

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/20/2015**

Amendment to: HB 1462

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

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

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

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

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

Engrossed HB 1462, with Senate amendments, will change the income tax law governing the tax credit allowed to a corporation that makes a charitable contribution to a nonprofit private high school or college in North Dakota.

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

Engrossed HB 1462, with Senate amendments, will expand the income tax law governing the tax credit allowed to corporations that make charitable contributions to certain nonprofit private high schools and colleges in North Dakota. The bill will expand the law to (1) add nonprofit private primary schools with grades kindergarten through 8th grade as qualifying institutions and (2) allow the tax credit to the owners of a passthrough entity that makes a qualifying contribution, including owners consisting of an individual, estate, or trust.

If enacted, Engrossed HB 1462, with Senate amendments, could reduce state general fund revenues in the 2015-17 biennium. The amount of the potential reduction, if any, cannot be determined.

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

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

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

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

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 03/23/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/16/2015**

Amendment to: HB 1462

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

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

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

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

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

Engrossed HB 1462 expands the income tax credit for charitable contributions to private education institutions.

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

Engrossed HB 1462 expands the allowable credit for charitable contributions made to nonprofit institutions of secondary and higher education. The bill removes the statutory percentage of tax liability limitation as well as the dollar limit of \$2500.

If enacted, engrossed HB 1462 could reduce state general fund revenues in the 2015-17 biennium. The amount of the potential reduction, if any, cannot be determined.

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

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

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

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

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/17/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/19/2015**

Bill/Resolution No.: HB 1462

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

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

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

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

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

HB 1462 expands the corporate income tax credit for charitable contributions to private education institutions.

- 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.*

HB 1462 increases the allowable credit from 50% to 75% of the amount of charitable contributions made to nonprofit institutions of secondary and higher education. The bill also increases the credit limit from 20% to 25% of the taxpayer's total tax liability. The bill removes the statutory dollar limit of \$2500.

If enacted, HB 1462 could reduce state general fund revenues in the 2015-17 biennium. The amount of the potential reduction, if any, cannot be determined.

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

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

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

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

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/03/2015

**2015 HOUSE FINANCE AND TAXATION**

**HB 1462**

# 2015 HOUSE STANDING COMMITTEE MINUTES

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

HB 1462  
2/4/2015  
23185

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Brucker*

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

A Bill relating to corporate income tax credits for charitable contributions to private education institutions.

### Minutes:

Attachment #1

**Chairman Headland:** Opened hearing.

**Representative Dosch:** Introduced bill. Distributed testimony. See attachment #1. (Ended testimony at 4:30).

**Chairman Headland:** If we were to pass this bill as it exists today and just took off the limitations, wouldn't that be of great help?

**Representative Dosch:** That is a possibility. The reality is that it's not being used now so I can't tell you for sure if 50% is enough to get corporations to do this.

**Representative Toman:** Do you think the reason it's not being used is because of poor development or lack of development staff?

**Representative Dosch:** I don't think so. It's there now but not being used much. It was put on the books 40 years ago and times have changed but maybe it's the \$2500 limiting factor that it's not worth it or that the 50% isn't enough either. That's why we would like to tweak it and get a little bit of action off of it.

**Chairman Headland:** Any other questions? Further testimony in support of HB 1462?

**Rod Backman,** testifying on behalf of himself as a parent/grandparent of private school student: These parents are incurring a huge cost and a huge sacrifice to make this choice and at the same time saving taxpayers money. I think one of the reasons it's not being used is that when this was originally put in place it was a credit on the individual returns also. This is only for the large c corporations and why it's not getting used a lot is back when this was put in place there were thousands of form 40 c corporations operating in North Dakota and most of those smaller ones have shifted to a s corporation so this

benefits doesn't flow through the individual returns. That could be one of the reasons you're not seeing much use out of it.

**Vice Chairman Owens:** This is a credit that exists now that is different than most of our credits; it doesn't have a carry forward, doesn't have a limitation on zeroing out your tax liability, and \$2500 requirement at the end is really unnecessary because you have the 20% on your income tax along with the 50% of the credit. If we ignored carry over and the 20% leaving the 50% alone but changed it to zero tax liability so the state wouldn't pay you back, do you think that would improve the circumstances?

**Rod Backman:** Are you asking if it was to allow the s corporations to receive it?

**Vice Chairman Owens:** No. I was just saying if we made it more like other credits and we took out the \$2500 and didn't limit it to 20% of your total income tax but we limited it to zero of your tax liability like we do with most credits regardless of percentage.

**Rod Backman:** I think it would be helpful. It would be a guess as to how much.

**Vice Chairman Owens:** I realize it was just your opinion.

**Rod Backman:** I have a lot of experience in tax and back in those years there were a lot of c corporations filing the North Dakota form 40 that have converted to s corporations today.

**Representative Toman:** I don't see primary education listed in here; is that covered under this statute or is this secondary and higher?

**Rod Backman:** This has been in the law for a long time and it was specifically for private colleges and universities and private high schools.

**Representative Schneider:** Is the North Dakota Independent College Fund strictly for private schools as well?

**Rod Backman:** Yes it is. That was a specific foundation formed for the private colleges in the state.

**Representative Schneider:** Is there any requirement that there be a needs based decision within that fund?

**Rod Backman:** I don't know if its needs based.

**Chairman Headland:** Further testimony in support? Is there any opposition to this bill? Does anyone have any questions for the tax department? Seeing none we will close the hearing on HB 1462.

# 2015 HOUSE STANDING COMMITTEE MINUTES

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

HB 1462  
2/9/2015  
23525

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Brucker*

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

A bill relating to corporate income tax credits for charitable contributions to private education institutions.

