

2011 SENATE FINANCE AND TAXATION

SB 2331

# 2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2331  
2/1/2011  
Job Number 13756

Conference Committee

A. Rittmiller

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

Relating to an income tax credit for employment of individuals with disabilities

## Minutes:

Written Testimony Attached

**Chairman Cook** opened the hearing on SB 2331.

**Senator Oehlke** – The best explanation of this bill is on the fiscal note. The fiscal note basically says that SB 2331 creates an income tax credit based on wages paid by the employer to an eligible employee in each of the first 3 tax years, beginning with the tax year in which the employee is hired, and then it's a reduced percentage of that employees wages that may be applied to the individuals employers tax return, the full amount of the credit calculated for the 3 years is allowed in the tax year following the tax year in which the eligible employee completes 12 consecutive months of employment. The credit is only allowed for an eligible employee who's hiring results in an increase in the number of individuals with disabilities employed by that employer at the end of the preceding tax year. The next paragraph mentions that because they won't really be able to claim anything until we are in session again, it doesn't really affect this biennium. Now why the bill. I happen to be on a board of directors of a local developmental disability corporation in Devils Lake. I don't know if any of you have had any experience in working with folks who may be disabled but one of the greatest things that can happen is if they actually are able to be employed and get on their own. (and proposed amendment, attachment A)

**Tom Alexander, North Dakota Center for Persons with Disabilities at Minot State University** – (see attached testimony B in favor of SB 2331)

**Veronica Zietz, Arc of Bismarck** - (see attached testimony C and C1 in favor of SB 2331)

**Leon Dietrich, Bismarck Public Schools** - (see attached testimony D in favor of SB 2331)

**Dianne Sheppard, The Arc, Upper Valley in Grand Forks** - (see attached testimony E in favor of SB 2331)

**Vickay Gross, Protection & Advocacy Project** - (see attached testimony F in favor of SB 2331)

**Chairman Cook** asked for testimony opposed to SB 2331. No one came forward.

**Chairman Cook** asked for neutral testimony for SB 2331. No one came forward.

**Chairman Cook** asked someone from the tax department to come forward.

**Chairman Cook** – The bill as written, does it create any challenges as far as administrating this income tax credit or verifying that it is correctly taken in case of an audit?

**Mary Loftsgard, Tax Department** – I haven't actually seen amendment. I do believe I know what it says; I think it just makes a small change to say a newly hired individual. In response to your question I believe we can administer the statute as written.

**Chairman Cook** – And the employer would have to have the documentation on hand to verify a net gain I would assume.

**Mary Loftsgard, Tax Department** – I believe there would be.

No further action was taken.

**Chairman Cook** closed the hearing on SB 2331.

# 2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2331

February 9, 2011

Job Number 14072

Conference Committee

Committee Clerk Signature	
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### Explanation or reason for introduction of bill/resolution:

Relating to an income tax credit for employment of individuals with disabilities.

### Minutes:

Committee Work
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**Senator Cook** opened Committee Work on SB2331.

**Senator Hogue** conferred with John Walstad in cooperation with representatives of the Department of Human Services to prepare an amendment that would restrict the persons who would be considered to have a disability under this tax credit act. What I wanted to get away from, is use of the definition of the Americans with Disabilities Act because that one is a fairly liberal definition and that can be individuals first of all who have never been adjudicated to have a disability. They just assert that they have a disability and under the act as written as long as they can say they there are receiving some services they would qualify for this. What Mr. Walstad did is he visited with the Department of Human Services and obtained this definition from them. The definition you see in B is what they use to make a determination as to whether somebody has a disability to receive services from the Department of Human Services.

**Senator Triplett:** Can you tell us Senator Hogue if you know where this is found? Is it in the administrative code for the Human Services or just some kind of policy statement somewhere? What is the precise source of it is? **Senator Hogue:** It is in code, but I couldn't tell you where. It might be in the administrative code. I don't think it's in the statute because the email I got was forwarded from the department to Mr. Walstad and then to Senator Hogue, and there was no section number mentioned.

**Senator Oehlke:** There was an amendment to change page 1 line 19, to change the "of" and to say 'to the newly hired', is that part of your interest here too? **Senator Hogue:** I wouldn't have any objection to that. I was more focused on who would be an eligible employee. The ADA permits someone to say well I have severe asthma and that limits my ability to breathe and there may not be any adjudication that I've got. The language of the ADA is like a substantial impairment that affect the major life activity and under this as written if I am receiving services, I am receiving health care services for that and I have to get the services that are necessary, I should qualify under that. I think it is too broad.

**Senator Triplett:** The reason I asked the question is, if this is already in the administrative code somewhere when we could just reference it, it seems to me that it might make more sense to do a reference in the same way that the current bill as defined by the American Disability Act. Instead we could say, as defined by the Department of Human Services in the administrative rules. So if their administrative rule changes for some other purpose even modestly then this would just track with that. (Example given). I am agreeing with you that I think we should tie it to other state law rather than to federal law. If its already codified somewhere we should just reference the code and let it flow with that.

**Senator Hogue:** I can contact Mr. Walstad and ask him to tell us where in the code this came from.

**Senator Cook** referencing Senator Oehlke original question; what were you seeing on line 19, of instead of "an", it would be "to the newly hired"? **Senator Oehlke:** The third year of employment to the newly hired individual with disabilities. **Senator Cook:** I would think it should be 'of' a newly hired' individual. (Wages paid in the third year of employment to the newly hired individual with disabilities.) Reference to line 19 on the SB 2331.

**Senator Cook:** Is there any other discussion on the amendments that Senator Hogue made before us? **Senator Hogue:** Should I incorporate all, or incorporate them both?

**Senator Cook:** Yes, and if you can reference the administrative rules.

**Senator Dotzenrod:** The Senate two weeks ago went through the Code and took out all the reference to the word retarded and entered mental retardation. If we have a code revising that we've taken that out. **Senator Triplett:** If we need phraseology changes or just their services get contracted or expanded as time passes, that basically what you would be saying with this amendment is whoever it is that Human Services thinks is disabled enough to be working with Vocational Rehabilitation and that sort of thing, with their services, then that is who we want this to benefit. It just seems like it would track better if we just did this as a reference.

**Senator Dotzenrod:** One of the people who spoke to us was a person by the name of Leon Dietrich. He had been doing custodial work. Would Leon Dietrich have qualified under the bill as it was introduced and not qualified under the amendments? **Senator Cook:** I would say not, but I think it is a legitimate question. **Senator Hogue:** I guess I am surprised in that developmental disability isn't one of key words in there. I didn't see that, unless I over read it or read past it?

Committee discussion followed.

**Danita Wald,** General Council with the Tax Commissioners Office. I have just one concern with the referencing to the administrative code that is adopted by the Department of Human Services and the rules that they promulgate is that they may do so in the middle of a tax year. I think administratively we need to maybe define when that person is considered disabled under the statute. If they change the rules in June or July we've got some definitional issues in our form design, and other administrative stuff.

**Senator Burckhard:** I know that one of the representatives from ARC in Grand Forks suggested an amendment to page 1, item 1, line 11. (read from context of the bill) **Senator Cook:** So you would squeeze in the words "supported employment or extended services" directly related to the disabilities.

**Senator Triplett:** My best guess is she was probably trying to get to the same point that Senator Hogue is getting to in a different way, by limiting the credit to people who are actually receiving services and I think what Senator Hogue is doing, is making it available to people who are eligible to receive services even if they may not. They are kind of on the same page but two slightly different issues I guess. **Senator Cook:** I tend to agree.

**Senator Cook** closed the Committee Work on SB 2331.

# 2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2331  
February 9, 2011  
14219

Conference Committee

Committee Clerk Signature



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

Relating to an income tax credit for employment of individuals with disabilities

### Minutes:

Committee Work

**Senator Cook** opened the Committee Work on SB2331.

**Mr. John Walstad** was requested by Senator Hogue to prepare an amendment with a definition of individual with disabilities that would incorporate the definition from the Department of Human Services (DHS). There is a definition in administrative code and its' for Vocational Rehabilitation purposes. In looking at that definition, which I provided to the committee and the committee has looked at 01002 amendment. I wasn't happy with that definition. It requires first of all, that the individual has to be receiving social security, disability, or supplemental security income or that the individual requires Vocational Rehabilitation services. I don't know if those are the kinds of requirements that the committee has in mind for this income tax credit for employment. I guess what I would like is a sense of what the committee would like.

**Senator Hogue:** Well I think the original reason for the request for the amendment was that we didn't like the ADA definition and that we wanted to get completely away from that. The original bill speaks to a disability and their receiving services. We wanted to make sure that some type of services other than standard medical treatment. Is that some vocational treatment or some other treatment that helps them adapt to daily living activities? Not just, I am going to the doctor and he gives me a receipt of medical services. So, that is what prompted the proposed amendment.

