

February 12, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2364

Page 1, line 1, after "Act" insert "to"

Page 1, line 1, after "enact" insert "two new sections to chapter 57-38,"

Page 1, line 3, after "to" insert "a corporate income tax credit, utilization of net operating losses and credit carryforwards,"

Page 1, line 5, after the semicolon insert "to"

Page 1, line 7, remove the first "and"

Page 1, line 7, after "57-38-01.32" insert ", subdivisions c and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1"

Page 1, line 10, after the second comma insert "state aid distribution fund allocations to political subdivisions,"

Page 1, line 10, remove "and"

Page 1, line 11, after "income" insert ", and income associated with losses passed through to a financial institution"

Page 1, line 11, remove "and subdivisions c and f of subsection 2 of section"

Page 1, line 12, remove "57-38-30.3"

Page 1, line 13, remove "and income associated with losses passed through to a financial institution"

Page 3, after line 29, insert:

"SECTION 10. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:
 - a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under section 15 of this Act; and
 - b. Is binding until the earlier of:
 - (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or
 - (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.

2. If an election is made under this section, the following apply:
 - a. A subchapter S corporation may not file a consolidated return.
 - b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.
 - c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

SECTION 11. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 12. AMENDMENT. Subdivision c of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 7 of this Act.

SECTION 13. AMENDMENT. Subdivision f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 7 of this Act."

Page 4, line 5, after the underscored period insert "This subsection applies to the first tax year beginning after December 31, 2012."

Page 4, after line 20, insert:

"SECTION 18. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to

the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.
 - a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
 - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
 - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
 - b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
 - (1) Forty percent of the amount must be allocated equally among the counties; and
 - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year

1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution."

Page 4, line 21, remove "and subdivisions c and f of subsection 2 of"

Page 4, line 22, remove "section 57-38-30.3"

Page 4, line 22, replace "are" with "is"

Renumber accordingly