Enterprise Community, or Renewal Community.
5. Vocational Rehabilitation referrals.
6. Qualified summer youth ages 16 through 17 who reside in a federally designated Empowerment Zone, Enterprise Community, or Renewal Community and have not previously worked for the employer seeking this tax credit.
7. Qualified Food Stamp recipients ages 18 through 24.
8. Qualified recipients of Supplemental Security Income (SSI).
9. Long-term recipients of TANF/Aid to Families with Dependent Children (AFDC). (Individuals who began work on or after January 1, 1998.)

Small Business Tax Credit: IRS Code Section 44, Disabled Access Credit

What is it? Small businesses may take an annual tax credit for making their businesses accessible to persons with disabilities. The total disabled access tax credits taken in 1996 on corporate income tax returns by all industries totaled \$11,865,000, according to the IRS.

What are the eligibility requirements? Small businesses that in the previous year earned \$1 million or less in gross receipts or had 30 or fewer full-time employees are eligible for the Small Business Tax Credit.

What expenses are covered? The tax credit is available every year and can be used for a variety of costs such as:

- o Sign language interpreters for employees/customers who have hearing impairments
 - o readers for employees/customers with visual impairments
 - o the purchase of adaptive equipment or the modification of equipment
 - o printed materials in alternate formats (e.g., Braille, audiotape, large print)
- 

- o the removal of architectural barriers in buildings or vehicles
- o other similar services (i.e., use of a job coach or a co-worker to provide support to an employee with a disability).

What expenses are NOT covered? The tax credit does not apply to the costs of new construction, and a building being modified to accommodate the disabled must have been placed in service before November 6, 1990.

What is the amount of the tax credit? The credit is 50% of expenditures over \$250 but not to exceed \$10,250, for a maximum benefit of \$5,000.

How can this credit be claimed? Businesses can claim the Disabled Access Credit on IRS Form 8826.

For more information on the Small Business, Disabled Access Credit contact the Internal Revenue Service at <http://www.irs.gov/>

Architectural/Transportation Tax Deduction: IRS Code Section 190, Barrier Removal

What is it? Businesses may take an annual deduction for expenses incurred to remove physical, structural and transportation barriers for persons with disabilities.

What are the eligibility requirements? All businesses are eligible.

What expenses are covered? It can be used for a variety of costs to make a facility or public transportation vehicle owned or leased for use in the business more accessible to and usable by persons with disabilities. Examples of deductions include:

- o providing accessible parking spaces, ramps, and curb cuts
- o providing telephones, water fountains, and restrooms that are accessible to persons using wheelchairs
- o making walkways at least 48 inches wide and providing accessible entrances to buildings including stairs and floors.

What expenses are NOT covered? The deduction may not be used for expenses incurred for new construction, completion of renovation to a facility or public transportation vehicle, or for normal replacement of depreciable property.

What is the amount of tax deduction? The Internal Revenue Service (IRS) allows a deduction of up to \$15,000 per year for qualified architectural and transportation barrier removal expenses.

How can this expenditure be deducted? Businesses should follow the instructions found in IRS Publication 907 and in IRS Publication 535 entitled: Business Expenses. It is important to note that businesses may not take a deduction and a tax credit on the same expenditure.

For more information on the Architectural/Transportation Tax Deduction, IRS Section 190, contact the Internal Revenue Service at <http://www.irs.gov/>.

Social Security Employment Supports

Ticket to Work Program

The Ticket to Work Program is an innovative program for individuals with disabilities who want to work and participate in planning their employment. A Ticket increases available choices when obtaining employment services, vocational rehabilitation services, and other support services needed to get or keep a job. It is a free and voluntary service. Individuals with disabilities are not subject to a continuing disability review while using a Ticket.

Impairment-Related Work Expenses

Individuals can deduct the out-of-pocket costs of impairment-related work expenses from the amount of earnings Social Security uses to calculate an individual's Social Security benefits. Examples may include medicine, medical devices, service animals, and out-of-pocket expenses for transportation and home modifications that allow an individual to work.

Subsidy and Special Conditions

"subsidy" is support provided by the employer that may result in an individual receiving more pay than the actual value of the services they perform. "Special conditions" refers to support provided by someone *other than* the employer, for example, a vocational rehabilitation agency. As a result of this support, individuals may be receiving more pay than the actual value of the services they perform.