**Mr. Walstad:** Then we asked for help from the DHS, what definitions do you people use and what we got back was a whole bunch of stuff.

**Senator Cook:** What is your concern with the amendment that we have before us? You read a lot of definitions, can you help?

**Mr. Walstad:** Well this one, specifically requires the individual to either be receiving Social Security disability insurance or supplemental security or have various impairments that are listed and be expected to require multiple Vocational Rehabilitation services. I am not sure

that the intention was to focus on Vocational Rehabilitation that intensely. Senator Hogue wanted to look at receiving services the DHS offers but I am pretty sure it's more than Vocational Rehabilitation.

**Senator Oehlke:** Would developmentally disabled, is that a category? When we looked at this bill initially, we talked about it, that's the person that I was kind of picturing needing this bill. That's who I was kind of thinking it was for, but I didn't realize the consternation this was going to cause with the definition.

**Mr. Walstad:** Neither did I. When I went into this I kind of had that picture in my mind, yes there is a definition out there. Well, it turns out there are dozens of definitions out there for different purposes.

**Senator Cook:** What if we take Subsection 2 out of there? **Mr. Walstad:** If subparagraph 1 and subparagraph 3, are adequate, which to me would seem to include the kinds of impairments or disabilities that we're talking about without requiring one or the other kind of a service program. **Senator Cook:** I am just looking at that Subsection 2 because that seems to be. **John Walstad:** That's the Vocational Rehabilitation and then Subdivision A is the Social Security, but the Sub 1&3 describes the kinds of disabilities and maybe that's adequate and then we're not tying the eligible individual to any particular service program. Unfortunately, I don't know enough about the programs available.

**Senator Hogue:** If you don't include them all would you be considered perhaps to be discriminatory? If you limit it to a certain disability, that would create problems on that end of things? **Mr. Walstad:** It looks to me like the 1 and the 3 are written broadly to cover disability causes. Two ties the individual to Vocational Rehabilitation to qualify, but that's the part that makes me a little nervous. **Senator Cook:** I would suggest, if we want to move this bill, I would suggest we take that Subsection 2 out of there. Put the rest of the amendment on, its' going to have to go to Appropriations. **Senator Hogue:** How about the A? Well its' an 'or.'? **Senator Cook:** Yes, it's an 'or', and I think the A would be the easiest qualifier. **John Walstad:** Yes, if you're not getting Social Security disability, and have these limitations, you would still possibly be a qualifying employee. **Senator Cook:** I would argue that those would have one and three should be getting social security disability. **John Walstad:** You would think. **Senator Cook:** This has got a long way to passage but I think it's a good way to move it out of here. **Senator Cook:** You're fine with that? **Senator Hogue:** Yes. I don't think we're going to meet Senator Triplett's requests that we try to incorporate it into the Administrative Code, which I guess I am fine with. We were going to take out mental retardation and replace it with intellectual disability and I think we addressed the tax commissioners concern too, because Mr. Becker said this was a wage based credit so we don't need to pro-rate, so I'm fine with that. **John Walstad:** Let's make that change in the reference about mental retardation. Change the phrase there to 'intellectual disability'. **Senator Cook:** Senator Triplett raises a good point of referencing that, but if that's what this is, these three sections are that reference that she wants to reference, isn't it? **John Walstad:** Just have a cross-reference to the Administrative Code. **Senator Cook:** Yes. Isn't that where you got this language, one, two, and three? **John Walstad:** Yes. That's where it was lifted from, but the cross reference would incorporate that sub-two thing. **Senator Cook:** We'll see it again.



A motion to amend 11.0760.01002 excluding Subsection 2 and changing mental retardation to 'intellectual disability'. It was the 001 which was Page 1 line 19 replace the words 'of an' with 'to the newly hired' in his motion.

Motion and a 2<sup>nd</sup>-

**Senator Dotzenrod:** I follow what you're doing taking that subparagraph 2 out of there, what really confuses me when I try to read this is where they put the word 'or' in. At the end of A, it says 'or' so it can stand by itself. Then when they say 'or' and then you go to be an individual, the line reads who has severe physical or mental impairments and they go on, they list these things, and then near the end of that subparagraph 1 there's another 'or' work skills in terms of an employment outcome. I am not sure if you say something like that or work skills in terms of employment outcome, just exactly what that means if number 2 is gone, you've got subparagraph 1 that says something, at the end it says 'or'..it seems to me you could almost put a period in front of or. I am confused by when it says or work skills in terms of an employment outcome. **Senator Cook:** I would say work skills in terms of an employment outcome should come out of there with subsection 2. **John Walstad:** I don't know about work skills, but I think in terms of an employment outcome, is a qualifier for everything in sub one. **Senator Cook:** Yes. **John Walstad:** I am not a social services guy, but I think that is what it is for, functional capacity that is in terms of an employment outcome, all of it in terms of employment outcome. All of it is in terms of employment. **Senator Oehlke:** I would say if you're taking out that subsection 2 which we're looking at doing, then the only other thing you would want to do is put a 'and' at the end of one. So that it includes 3, because right now, under Subsection 1, 2, and 3, you have to basically have all three of those issues in order to fit the parameter. So if you put the after outcome at the end subsection 1, then it would be Section 10 and renumbered 3 to 2. **Senator Cook:** Okay. **John Walstad:** That's how I had marked it.

Senator Cook amendments discussion.

All in favor say aye. 5 Ayes, 0 No, 0 Absent

Senator Cook: SB 2331 as amended

Senator Oehlke move Do Pass as Amended a motion to do pass and to re-refer

2<sup>nd</sup>- Senator Dotzenrod

5 Yeas, 0 No, 0 Absent

Carrier: Senator Oehlke

# 2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2331  
February 10, 2011  
14248

Conference Committee

Committee Clerk Signature *MJ Wacker*

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

Relating to an income tax credit for employment of individuals with disabilities.

## Minutes:

Committee Work

**Senator Cook** opened the committee work on SB 2331.

**Senator Oehlke** stated this should pass over into the House.

**Senator Cook** I suggest another option is to amend this in Appropriations. This bill will probably be heard relatively quickly in Appropriations. It has to go on the calendar for the amendments. I think they will look at it on Monday.

Is the committee comfortable with these? Senator Triplett did you want to vote on these amendments. No, again I missed the conversation, my preference as I stated earlier was that we would find a way to reference these and tie them to the Department of Human Services criteria so that they would stay consistent through time, and I wasn't here to participate in the conversation. I would just as soon be left as absent. We did have quite a conversation on that side of yours.

# FISCAL NOTE

Requested by Legislative Council  
01/26/2011

Bill/Resolution No.: SB 2331

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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 2331 creates a new income tax credit for a North Dakota employer who hires an individual who is disabled as defined by the Americans with Disabilities Act of 1990 and is receiving services because of the disability.

**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.*

SB 2331 creates an income tax credit based on the wages paid by the employer to an eligible employee in each of the first three tax years, beginning with the tax year in which the employee is hired. The credit is equal to a percentage of the wages, up to \$5,000, in each of the three tax years. The percentage is 50 percent in the first tax year, 30 percent in the second tax year, and 10 percent in the third tax year. The full amount of the credit (calculated for the three tax years) is allowed in the tax year following the tax year in which the eligible employee completes 12 consecutive months of employment. The credit is only allowed for an eligible employee whose hiring results in an increase in the number of individuals with disabilities employed by the employer at the end of the preceding tax year.

If enacted, SB 2331 will not have a fiscal impact for the 2011-13 biennium. Assuming an employer hires an eligible employee in the 2011 tax year, the first tax year in which the new credit may be claimed by the employer will be the 2013 tax year.

**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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/31/2011

FB  
2-9-4

PROPOSED AMENDMENTS TO SENATE BILL NO. 2331

Page 1, line 8, after "means" insert an underscored colon

Page 1, line 8, remove "an individual with a"

Page 1, replace lines 9 through 12 with:

"a. An individual who is receiving social security disability insurance or supplemental security income; or

b. An individual:

(1) Who has severe physical or mental impairments that seriously limit the individual's functional capacity, including mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills in terms of an employment outcome; and

(2) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations."

Page 1, line 19, replace "of an" with "to the newly hired"

Renumber accordingly

Date: 2-8-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2331

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Senator Hogue Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman			Jim Dotzenrod		
Joe Miller - Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 5 No 0

Absent 2

Floor Assignment \_\_\_\_\_

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

Verbal vote

Date: 2-8-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2331

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Oehlke Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod	X	
Joe Miller - Vice Chairman			Connie Triplett		
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 5 No 0

Absent 2

Floor Assignment Senator Oehlke

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

**REPORT OF STANDING COMMITTEE**

**SB 2331: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2331 was placed on the Sixth order on the calendar.

Page 1, line 8, after "means" insert an underscored colon

Page 1, line 8, remove "an individual with a"

Page 1, replace lines 9 through 12 with:

- "a. An individual who is receiving social security disability insurance or supplemental security income; or
- b. An individual:
  - (1) Who has severe physical or mental impairments that seriously limit the individual's functional capacity, including mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills in terms of an employment outcome; and
  - (2) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations."

Page 1, line 19, replace "of an" with "to the newly hired"

Re-number accordingly



2011 HOUSE FINANCE AND TAXATION

SB 2331

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2331  
March 9, 2011  
#15166

Conference Committee

Committee Clerk Signature

*Mary Brucke*

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

A bill relating to an income tax credit for employment of individuals with disabilities; and to provide an effective date.

## Minutes:

See attached testimony #1, #2, #3, #4, #5, #6, #7, #8, #9

**Senator Mathern:** Introduced bill. Support. Please refer to attached testimony #1.

**Representative Steven L. Zaiser:** Do you know if somebody with disabilities was hired through some of these organizations that are hiring agencies for disabled people if this would still apply in those cases?

**Senator Mathern:** You mean for the agency to do the search?

**Representative Steven L. Zaiser:** The agency will often times have them under their employment while they work there so its free work and then they gradually faze them into being paid entirely by the employer. Would this break apply to those situations?

**Senator Mathern:** I believe this only applies to the situations where there are wages. If there are situations where there are no wages I don't believe there are any incentives. However, there are programs in the Department of Human Services that provide some sort of incentive or programming that get to that level you are talking about.

**Representative Glen Froseth:** The fiscal note shows no fiscal impact for the 2011-13 bienniums. Were there any comments on the Senate side as to what the fiscal impact would be after 2013?

**Senator Mathern:** There was that discussion. I don't know the details on that. One of the challenges we had was determining the number of persons that would take part in this and determining the economic situation of the employers who would be seeking this credit in terms of how many jobs we are creating in society. That is one of the challenges in the fiscal note.

**Chairman Wesley R. Belter:** What programs are currently available through the federal government? There are a lot of disabled persons employed in fast food industry and I'm

assuming that there must be programs that are laid out. I was curious as to whether you would be able to identify some of those or if you would like someone else to comment on that.

**Senator Mathern:** One of the positive things that have happened is there has been a teaching of employers and feeling comfortable moving forward with employment with persons with disabilities without some of the programming. Some of that you will see in our society now where employers seek out people because of specific situations that they believe they can be of benefit to and that benefit can come to them from the employer perspective. The other thing that we have going on and that is one of the reasons I would hope we can move this bill forward is that some of the federal programming becomes in question in light of what is going on in terms of our budget deficit on the federal level. We need to be doing more in terms of making sure that programs that might be in question because of finances might be addressed on a state level and this would be an idea to take forward.

**Chairman Wesley R. Belter:** Are they subject to minimum wage when they hire the people with disabilities?

**Senator Mathern:** I believe so, yes.

**Representative Mark S. Owens:** It talks here about a tax reduction for the first three years. What happens after the third year? Are there no more tax credits? If that's the case there is no stipulation in here for rehiring. If I let the person go and rehire them it looks like I can restart the program again with the same individual. Is the \$5,000 per individual or is it a credit per employer?

**Senator Mathern:** The step down version that you are talking about is to recognize that at the beginning it may require in incentive to establish this relationship between an employer and a person who has a disability. As the time progresses both will benefit from that continuing relationship and the subsidy isn't needed to the same level. That is the reason for the step down so that eventually a person is employed because of what they offer to the employer. The subsidy begins so that the employer has an incentive to begin that relationship. The goal is that the person becomes an employee just like everybody else and there is no incentive.

**Representative Lonny B. Winrich:** I would call your attention to page 2 of the bill lines 9-13. It has to be a gain. You can't hire someone for three years and then let them go and hire them back again.

**Representative Mark S. Owens:** That doesn't prevent it from happening; it is just a numbers game. That's why I asked that question.

**Senator Mathern:** The goal is to get jobs to the people that need jobs and to incent as many employers as it takes to get these people employed. Whatever you can do in that regard is appreciated.

**Representative Glen Froseth:** Do you know what the percentage of people with disabilities who can and cannot work?

**Senator Mathern:** We have all that data. I will leave at this point so we can get that data before you as there are a lot of folks who are testifying.

**Tom Alexander, Project Director for the ND Medicaid Infrastructure Grant at Minot State University:** Support. Please refer to attached testimony #2.

**Representative Glen Froseth:** It defines a disability in section 1. In subsection 1 and 2 I think anyone can be disabled. Is there some kind of documentation that would be necessary to prove all these types of disabilities under subsection 2?

**Tom Alexander:** The original bill as intended on the Senate side used the definition from the ADA. It was amended on the Senate side to add this. This information comes directly from the definition under Vocational Rehabilitation in the Department of Human Services. This is a pretty broad definition people can utilize. As far as reporting, the employee must report to the employer that they have a disability. They would have to self disclose to the employer. The employer would file the credit but then the employer must have the documentation from that person and that would only occur during an audit.

**Chairman Wesley R. Belter:** What was the reason the ADA definition was removed from the Senate side?

**Tom Alexander:** The ADA definition gives a more broad definition. There are several definitions in North Dakota for different programs and requirements. The Senate thought that it was too broad and this would narrow it down by amending it to this definition.

**Chairman Wesley R. Belter:** Where did you say the definitions in subsection 2 are from?

**Tom Alexander:** They are within the regulations of Vocational Rehabilitation.

**Chairman Wesley R. Belter:** Are those federal or state?

**Tom Alexander:** They are federal.

**Representative Bette Grande:** I'm looking through your listing of job openings. I run into a bit of a concern when we talk about unemployment rate in North Dakota and you list 1,200-1,300 job openings and almost every person in this room doesn't qualify for those unless you are really wanting to go work in the oil field and have a trucking license. Do you have a more narrow idea of job availabilities because there are a lot of jobs out there that aren't really available? Who are the employers and how do we know what the openings are?

**Tom Alexander:** I got these statistics from Job Service in January. I didn't ask them to break it down by industry. I can get the specific information for you. I know a lot of jobs that I looked up when I was getting the information were high paying educational jobs that I could see at least in the Minot area.

**Chairman Wesley R. Belter:** I believe Senator Mathern said that employers are subject to minimum wage, is that correct?

**Tom Alexander:** The organizations that provide developmental disability services have to apply to the Department of Labor for a subminimum wage certificate. This would allow organizations to pay folks under the minimum wage. I haven't gotten the latest updates but as of about a year ago there were about 1,200 individuals in North Dakota who receive that certificate, they are receiving services through a DD organization. For example, at Minot State University, they can hire somebody and then pay them under minimum wage because they wouldn't qualify.

**Chairman Wesley R. Belter:** They would not qualify?

**Tom Alexander:** No. There are certain parameters within that certificate that they are providing an employment service and therefore wouldn't qualify.

**Chairman Wesley R. Belter:** Is that federal or state regulations?

**Tom Alexander:** I believe it is federal.

**Representative Shirley Meyer:** Is that a set rate for subminimum wage or is it anything under minimum wage?

**Tom Alexander:** Subminimum wage certificate for folks with disabilities are graded on a production scale and so whoever is with that organization is doing productivity studies and whatever the percentage is on those studies is how they pay them. They could be making \$.25/hour or a day depending on their productivity.

**Representative Bette Grande:** When you're talking about the subminimum wage payments, are those usually those that need to have a helper along side of them and then that person is receiving a wage for them to be able to do their job?

**Tom Alexander:** More times than not folks that are receiving subminimum wage and that service through a developmental disabilities organization have a job coach that is helping them as well.

**Representative Bette Grande:** Who pays the coach's position then?

**Tom Alexander:** That would be the organization, the DD organization.

**Representative Bette Grande:** The DD organization is paying the coach's wage but the employer will pay the disabled individual's wages and that is the portion that would fall into the tax?

**Tom Alexander:** I believe that is correct. A lot of times employers will contract with a DD organization and say they get \$10,000 to do a certain amount of work to make buttons or

something like that and then the person with the disabilities receives the subminimum wage certificate and they are paid on a productivity scale.

**Representative Glen Froseth:** If a disabled person is receiving disability benefits and gets a job, is there a wage offset to the benefits? If they earn \$10,000 is there an offset on that to the disability benefits they receive?