Trial Work Period

The trial work period allows individuals to test their ability to work for at least 9 months. During the trial work period, individuals will receive full Social Security Disability Insurance benefits regardless of how high their earnings might be as long as their work activity has been reported and they have a disabling impairment.

Student Earned Income Exclusion

If an individual with a disability is under age 22 and regularly attending school, Social Security does not count up to \$1,640 of earned income per month when calculating their Social Security payment amount. The maximum yearly exclusion is \$6,600 in 2009. The maximum exclusion is adjusted each year based on the cost-of-living.

Plan to Achieve Self-Support (PASS)

Social Security eligibility and payment amounts are based on income and resources (things of value that individual owns). A Plan to Achieve Self-Support (PASS) lets individuals with disabilities set aside money to pay for items or services needed to achieve a specific work goal. For example, an individual could set aside money to pay expenses for education, vocational training, equipment, transportation, or starting a business as long as the expenses are related to achieving your work goal.

Special Payments for Individuals Who Work - Section 1619(a)

Section 1619(a) of the Supplemental Security law allows people to continue receiving Social Security benefits while they work at or above the Substantial Gainful Activity level.

Medicaid While Working - Section 1619(b)

After a return to work, Medicaid coverage can continue, even if earnings (alone or in combination with other income) become too high for a Social Security cash payment.

ADDITIONAL HELP WITH HEALTH CARE FOR INDIVIDUALS WITH DISABILITIES

Workers With Disabilities Coverage - Medicaid Buy-In

The state of ND allows individuals to purchase Medicaid if they have a disability and are no longer entitled to free Medicaid because of their return to work. Many other states have implemented similar buy-in programs.

Help With Medicare Part A Premiums

Individuals with a disability, under age 65, and no longer entitled to free Medicare Hospital Insurance Part A because of a successful return to work, may be eligible for a program that helps pay their Medicare Part A monthly premium.

Contact Information:

Tom Alexander, Project Director
North Dakota Center for Persons with Disabilities
(701) 858-3436
tom.alexander@minotstateu.edu

Additional Social Security Employment Supports:

- Extended Period of Eligibility
- Property Essential to Self Support
- Special Benefits for Individuals Eligible Under Section 1619 Who Enter Medical Treatment Facility
- Continued Payment Under a Vocational Rehabilitation or Similar Program (Section 301)
- Expedited Reinstatement
- Unsuccessful Work Attempt
- Unincurred Business Expenses (Self Employment Only)
- Earned Income Exclusion
- Reinstating (SSI) Eligibility Without a New Application
- Continuation of Medicare Coverage

Source: Social Security 2009 Red Book, www.socialsecurity.gov

State Resources for Assistance

Western North Dakota:

Terry Peterson
Community Work Incentives Coordinator
Rehab Services, Inc.
701.258.8132
tsp5@srt.com

Eastern North Dakota

Mark Mehlhoff
Community Work Incentives Coordinator
Rehab Services, Inc.
1.701.478.9122
ndbenefits@hotmail.com

North Dakota Protection and Advocacy Project

400 E. Broadway, Suite 409
Bismarck, ND 58501
1.800.472.2670
panda@nd.gov

Social Security Administration

1.800.772.1213
www.ssa.gov

TESTIMONY
SENATE BILL 2383 – CORPORATE INCOME TAX CREDITS FOR
EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES
Representative Belter, Chairman
House Finance and Taxation
March 11, 2009

Chairman Belter, members of the Finance and Taxation Committee, I am Barbara Murry, Executive Director of the North Dakota Association of Community Providers. I am here today to testify on SB 2383.

The North Dakota Association of Community Providers is made up of 26 organizations across the state. We represent approximately 4,500 staff, 3,900 of whom are Direct Support Professionals, or DSP's. We serve approximately 4,800 individuals with developmental disabilities. Services are most often, lifelong.

Nationally, people with disabilities are vastly under-employed in today's job market. This holds true in North Dakota, as well. The ND Department of Commerce, through the Governor's Workforce Initiative has identified people with disabilities as one of the groups that needs to be targeted to meet North Dakota's growing workforce challenges. The importance of work for people with disabilities is highlighted as a key issue in reducing the increasing costs of Medicaid, as cited in "The Perfect Storm: The

Impending Collapse of Medicaid and a Plan for Transformation,” by Tom Nerney of the Center for Self Determination.

Yet employers remain apprehensive in hiring workers with disabilities. Successful employment not only leads to economic independence, it makes the individual valued by and connected to the community, at large. I believe passage of this legislation will increase employment opportunities for people with disabilities and decrease their reliance on public funding.