**Tom Alexander:** There are specific guidelines and work incentives that are out there through the Social Security Administration. If you have a disability and are working there are certain parameters where you can lose your benefits if you earn so much wages but there are also work incentives they can utilize so they have a higher earnings. For example, in 2003 the legislative body passed a Medicaid buy in program which allows people who are on Medicaid to go to work and still maintain their Medicaid benefits. There are over 500 people enrolled in that medicate program. A lot of those individuals paid a higher recipient liability for the medical costs if they went to work and now instead of paying the higher recipient liability they would pay a premium which at 2005 or 2007 their premium was \$57 to be enrolled in the buy in program. Whereas if they weren't employed or became employed and not enrolled in this program the average cost of the recipient liability would be \$300 or \$400. By those folks entering that program they pay a premium instead of a high recipient liability which put anywhere from \$250 to \$400 back in their pocket which they in turn spent in their community. There are work incentives out there for these individuals but there are not a lot of incentives for employers to hire people with disabilities.

**Representative Lonny B. Winrich:** Is the subminimum wage contract issued to the employer or the employee?

**Tom Alexander:** An employer in a DD organization would apply for subminimum wage certificate and then there are individuals within the organization that are eligible for that certificate.

**Representative Lonny B. Winrich:** Is a DD organization a sheltered workshop?

**Tom Alexander:** Some people use that term. The list that I last received from the Department of Labor listed the DD organizations or the businesses that were on that receive that certificate.

**Representative Lonny B. Winrich:** The organization gets the certificate but it only applies to certain people who work for that organization? So there are restrictions to both employer and employees?

**Tom Alexander:** There are probably some restrictions to the employer and employee but I don't know the details on that, I would have to look that up.

**Representative Steven L. Zaiser:** Hopefully I can shed some light on this as I worked for an organization that went out and tried to find jobs for people with disabilities. Folks were hired and 20 individuals would have gotten a subminimum wage and there was one manager who was paid by the organization a regular wage so they managed these people on subminimum wage.

**Tom Alexander:** Provided written testimony from other providers. Please refer to attached testimonies #3 and #4.

**Cal Rolfson, Anne Carlson Center in Jamestown:** Support. One of the Representatives was surprised one time when he came to a basketball game and found one of the Anne Carlson graduates there keeping score. The entire school and the community were proud of that. Another example is that of a young woman in central North Dakota provides daycare services and she makes coffees for several banks in the morning and gets paid for it and is proud of that. She also folds towels at a motel in the afternoons and is proud of that also. The community is proud. Everybody wins. I hope you support the bill.

**Dianne Sheppard, Executive Director for ARC in Grand Forks:** Support. Please refer to attached testimony #5. Somebody on the committee asked about programs that work with people with disabilities to get them jobs and if this bill was going to enhance their program. My understanding is no, it would not. In our case the people who run the supported employment programs would not benefit by the bill but regular employers out in the community would.

**Jeb Ochlke, North Dakota Chamber of Commerce:** Support. A lot of times these individuals with disabilities that are referred to in the bill make wonderful employees. Often times it also costs the employer some extra dollars in training or providing accommodations for those employees. This bill would help reimburse those employers for taking the chance and the extra time and spending the extra resources to train that employee.

**Representative Steven L. Zaiser:** Do you often find employers who are requesting employees with disabilities? I know that's the case in Fargo.

**Jeb Ochlke:** I don't hear that often.

**Representative Patrick Hatlestad:** I'm confused with the subminimum wage certificate. If a business hires an individual is it the business that applies for the certificate?

**Jeb Ochlke:** This is the first I heard of a subminimum wage certificate. I don't have that information.

**Christine Hogan, Attorney with ND Protection and Advocacy Project:** Support. Please refer to attached testimony #6. This bill is intended for private employers and they are not entitled to pay subminimum wage, private employers are required to pay minimum wage. The subminimum wage issue comes up with DD providers and that's a separate issue that is not affected by this bill.

**Representative Dave Weiler:** On page 2 of the bill subsection 3 towards the end. Who is responsible for keeping track of whether there were net gains or net losses?

**Christine Hogan:** I would imagine that it would have to be the employer.

**Representative Dave Weiler:** If the employer is supposed to establish their amount of employees then they are responsible themselves?

**Christine Hogan:** I'm not able to answer that.

**Chairman Wesley R. Belter:** Could you elaborate on your concern on social security?

**Christine Hogan:** I can. To qualify for receiving benefits under the social security disabilities programs you have to certify that you are unable to perform substantial gainful activity. This really limits and creates a catch 22 if you're unable to perform substantial gainful activity except under certain particular work incentive programs that social security has set up then you're not able to get the job. We really want people to get jobs who are able to do the work and the employer would be able to work with through Vocational Rehabilitation programs that are designed to put people to work. Social security is really a different animal. It is designed to give living benefits to people who are not able to work. Tying it to that was sort of done last minute in the Senate and maybe wasn't really thought through.

**Veronica Zietz, Executive Director with the Arc of Bismarck:** Support. Please refer to attached testimony #7, #8, and #9.

**Representative Dave Weiler:** Do you have any statistics for North Dakota on the unemployment rates?

**Veronica Zietz:** No, those are national statistics.

**Representative Dave Weiler:** Is there any way you could find that for us?

**Veronica Zietz:** I can look into that for you and see what I can find.

**Representative Dave Weiler:** I understand that in Tom Alexander's testimony the employment rate for working age people with disabilities was 60.2%, however, that doesn't mean that 39.8% would be unemployed. I would like North Dakota's statistics.

**Veronica Zietz:** I will do my best to try and find the information that is appropriate.

**Chairman Wesley R. Belter:** I would assume that you would require the taxpayer who is going to be the recipient of this credit that they are going to have to identify their eligibility for that?

**Mary Loftsgard, ND Tax Department:** Yes. We would either ask for the return or some documentation that the credit is being claimed for somebody who is disabled.

**Chairman Wesley R. Belter:** Are there programs now in effect, not necessarily for those that are disabled but other types that would be similar to this that you now require proof of compliance?



**Mary Loftsgard:** Not in terms of an employment type credit. For instance, some of the investment tax credits, the seed capital credit; we have investment reporting forms that have to be submitted.

**Representative Dave Weiler:** Who is responsible for determining the net gain?

**Mary Loftsgard:** It would be the employer that needs to show the net gain. It shouldn't be too hard to verify since we also get all the payroll withholding records. If they say they have a net gain we can go back and look at payroll and make sure there actually was an increase.

**Representative Dave Weiler:** How is it determined what a net gain is? If an employer has 50 people that they employ and three of those have disabilities what prevents them from firing those three employees for a week and bringing them back? Would you deny that employer the credit?

**Mary Loftsgard:** The net increase is in disabled individuals it is not a net increase in total individuals. I think it's important to note that in the bill it talks about newly hired individuals so I think if you had hired some individuals and then let them go and hired them again, in my mind that would be a rehire and not be a newly hired individual.

**Representative Dave Weiler:** With this program how many new FTEs do you envision asking for next session?

**Mary Loftsgard:** None. I think we can administer this.

**Representative Dwight Wrangham:** Could the employer take this credit on each employee? On page 2 lines 10-13 can this go on for five or ten years? Would it continue on for the time they hired that first employee? It says it continues as long as they make gains in the number of qualified employees.

**Mary Loftsgard:** The employer would be able to take a credit for each disabled person hired. If you hire two and it's a net increase in disabled employees they would be able to claim up to 50% of up to \$5,000 in wages in the first year. The credit could go on for a number of years if each year the employer is going to increase the number of disabled people. The credit is only good for the wages of each individual potentially for three years and then it stops. You hire someone that is disabled and they work for 12 months and after that you get your first credit of 50% of up to \$5,000. The second year it becomes 30% and the third year it becomes 10%, and then for that individual it stops. If there is discomfort about the situation of letting someone go and rehiring them we could work and clarify that in the bill.

**Chairman Wesley R. Belter:** As written there is a credit up to \$5,000 for each employee?

**Mary Loftsgard:** It is a credit of 50% up to \$5,000 for each employee as long as there is that net increase.

**Chairman Wesley R. Belter:** No further testimony. Closed hearing on SB 2331.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2331  
March 21, 2011  
#15749

Conference Committee

Committee Clerk Signature	<i>May Bricker</i>
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## Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for employment of individuals with disabilities; and to provide an effective date.

## Minutes:

<i>See attached amendments.</i>
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**Representative Bette Grande:** I have a question on line 9 where it says "receiving social security" and it removes P&A, does anybody if there was an issue and some didn't qualify because of that? I still have a big issue with the list in section 2 of this bill. I think we have some real issues there that need to be addressed.

**Representative Mark S. Owens:** This provides a tax credit to individuals with disabilities but then in the laundry list we may as well do away with corporate tax altogether because I don't know of anybody who would be that healthy.

**Representative Roscoe Streyle:** I move a DO NOT PASS.

**Representative Wayne Trottier:** Seconded.

**Representative Shirley Meyer:** Assuming this passes the floor we will need to amend out page 1 line 9 the social security disability insurance. It creates a catch 22 situation.

**Representative Steven L. Zaiser:** I would concur with what Representative Meyer said. I think someone testified wrongly on this bill.

**Vice Chairman Craig Headland:** I was not here for this hearing so I am kind of in the dark on the proposed amendments.

**Representative Wayne Trottier:** I think this is kind of like voting against apple pie and motherhood. There are an awful lot of people hiring disabled people now and they are either doing it for a federal tax benefit or for no reason other than to help someone. Those people are out there and I think they will do this regardless of an income tax break or not because there are a lot of good people out there and they will hire the ones they feel they can work with.

**Vice Chairman Craig Headland:** I think this bill is an old friend of Finance and Tax. It has always come to the same conclusion and I am going to support the Do Not Pass.

**Representative Lonny B. Winrich:** So we're not going to put on Protection and Advocacy's amendment?

**Vice Chairman Craig Headland:** I'm not aware of it and I don't have it.

**Representative Shirley Meyer:** The amendment was to simply remove line 9 and 10 on page one.

**Vice Chairman Craig Headland:** Representative Streyle, would you withdraw your motion?

**Representative Roscoe Streyle:** Yes, I withdraw my motion.

**Representative Wayne Trottier:** Also withdraw my second.

**Representative Shirley Meyer:** I would move the amendment to remove lines 9 and 10 on page 1.

**Representative Lonny B. Winrich:** Seconded.

**Representative Mark S. Owens:** I'm trying to recall why P&A wants this amendment. All they said is that they saw a small problem with tying the credit to receive social security benefits could produce unintended consequences. Everything we do can produce unintended consequences for that matter. They never said why. They never said what unintended consequences could happen. I'm not disagreeing with them, I'm just trying to understand what they think is bad about it. In the document it says "or" so it doesn't make that much difference if you're not receiving SSDI then you fall under the other part.

**Representative Bette Grande:** I would further amend and remove lines 16-24 and on page 2 removes lines 1-2. We can just finish discussing the first portion of this first. I just have a note that said P&A had questioned it regarding the receipt of the social security disability but I don't have an amendment from them.

**Representative Steven L. Zaiser:** I don't have the amendment as I don't think it was submitted. I think it was because social security was not a good measurement for determining disability.

**Representative Lonny B. Winrich:** I don't think the problem was so much with the social security disability insurance but rather with the supplemental security income. That covers children whose parents have died and something like that who might not otherwise qualify for a disability in any way. The point was that the rest of this thing here, subparagraph b, is really the definition of a disabled individual under the kind of protection we want to establish here so the reference to social security is basically redundant, we don't need it.

**A roll call vote was taken to remove language on lines 9 and 10: MOTION CARRIED.**

**Representative Roscoe Streye: I would still move a DO NOT PASS AS AMENDED.**

**Representative Wayne Trottier: Seconded.**

**A roll call vote was taken: YES 8 NO 5 ABSENT 1  
MOTION CARRIED FOR DO NOT PASS AS AMENDED.**

**Representative Roscoe Streye will carry SB 2331.**

Date: 3-21-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2331

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Trottier  
\* WITHDRAWN \*

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

March 21, 2011

YR  
3/22/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2331

Page 1, line 8, remove the underscored colon

Page 1, remove lines 9 and 10

Page 1, line 11, replace "b. An" with "an"

Page 1, line 12, replace "(1)" with:

"a."

Page 1, line 16, replace "(2)" with:

"b."

Renumber accordingly

Date: 3-21-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2331

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
*removes line 9+10*  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Meyer Seconded By Rep. Winrich

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

VOICE VOTE  
MOTION CARRIED.

Date: 3-21-11  
 Roll Call Vote # 2

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2331**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Trotter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓ AB		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer		✓
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad		✓			
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trotter	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Streyle

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



**REPORT OF STANDING COMMITTEE**

**SB 2331, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2331 was placed on the Sixth order on the calendar.

Page 1, line 8, remove the underscored colon

Page 1, remove lines 9 and 10

Page 1, line 11, replace "b. An" with "an"

Page 1, line 12, replace "{1}" with:

"a."

Page 1, line 16, replace "{2}" with:

"b."

Renumber accordingly

2011 TESTIMONY

SB 2331

A

11.0760.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Mathern

January 31, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2331

Page 1, line 19, replace "of an" with "to the newly hired"

Renumber accordingly

**Senate Finance and Taxation  
Dwight Cook, Chairman  
Lewis and Clark Room  
SB 2331  
Tom Alexander Testimony  
Tuesday, February 1, 2011**

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 2331. 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.

SB 2331 would allow an employer of the state of ND a tax credit for employing an individual with a disability. The amount of the credit to which a taxpayer would be entitled is fifty percent of up to five thousand dollars of wages paid in the first year, thirty percent of up to five thousand dollars of wages paid in the second year, and ten percent of up to five thousand dollars of wages paid in the third year of employment to the newly hired individual with disability.

The 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 by the taxpayer and applies in subsequent tax years in which further net increases occur above the level of such employment established when the credit was last taken.

A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a pass through 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 pass through entity.

According to the 2008 American Community Survey, there are 32,000 people with disabilities in ND of working age (ages 21-64). In 2008, the employment rate for working age people *with* disabilities in ND was 60.2 percent; or approximately 19,264 individuals of working age with a disability are working in ND. In 2008, the rate of employment for those North Dakotans *without* a disability was 87.0 percent. The gap between the employment rates of North Dakotans of working-age people with and without disabilities was 26.8 percentage points.

While compared to national 2008 employment rates of 39.5 percent for those *with* a disability and 79.9 percent for those *without* a disability, North Dakota statistics sound good; but there is still work to be done, improvements to be made, and the need for continued systemic changes to build on ND's comprehensive employment system for people with disabilities.

Job Service North Dakota reported that North Dakota's December, 2010 not seasonally adjusted unemployment rate was 3.9 percent. The rate is 0.6 percentage points higher than prior month (3.3 percent), and 0.4 percentage points below December of prior year, (4.3 percent). The national unemployment rate in December was 9.1 percent.

Currently Job Service North Dakota is running about 12,000 to 13,000 job openings per month, and have approximately 9,500 to 10,000 individuals with resumes available per month. This leaves a small gap in resumes to openings per month

In the past 18 months, Job Service has seen the following:

- Applicant Registrations and updates: 98,500
- Applicant entered employment numbers: 22,250
  
- Disabled Applicant registrations and updates: 3,200
- Disabled applicant entered employment numbers: 705

There are many reasons to hire people with disabilities. Not only does it include people with disabilities to their communities as taxpaying citizens, building their economic independence, but also hiring a qualified person with a disability is a solid business decision. It brings greater benefits beyond just filling an open job. Here are three benefits of hiring people with disabilities:

#### Return on Investment(ROI)

Businesses that employ people with disabilities turn social issues into business opportunities. These opportunities translate into lower costs, higher revenues and increased profits. Capitalizing on the ROI of employing people with disabilities.

#### Marketing

Customers with disabilities and their families, friends and associates represent a trillion dollar market segment. They, like other market segments, purchase products and services from companies that best meet their needs. A large number of Americans also say they prefer to patronize businesses that hire

people with disabilities. Another of the benefits of employing people with disabilities is increasing your opportunity to gain a lasting customer base.

### Innovation

Innovation is key to a business' success. Employees with disabilities bring unique experiences and understanding that transform a workplace and enhance products and services. As part of the workforce, employees with disabilities help build business and lead a company into the future.

All though ND is ranked first in United States in employing people with disabilities negative stigma still exist preventing employment . There must be incentives for businesses to hire people from this vast underutilized talent pool. By passing SB 2331 you would be providing a key incentive to North Dakota employers. Therefore, I urge the Committee to recommend a "do pass" on SB 2331.

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

Tom Alexander, Project Director  
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**Testimony of Support Senate Bill 2331  
Finance & Tax Committee  
February 1, 2011**

Good morning Chairman Cook and members of Senate Finance and Tax Committee. My name is Veronica Zietz (#99); I am the Executive Director at The Arc of Bismarck and I'm here today representing both The Arc of Bismarck and The Arc of Cass County. The Arc is an organization that provides education and advocacy to people with disabilities to foster empowerment and full inclusion in the community.

The Arc strongly supports Senate Bill 2331, because it would provide employers with a tax credit for hiring and permanently employing individuals with disabilities. Employing individuals with disabilities is a big issue in North Dakota and it is about to get even bigger; with an economic boom affecting much of the workforce in our state it may be time for North Dakota to tap the last untouched labor pool. The US Census Bureau found that in December of 2010 the unemployment rate for people with a disability was 14.3, an increase since December of 2009. The unemployment rate of people with a disability is far higher than unemployment rates of their counterparts with no disability. It is time to address this historically huge rate of disparity in employment for individuals with a disability and I believe this bill can help do that. By offering an incentive in the form of a tax credit employers will be more willing to hire and provide long-term employment opportunities for people with disabilities. This bill offers a tiered credit over a three year period that will help subsidize the training period for new employees with a disability.