Chairman Belter, this concludes my testimony. I would be happy to answer any questions.

**Testimony of Support
Senate Bill 2383
March 11, 2009**

Chairman Belter and members of the committee, my name is Janell Malpert and I am the Executive Director for The Arc of Cass County. The Arc is an advocacy organization for people with intellectual and developmental disabilities.

I am here today to provide support for SB 2383. This bill would provide an income tax credit for employing people with disabilities.

The idea for this bill came from the parents of a young man with Williams Syndrome in Fargo. Like all parents they want to see their oldest child, Paul, find his place in this world and obtain meaningful work.

Two summers ago Paul was hired for a position at Sunmart grocery store and was to be trained as a cashier and shelf re-stocker, in addition to bagging and carrying out groceries. It was soon found that his Williams Syndrome affected his ability to multi-task in a manner that was needed to perform all aspects of the position, particularly cashiering. Because of this, the employer has been unable to access his help for cashiering during busy times when more checkers are needed.

SB 2383, if passed, would give employers like Sunmart the ability to offset some of the expenses for having positions like the one for Paul that are adjusted in some way to use the strengths of a particular employee.

People with disabilities make up the largest minority group in America and roughly two-thirds of this labor pool is untapped. I believe that SB 2383 would give employers an additional incentive for hiring qualified people with disabilities and strongly encourage your endorsement of this bill.

Thank you for your time and attention.



The Arc of Bismarck

1211 Park Avenue
Bismarck, ND 58504
Phone/Fax: 701-222-1854
arcbis@midconetwork.com
www.thearcofbismarck.org

Testimony 8

Testimony of Support Senate Bill No. 2383 March 11, 2009

Good morning Chairman Belter and members of the Finance and Tax Committee. My name is Veronica Zietz (#166); I am the Executive Director at The Arc of Bismarck, and am here today as an employer of individuals with disabilities.

I support Senate Bill No. 2383 because it would provide employers a tax credit for hiring and permanently employing individuals with disabilities. Employing individuals with disabilities is a big issue in North Dakota. The US Census Bureau found that only 51% women and 60% of men with a disability are employed compared to 67% of women and 80% of men without a disability. This is a huge rate of disparity in employment for individuals with a disability. Many people with a disability are stereotyped and many employers haven't considered them to be a viable labor pool. However, this is completely incorrect people with disabilities are often loyal and hardworking, and perhaps it is legislation such as this that will provide employers with an incentive to hire individuals with disabilities and give them a fair chance in the workplace.

The Arc of Bismarck operates a Thrift Store which employs multiple people with disabilities. I have found through experience that it is these employees who have a strong work ethic, dedication, and spirit. These individuals make a huge difference in the ordinary work day. I have come to expect them to always have a positive attitude and generally enjoy their work. They approach new tasks and assignments with determination, always excited to take on a new challenge. It is also these individuals that always keep busy, try their very best and outwork just about anybody. I believe individuals with disabilities are a very valuable resource to any business and passing this bill could provide many businesses in North Dakota the incentive to give these individuals an opportunity for employment.

The legislation that is being recommended in Senate Bill No. 2383 will provide for a much needed tax credit for employers of individuals with disabilities. The passage of this bill would result in the increased employment of individuals with disabilities and would empower them to become self-sufficient and further integrate into our community. Please support your local businesses and the many individuals with disabilities that could benefit from this bill. Please vote do pass on Senate Bill No. 2383.

Thank you for your time and consideration.

March 11, 2009

RE: SB 2383

Representative Belter and Members of the Finance and Taxation Committee:

My name is Bob Langlie and I have a 21 year old daughter with developmental disabilities. I would like to encourage you to support SB 2383 which provides a tax credit for employing people with disabilities.

As Kris neared the end of high school we worried about the direction her life would take. Would she be confined to home, needing supervision? Would her development reverse without the stimulation of people in the outside world? We worried needlessly. She has been employed in housekeeping at the Ramada and her skills have soared. She works with a job coach and a team of others with disabilities. Kris contributes to society through her work and her communication skills have grown considerably in the two years of employment. Our daughter's life has been blessed by her work and we are proud that she is a contributing member of society.