This bill will incentivize hiring people with a disability by leveling out the learning curve during the training period, but it will also encourage businesses to look beyond stereotypes and to hire perfectly capable people with a disability. Often people with a disability are viewed unfavorably for employment and many businesses haven't considered them to be a part of the 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 persuade employers to give individuals with disabilities a fair chance in the workplace.

I would like to tell you a bit about my experience as an employer of people with disabilities. The Arc of Bismarck operates a Thrift Store which employs multiple people with and without disabilities. Fair compensation and an integrated work setting have benefited my employees with disabilities immensely. These individuals are frequently my most reliable workers and once hired they finally have a chance to support themselves by earning a fair wage and this limits their reliance on governments systems. Employing people with disabilities also benefits others in the workplace. The integrated environment offers everyone a chance to learn from each other. I believe individuals with disabilities are a very valuable resource to any business and passing this bill could provide many businesses in North Dakota with the necessary encouragement to give individuals with disabilities an opportunity for long term employment.

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 consideration.



## North Dakota Disabilities Advocacy Consortium (NDDAC) Public Policy Priorities for 2011 – 2013

### Home and Community-Based Services (HCBS)

- Support funding increases and maintain funding of HCBS for people with disabilities.
- Support efforts to enhance smart home technology, in order to increase the independence of people with disabilities.
- Support increased availability of HCBS for people with disabilities, in lieu of institutional care.
- Support salary increases for direct service providers (DSP) and qualified service providers (QSP).
- Support continued transitions from the Developmental Center to community-based services, including increased community capacity development through the use of flexible funding mechanisms like the DD Loan Fund or IGT Fund.
- Support inflationary increases to Medicaid providers of 3% for each year during the biennium.
- Support market adjustment of \$1.46/hour for all providers of developmental disabilities services.
- Support the replacement of FMAP funds with general funds in order to maintain services.
- Support the increased scope of practice for a nurse practitioner to allow for increased access to healthcare in rural areas.

### Transportation & Independent Living

- Support the continuation of the Transit Coordination pilot projects.
- Support increases in state funds for Transit and Para-Transit services.
- Support the establishment of a Housing Incentive Fund (SB 2210).
- Support the terminology change from “mental retardation” to “intellectual disability” in state law (SB 2142).

### Mental Health

- Support legislation that increases the number of crisis stabilization beds for people with mental illness.
- Support the establishment of a Suicide Prevention program in the ND Department of Health.
- Support legislation that enhances peer-support programs for people with mental health issues.
- Support increased community-based psychiatric care to avoid institutional placement at the North Dakota State Hospital and Developmental Center.
- Support legislation that would increase funds for community hospitals for uncompensated care when serving clients of the Department of Human Services who have mental health issues.

### Employment

- Support legislation that allows for tax credits to businesses that hire people with disabilities.
- Support competitive, community-based employment as the first and preferred outcome for people with disabilities.

### Children & Family Services

- Support legislation that addresses bullying of children and youth.
- Support legislation that increases services for families of children with autism and to provide for best practices in service.
- Support for continuation of funding for the critical needs of individuals, including children and youth, who are medically fragile and/or behaviorally challenged.
- Support an increase in the Children’s Health Insurance Program (CHIP) and funding for the Transition Aged Youth (TAY) program.

**Members of the North Dakota Disabilities Advocacy Consortium  
(NDDAC) -2011**

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**AARP North Dakota**

**American People Self-Advocacy Association**

**Experience Works, Inc**

**Fair Housing of the Dakotas**

**Family Voices of North Dakota (FVND)**

**Independence, Inc.**

**Mental Health America of North Dakota  
(MHAND)**

**North Dakota Association for Persons in Supported Employment  
(ND-APSE)**

**North Dakota Association of Community Providers  
(NDACP)**

**North Dakota Association of the Blind**

**North Dakota Center for Persons with Disabilities (NDCPD)**

**North Dakota Consumer and Family Network**

**North Dakota Federation of Families for Children's Mental Health  
(NDFFCMH)**

**North Dakota Interagency Partnership for Assistive Technology (IPAT)  
Consumer Advisory Committee**

**North Dakota Protection & Advocacy Project (P & A)**

**State Health Insurance Counseling (SHIC) Prescription Connection**

**The Arc of Bismarck**

**The Arc of Cass County**

**The Arc of North Dakota**

**Testimony of Support  
Senate Bill No. 2331  
February 1, 2011**

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. 2331. This bill would give a good incentive to employers to hire people with disabilities.

I have been working with the Bismarck Public Schools for 24 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. In the summer of 2008 a full time custodian position opened up and I was hired on the spot. I was thankful that the principal, the head custodian and the safety director had confidence in me and hired me full time. Now I work more hours and make a little more money. I never had benefits before and now I do. Having benefits helps people be more self-sufficient and they can go to the doctor when they need to. 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 reliable and they 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. When people with disabilities get jobs they feel good and can be a part of our community.

In closing, I urge you to support Senate Bill 2331. Thank you for your time and consideration.

Sincerely,  
Leon Dietrich



# The Arc of North Dakota<sup>E</sup>

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**Testimony**  
**Senate Bill 2331 – Income Tax Credit**  
**Senate Finance and Taxation Committee**  
**Senator Dwight Cook, Chair**  
**February 1, 2011**

Chairman Cook, members of the Senate Finance and Taxation Committee, thank you for the opportunity to provide commentary on Senate Bill 2331 a bill relating to an income tax credit for the employment of individuals with disabilities.

My name is Dianne Sheppard. I am Executive Director for The Arc, Upper Valley in Grand Forks and an official spokesperson for The Arc of North Dakota. Our mission is to ensure that children and adults with an intellectual disability have the supports, benefits, and services they need, and are accepted, respected and fully included in their communities.


Working age people with disabilities are among the most unemployed and underemployed segments of our society. Most people with an intellectual disability want to live independent and fully-inclusive lives – and employment plays a big part in that.

The Arc of North Dakota supports Senate Bill 2331 because it will increase the emphasis on employing people with an intellectual disability and strengthen the supported employment program by creating an incentive for employers to hire people with an intellectual disability. We would also like to see Item 1. clarified to state and who is receiving supported employment or extended services.

I would be happy to answer any questions you may have.

Thank you.

Dianne Sheppard  
Acting Director





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**TESTIMONY – PROTECTION AND ADVOCACY PROJECT  
SENATE BILL 2331  
SENATE FINANCE AND TAXATION  
February 1, 2011**

Chairman Cook and Members of the Senate Finance and Taxation Committee:

My name is Vickay Gross, program coordinator and advocate with the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect people with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of people with disabilities. I coordinate the advocacy activities for a grant through the Social Security Administration that works to eliminate barriers to employment experienced by people with disabilities. I am testifying before you today in favor of Senate Bill 2331.

According to the U.S. Bureau of Labor Statistics, the average unemployment rate for individuals with disabilities for the third quarter 2010 was 15.6 percent, while the rate was 9.3 percent for individuals without disabilities. People with disabilities continue to be an untapped worker pool partly due to myths regarding their ability to be successful in community employment. Some employers are concerned that the cost for accommodations will be high and that it may take people with disabilities longer to learn the job.

The tax credit being proposed in SB 2331 will provide an incentive for employers to give people with disabilities a chance to break into the workforce. The primary reason businesses should hire people with disabilities is because the individual is a good match for a specific business need. However, it is just good business practice to provide employers access to programs that encourage recruitment and hiring of people

with disabilities, support in the training phase and tax credits that will help to cover the cost of accommodations for employees with disabilities. Many times accommodations made for people with disabilities cost very little and end up increasing the overall productivity within the company.

My role as an advocate is to assist people with disabilities to overcome barriers to employment. My experience has been that people with disabilities want to work but often have a hard time securing employment. There are employers in our state who hire people with disabilities now and provide accommodations. SB 2331 would demonstrate to existing and new employers that as a state we support their efforts to develop accommodating workplaces for people with disabilities. In the end, employers gain qualified and valuable employees and North Dakota gains tax payers who are less dependent on public programs.

Chairman Cook and Members of the Senate Finance and Taxation Committee, thank you for the opportunity to testify on SB 2331. I am prepared to answer questions you may have regarding my testimony.

Testimony #1

House Finance and Taxation  
Wesley R. Belter, Chairman  
SB 2331  
Wednesday, March 9, 2011

Chairman Belter and members of the House Finance and Taxation Committee, my name is Tim Mathern. I am the senator from District 11 in Fargo. I am here to introduce SB 2331.

SB 2331 if passed would allow an employer to receive a tax credit for employing an individual with a disability. The credit is fifty percent of up to five thousand dollars of wages paid in the first year, thirty percent of up to five thousand dollars of wages paid in the second year, and ten percent of up to five thousand dollars of wages paid in the third year of employment.

There is a gap between the employment rates of North Dakotans of people with and without disabilities. Often people without employment need public support to survive. Employers hiring people with disabilities sometimes are reluctant to make this hiring decision.

Passage of this bill helps individuals by opening more jobs, helps employers by providing a financial incentive, and is of benefit to all of us as more people are able to have a job and need less public support. This also adds to the quality of life as work is one of the greatest activities any of us can ever take part in.

Others are here to address the details of this bill and have some informative facts to support this bill.

I ask for a do pass recommendation from your committee.

Thank you.



Testimony #2  
p. 1

**House Finance and Taxation  
Wesley R. Belter, Chairman  
Lewis and Clark Room  
SB 2331  
Tom Alexander Testimony  
Wednesday, March 9, 2011**

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 2331. 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.

SB 2331 would allow an employer of the state of ND a tax credit for employing an individual with a disability (an individual with a disability is defined in the bill). The amount of the credit to which a taxpayer would be entitled is fifty percent of up to five thousand dollars of wages paid in the first year, thirty percent of up to five thousand dollars of wages paid in the second year, and ten percent of up to five thousand dollars of wages paid in the third year of employment to the newly hired individual with disability.

#2 p. 2

The 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 by the taxpayer and applies in subsequent tax years in which further net increases occur above the level of such employment established when the credit was last taken.

A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a pass through 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 pass through entity.

According to the 2008 American Community Survey, there are 32,000 people with disabilities in ND of working age (ages 21-64). In 2008, the employment rate for working age people *with* disabilities in ND was 60.2 percent; or approximately 19,264 individuals of working age with a disability are working in ND. In 2008, the rate of employment for those North Dakotans *without* a disability was 87.0 percent. The gap between the employment rates of North Dakotans of working-age people with and without disabilities was 26.8 percentage points.

While compared to national 2008 employment rates of 39.5 percent for those *with* a disability and 79.9 percent for those *without* a disability, North Dakota statistics sound good; but there is still work to be done, improvements to be made, and the need for continued systemic changes to build on ND's comprehensive employment system for people with disabilities.

Job Service North Dakota reported that North Dakota's December, 2010 not seasonally adjusted unemployment rate was 3.9 percent. The rate is 0.6 percentage points higher than prior month (3.3 percent), and 0.4 percentage points below December of prior year, (4.3 percent). The national unemployment rate in December was 9.1 percent.

Currently Job Service North Dakota is running about 12,000 to 13,000 job openings per month, and have approximately 9,500 to 10,000 individuals with resumes available per month. This leaves a small gap in resumes to openings per month

In the past 18 months, Job Service has seen the following:

- Applicant Registrations and updates: 98,500
- Applicant entered employment numbers: 22,250
  
- Disabled Applicant registrations and updates: 3,200
- Disabled applicant entered employment numbers: 705

#2 p. 4

There are many reasons to hire people with disabilities. Not only does it include people with disabilities to their communities as taxpaying citizens, building their economic independence, but also hiring a qualified person with a disability is a solid business decision. It brings greater benefits beyond just filling an open job. Here are three benefits of hiring people with disabilities:

#### Return on Investment(ROI)

Businesses that employ people with disabilities turn social issues into business opportunities. These opportunities translate into lower costs, higher revenues and increased profits. Capitalizing on the ROI of employing people with disabilities.

#### Marketing

Customers with disabilities and their families, friends and associates represent a trillion dollar market segment. They, like other market segments, purchase products and services from companies that best meet their needs. A large number of Americans also say they prefer to patronize businesses that hire people with disabilities. Another of the benefits of employing people with disabilities is increasing your opportunity to gain a lasting customer base.

#### Innovation

Innovation is key to a business' success. Employees with disabilities bring unique experiences and understanding that transform a

#2 p.5

workplace and enhance products and services. As part of the workforce, employees with disabilities help build business and lead a company into the future.

All though ND is ranked first in United States in employing people with disabilities negative stigma still exist preventing employment . There must be incentives for businesses to hire people from this vast underutilized talent pool. By passing SB 2331 you would be providing a key incentive to North Dakota employers. Therefore, I urge the Committee to recommend a "do pass" on SB 2331.

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

Tom Alexander, Project Director  
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Testimony #3

**Testimony**  
**Senate Bill 2331 – Tax Credit for Employment of Individuals with Disabilities**  
**House Finance and Taxation Committee**  
**Representative Belter, Chairman**  
**Wednesday, March 9<sup>th</sup>, 2011**

Chairman Belter, I am Amy Armstrong, ND APSE Chapter President and a Project Coordinator at the ND Center for Persons with Disabilities at Minot State University. APSE, referred to as the Network on Employment, is a national organization with an *exclusive focus* on increasing integrated, community employment and career advancement opportunities for individuals with disabilities. As the current ND APSE Chapter President, I am providing testimony today in support of SB 2331. SB 2331 will provide North Dakota employers a tax credit for employing individuals with disabilities. The tax credit will be one means to increase participation of people with disabilities in the ND workforce and potentially increase the opportunities for community employment. This tax credit will be a potential incentive to employers to hire a person with a disability and continue long term employment for that person; and at the same time help to fill the need for workers in ND. People with disabilities want the same opportunities as others without disabilities; to work and live independently in their communities, pay taxes, and be part of a community. This bill will help to make that happen.

Thank you for your time.

Amy Armstrong Lobbyist # 271  
ND APSE Chapter President  
Project Director, NDCPD – Minot State University

Testimony # 4

**TESTIMONY**  
**Senate Bill 2331 –House Finance and Taxation**  
**Representative Belter, Chairman**  
**March 9, 2011**

Chairman Belter, members of the House Finance and Taxation Committee, I am Barbara Murry, Executive Director of the North Dakota Association of Community Providers. I am here today to give brief testimony SB 2331 – an income tax credit for employment of individuals with disabilities.

The North Dakota Association of Community Providers is made up of 29 organizations across the state. We represent approximately 4,500 staff, 3,900 of whom are Direct Support Professionals, or DSP's. We serve approximately 4,500 individuals with intellectual and developmental disabilities. Additionally, we support people with a mental illness and people with a traumatic brain injury.

Job Coaches of the individual provider members assist people with disabilities who are referred by Vocational Rehabilitation in finding employment opportunities. The job coach is will assist the person and the employer with any necessary documentation required by this bill.

The tax credit will be one tool to help more people with disabilities gain employment and become more independent and self supporting. No tax incentive goes to the individual with disabilities. Typically, only a small number of individuals with disabilities have used the tax credits previously available. However, it is an important to have available, and just the tool to give an employment opportunity to some individuals.

People with disabilities want to be tax-paying, self supporting citizens. This bill gives a

#4 p. 2

tax incentive to ND businesses to employ more individuals with disabilities. It is our hope that through the use of this bill, more employers will see people with disabilities as a viable workforce, which can assist with the labor shortage in North Dakota.

Thank you for this opportunity to provide written testimony. Should you wish to contact me for any additional information, I can be reached at:

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701.220.4778  
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**Testimony**  
**Senate Bill 2331 – Income Tax Credit**  
**House Finance and Taxation Committee**  
**Representative Wesley Belter, Chair**  
**March 9, 2011**

Chairman Belter, members of the House Finance and Taxation Committee, thank you for the opportunity to provide commentary on Senate Bill 2331 a bill relating to an income tax credit for the employment of individuals with disabilities.

My name is Dianne Sheppard. I am Executive Director for The Arc, Upper Valley in Grand Forks and an official spokesperson for The Arc of North Dakota. Our mission is to ensure that children and adults with an intellectual disability have the supports, benefits, and services they need, and are accepted, respected and fully included in their communities.

Working age people with disabilities are among the most unemployed and underemployed segments of our society. Most people with an intellectual disability want to live independent and fully-inclusive lives – and employment plays a big part in that.

The Arc of North Dakota supports Senate Bill 2331 because it will increase the emphasis on employing people with an intellectual disability and strengthen the supported employment program by creating an incentive for employers to hire people with an intellectual disability.

I would be happy to answer any questions you may have.

Thank you.