As an employer myself, manager of Luther Collision in Fargo, I understand the responsibilities and risks involved with hiring people with disabilities. But through my daughter's example, I believe that both the business and the person benefit from this program. The Ramada benefits from Kris' employment because of her willingness to do any task asked of her without complaint. Her responsibilities may be mundane for many people, but she is proud to complete the tasks assigned to her each day. By providing tax credits for businesses with the opportunity to employ people with disabilities you are encouraging businesses to consider hiring a population that is often overlooked for what they can do. This tax credit will indicate your belief that people with disabilities have the ability to do many things and therefore are able to contribute to society.

I hope you will see the benefit of providing a tax credit for employers who hire individuals with disabilities and support SB 2383.

Respectfully,

Bob Langlie
Parent
Manager of Luther Collision

House Finance and Taxation Committee
Sixty-First Legislative Assembly of North Dakota
Senate Bill No. 2383
March 11, 2009

Greetings, Chairman Belter and Members of the House Finance and Taxation Committee: I am David Boeck, a lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect persons with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of persons with disabilities.

This written testimony is a summary of the oral testimony I presented Wednesday and contains responses to several questions that arose during the hearing.

The Protection & Advocacy Project has a special program for beneficiaries of Social Security disability benefits and Supplemental Security Income (SSI) disability benefits. The Protection & Advocacy Project works through this program to help persons with disabilities gain employment and remain employed.

The Protection & Advocacy Project sees the effects of longstanding attitudes toward people with disabilities. Some employers have little or no experience with workers who have disabilities. They may perceive workers with disabilities as threats to efficiency. They may perceive workers with disabilities as incapable of working. They may perceive it to be a major

hassle to employ a person with a disability. They may perceive hiring a person with a disability as an act of charity only.

SB 2383 would nudge employers away from those outmoded stereotypes. A tax credit would encourage employers to abandon unfair, stereotypical notions of people with disabilities and to hire people with disabilities. This outcome would be good for employers and good for newly hired workers who would gain the opportunity to prove their worth.

Other witnesses presented statistics about unemployment among people with disabilities. I will not repeat those statistics. Leon Dietrich testified effectively on the effects of employment on a person with a disability. I will not attempt to improve on the image he presented.

Several questions arose during the hearing that other witnesses were unable to fully address. I will address those.

1. How would SB 2383 affect an employer who has 400 employees of whom 100 are persons with disabilities?

It would not affect that employer unless the employer hired an additional (net) person with a disability. SB 2383 is an incentive to hire new employees with disabilities. When this employer hires a new employee with a disability, the tax credit would apply only if the employer (in this instance) would now have 101 employees with disabilities. The tax credit would apply only to a net gain of employees with disabilities.

2. What about the current tax credit for hiring persons with developmental disabilities or chronic mental illness?

Section 57-38-01.16 of the North Dakota Century Code covers the current tax credit. It is different because current law provides a tax credit only for employing "developmentally disabled or chronically mentally ill persons." SB 2383 would cover all persons with disabilities.

SB 2383 would provide a credit of "fifty percent of wages paid up to a maximum of five thousand dollars for each net new employee job for an individual with disabilities." The existing tax credit covers "five percent of up to six thousand dollars in wages paid during the first twelve months of employment ... for each developmentally disabled or chronically mentally ill employee of the taxpayer."

SB 2383 would overlap with current law as to employees with developmental disabilities or chronic mental illnesses. SB 2383 is a more generous tax credit (50% versus 5% of wages) and SB 2383 has a higher maximum credit (\$5,000 versus \$300).

Some taxpayers could receive both tax credits. If you wish to provide only one tax credit, I recommend you keep the tax credit proposed in SB 2383 and repeal the tax credit in section 57-38-01.16 of the North Dakota Century Code

3. What about employees with disabilities who do not disclose their disabilities?

SB 2383 would not provide a tax credit for employers of persons who do not disclose their disabilities. SB 2383 is an incentive to hire persons with disabilities. SB 2383 would not apply to this employer for this employee because the tax credit played no role in the decision to hire this person.

Thank you for the opportunity to testify in favor of this legislation.

Please contact me if you have questions. [ph. 328-2950; email dboeck@nd.gov]

PROPOSED AMENDMENTS TO SENATE BILL NO. 2383

Page 1, line 3, after the semicolon, add "to repeal repeal section 57-38-01.16 of the North Dakota Century Code;"

Page 2, line 16, insert a new section of the bill, "REPEAL. "Section 57-38-01.16 of the North Dakota Century Code is repealed."

Renumber accordingly