Dianne Sheppard, Acting Director, The Arc of North Dakota,  
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TESTIMONY – PROTECTION AND ADVOCACY PROJECT

SB 2331 (2011)

HOUSE Finance & Taxation

Honorable Wesley Belter, Chair

March 9, 2011

Chair Belter, and members of the House Finance and Taxation Committee, my name is Christine Hogan. I'm a lawyer with the North Dakota Protection and Advocacy Project (P&A). The Protection & Advocacy Project is an independent state agency that acts to protect persons with disabilities from abuse, neglect, and exploitation. We advocate for the disability-related rights of persons with disabilities. Employment of persons with disabilities in competitive, integrated settings is one of P&A's highest priorities.

We support SB 2331 because it creates a valuable economic incentive that will promote employment of individuals with disabilities in our state. P&A strongly encourages all appropriate strategies to enhance job opportunities for people with disabilities— participation in employment is perhaps the single most important factor in improving the quality of life of individuals with disabilities.

We all know how central our work is to our core sense of wellbeing, self confidence, and independence. In our culture, like it or not, we identify ourselves by our work. If you know someone with a disability, particularly a developmental disability, you already know how that individual views the opportunity to go to work and earn a paycheck. It means the world—it means having a *life* in the world of independence!

#6 p. 2

Having a job and an income is the difference between isolation and depression on one hand, and integration into the community on the other. And for all of us humans, community is everything that makes life worth living.

Employment of people with disabilities benefits everyone. People with disabilities who work not only enjoy the obvious personal economic benefits of earning a paycheck; they also become vital, productive members of mainstream society. People who work become part of the community. Community involvement, in turn, promotes relationships. Relationships tend to promote better health, longer life, and greater enjoyment of life. Working obviously benefits the individual worker, but it also provides fiscal gain for society as a whole.

Employers of individuals with disabilities often gain dedicated, loyal workers, with good productivity, low turnover, and low absenteeism. There does not seem to be a downside—there are no hidden costs of hiring people with disabilities.

The biggest barriers to employment of people with disabilities have always been attitudes. Today's bill will help to dispel old attitudes and myths about hiring people with disabilities. It is intended to provide a tax credit of up to \$5000 (of wages paid) for hiring an individual with a disability for the first year. As advocates of people with disabilities, we know that the first year is the key—the foot in the door. Simply providing an individual with that first chance at employment is the most important step.

#6 p. 3

We know from experience that people with disabilities, once given that first chance, will, more often than not, rise to the occasion, and become valued, long-term employees.

(examples)

While P&A strongly supports and applauds the concept and intent of this bill to provide an incentive to hire persons with disabilities, and while we do support it as written, we do have some concerns about the standard in the bill for identifying individuals who will qualify for the employer tax credit. Tying the credit to receiving Social Security benefits could produce unintended consequences. We agree that tying the credit to eligibility for Vocational Rehabilitation is a straightforward, sensible and workable approach. We offer any assistance we can to consult with the bill sponsors and proponents to craft a workable definition of "individual with disabilities" that will carry out the laudable intent of the drafters. We do have a draft amendment that we believe will accomplish that result.

Thank you.



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Testimony #7

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**Testimony of Support Senate Bill 2331  
House Finance & Tax Committee  
March 9, 2011**

Good morning Chairman Belter and members of House Finance and Tax Committee. My name is Veronica Zietz (#99); I am the Executive Director at The Arc of Bismarck and I'm here today representing both The Arc of Bismarck and The Arc of Cass County. The Arc is an organization that provides education and advocacy to people with disabilities to foster empowerment and full inclusion in the community.

The Arc strongly supports Senate Bill 2331, because it would provide employers with a tax credit for hiring and permanently employing individuals with disabilities. Employing individuals with disabilities is a big issue in North Dakota and it is about to get even bigger; with an economic boom affecting much of the workforce in our state it may be time for North Dakota to tap the last untouched labor pool. The US Census Bureau found that in February 2011 the unemployment rate for people with a disability was 15.4, an increase since January 2011 which had a rate of 13.6; this is far higher than the unemployment rate of the general population which was 8.9 in February. This statistic shows that the unemployment rate of people with a disability is far higher than unemployment rates of their counterparts with no disability. It is time to address this historically huge rate of disparity in employment for individuals with a disability and I believe this bill can help do that. By offering an incentive in the form of a tax credit employers will be more willing to hire and provide long-term employment opportunities for people with disabilities. This bill offers a tiered credit over a three year period that will help subsidize the training period for new employees with a disability.

This bill will incentivize hiring people with a disability by subsidizing the training period, but it will also encourage businesses to look beyond stereotypes and to hire perfectly capable people with a disability. Often people with a disability are viewed unfavorably for employment and many businesses haven't considered them to be a part of the 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 persuade employers to give individuals with disabilities a fair chance in the workplace.

I would like to tell you a bit about my experience as an employer of people with disabilities. The Arc of Bismarck operates a Store which employs multiple people with and without disabilities. Fair compensation and an integrated work setting have benefited my employees with disabilities immensely. These individuals are frequently my most reliable workers and once hired, they finally have a chance to support themselves by earning a fair wage and this limits their reliance on governments systems. Employing people with disabilities also benefits others in the workplace. The integrated environment offers everyone a chance to learn from each other and the diversity builds community. I believe individuals with disabilities are a very valuable resource to any business and passing this bill could provide many businesses in North Dakota with the necessary encouragement to give individuals with disabilities an opportunity for long term employment.

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 consideration.

Testimony #8

**Testimony of Support  
Senate Bill No. 2331  
March 9, 2011**

Good morning Chairman Belter and members of the House Finance and Tax Committee. My name is Leon Dietrich; I live in district 35. I am in support of Senate Bill No. 2331. This bill would give a good incentive to employers to hire people with disabilities and the state will have positive employment outcomes for people with disabilities.

I have been working with the Bismarck Public Schools for 24 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 at the same school. I worked part-time in this job for 14 years. In the summer of 2008 a full time custodian position opened up and I was hired on the spot. I was thankful that the principal, the head custodian and the safety director had confidence in me and hired me full time. They trust me to take care of the school and know I do good job. They even let me use the school on Saturday mornings to host a group of advocates. Now I work more hours and make a little more money. I never had benefits before and now I do. Having benefits helps people be more self-sufficient and they can go to the doctor when they need to. 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 reliable and they 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. It would encourage employers to give people with disabilities a chance in the work place. That way self-advocates who get jobs could feel better about themselves, just like I do. When people with disabilities get jobs they feel good and can be a part of our community.

In closing, I urge you to support Senate Bill 2331, so it can help more people with disabilities get jobs. Thank you for your time and consideration.

Sincerely,  
Leon Dietrich

**North Dakota Disabilities Advocacy Consortium (NDDAC)  
Public Policy Priorities for 2011 – 2013**

**Home and CommunityBased  
Services (HCBS)**

- Support funding increases and maintain funding of HCBS for people with disabilities.
- Support efforts to enhance smart home technology, in order to increase the independence of people with disabilities.
- Support increased availability of HCBS for people with disabilities, in lieu of institutional care.
- Support salary increases for direct service providers (DSP) and qualified service providers (QSP).
- Support continued transitions from the Developmental Center to community-based services, including increased community capacity development through the use of flexible funding mechanisms like the DD Loan Fund or IGT Fund.
- Support inflationary increases to Medicaid providers of 3% for each year during the biennium.
- Support market adjustment of \$1.46/hour for all providers of developmental disabilities services.
- Support the replacement of FMAP funds with general funds in order to maintain services.
- Support the increased scope of practice for a nurse practitioner to allow for increased access to healthcare in rural areas.

**Transportation & Independent Living**

- Support the continuation of the Transit Coordination pilot projects.
- Support increases in state funds for Transit and Para-Transit services.
- Support the establishment of a Housing Incentive Fund (SB 2210).
- Support the terminology change from “mental retardation” to “intellectual disability” in state law (SB2142).

**Mental Health**

- Support legislation that increases the number of crisis stabilization beds for people with mental illness.
- Support the establishment of a Suicide Prevention program in the ND Department of Health.
- Support legislation that enhances peer-support programs for people with mental health issues.
- Support increased community-based psychiatric care to avoid institutional placement at the North Dakota State Hospital and Developmental Center.
- Support legislation that would increase funds for community hospitals for uncompensated care when serving clients of the Department of Human Services who have mental health issues.

**Employment**

- Support legislation that allows for tax credits to businesses that hire people with disabilities.
- Support competitive, community-based employment as the first and preferred outcome for people with disabilities.

**Children & Family Services**

- Support legislation that addresses bullying of children and youth.
- Support legislation that increases services for families of children with autism and to provide for best practices in service.
- Support for continuation of funding for the critical needs of individuals, including children and youth, who are medically fragile and/or behaviorally challenged.
- Support an increase in the Children’s Health Insurance Program (CHIP) and funding for the Transition Aged Youth (TAY) program

*Members of the North Dakota Disabilities  
Advocacy Consortium (NDDAC) - 2011*

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