### Minutes:

Attachment #1

**Representative Toman:** Distributed amendments 15.0513.03003 and explained. See attachment #1. This amendment removes the restrictions of 25% or \$2500 for the credit qualification and adds pass through entities so not only corporations but also s corporations and other entities are allowed to donate with a tax credit. **MADE A MOTION TO ADOPT THE AMENDMENT 15.0513.03003.**

**Representative Hatlestad: SECONDED.**

**Chairman Headland:** Is there a line item on a tax form that would accommodate this credit today?

**Vice Chairman Owens:** Yes. This income tax credit for charitable contributions is already in code. All we are doing is allowing corporations to donate to these charitable contributions for private institutions of higher education and it would limit them to 50% tax credit and opens up pass through.

**Chairman Headland:** I see it has the 50% language in there and it would overstrike to get rid of the 75%, right?

**Vice Chairman Owens:** This is basically a hog house so the 75% is gone. We took the existing law and updated it so people could use it again.

**VOICE VOTE TO ADOPT AMENDMENT 15.0513.03003: MOTION CARRIED.**

**Representative Strinden:** I tend not to support bills that reward a taxpayer for donating to one charity when they don't get that same reward for other charities.

**Vice Chairman Owens: MADE A MOTION FOR A DO PASS AS AMENDED.**

**Representative Steiner: SECONDED.**

**Vice Chairman Owens:** Without these changes it is basically garbage code because it can't be used.

**Chairman Headland:** The fiscal impact would be undeterminable.

**ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT  
MOTION CARRIES FOR DO PASS AS AMENDED.**

**Representative Toman will carry this bill.**

SK  
2/9/15  
1/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1462

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for charitable contributions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
3. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

4. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.

2/2

4-5. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

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

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014."

Renumber accordingly

Date: 2-9-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1462

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0513.03003

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

Motion Made By Rep. Toman    Seconded By Rep. Hatlestad

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

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

Absent \_\_\_\_\_

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

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

Voice vote = Motion carried.

Date: 2-9-15  
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1462**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0513.03003

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

Motion Made By Rep. Owens Seconded By Rep. Steiner

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

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Toman

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

**REPORT OF STANDING COMMITTEE**

**HB 1462: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1462 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for charitable contributions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
3. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
4. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and

curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.

- 4-5. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

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

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014."

Renumber accordingly

**2015 SENATE FINANCE AND TAXATION**

**HB 1462**

# 2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB1462  
3/9/2015  
Job #24457

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Alice Gray*

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

Relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

## Minutes:

Attachment #1, #2

**Chairman Cook** opened the hearing on HB1462

**Rep. Mark Dosch, Dist. 32** -- HB1462 seeks to update a section of the code that relates to income tax credit for charitable contributions to private education institutions. (Attachment #1)

**Sen. Triplett** -- I note that the fiscal note indicates that it is hard to tell what the fiscal impact might be. What is your best guess?

**Rep. Mark Dosch** -- That is hard to tell. It's already been in code but because of the way it is in code, it really hasn't been used. We're hoping that this is going to encourage some additional usage. How much, we just don't know. I have a Subchapter S company and we have not been able to participate in this in the past. We would like to stir a little bit of activity.

**Sen. Dotzenrod** -- The overstrike on lines 16 through 19 and again on page 2, lines 2 through 4, look like they take the cap off, and allow the pass through entity. Is that the main thing that you doing in this bill?

**Rep. Mark Dosch** - Yes, that is correct. It brings it more in line with the other sections of code.

**Sen. Dotzenrod** -- It appears that this is both for college and for secondary schools. Does secondary include k-12 or is that upper grades?

**Rep. Mark Dosch** -- The first section is the k-12 and then the second section would be for institutions of higher ed, like Jamestown or University of Mary.

**Sen. Dotzenrod** -- You may have them turned around. It looks like on line 16, the first section says North Dakota independent college fund and then second section on top of page 2 refers to second education.

**Jack McDonald, State Association of Nonpublic Schools** -- We would second the comments of Rep. Dosch. We would like this bill passed. We view this as an effort to attain greater support from the corporate sector. We would urge your support of this bill.

**Morgan Forness, State Association of Nonpublic School** -- In support of HB 1462. (Attachment #2)

**Sen. Triplett** -- You said you were here representing as a lobbyist or as a board member or what's your capacity?

**Morgan Forness** -- I am here today as the chair of the State Assoc. of Nonpublic Schools. It's a group of private school administrators who get together and talk about private school issues.

**Rod Backman, University of Mary and University of Jamestown** -- As was discussed when Rep. Dosch was up, this section also applies to private colleges and we very much support this bill and would appreciate your support. As Rep. Dosch said, this provision of tax law goes back into the 1970's when it started. At the time it started there was quite a bit of support that came through the corporations. However, as a result of changes at the IRS level, many of the small and medium size businesses in the state have gone to the S corporation status. The ability to change and include the S corporations would now allow us to get some support from them for private education.

**Senator Triplett** -- We have a fiscal note that says that they can't figure out what the fiscal effect is. You seem like you have some history on it, in terms of what the support was in the 70's when there were more traditional corporations in the state. Tell us what you know about that history.

**Rod Backman** -- My reliance on what happened back in the earlier years is based on, at that time I was in public accounting as a CPA, and I had several corporations that were taking advantage of it. Since then they have converted to S status. I don't know what the cumulative dollar impact was in 1980.

**Sen Laffen** -- I used to have a C corp and we converted it to a S corp, so if this were to pass, if my S corporation were to donate to the University of Mary, the tax deduction would fall back then to our percentage of ownership?

**Rod Backman** -- That's correct. The S corporation would be able to take the credit, the 50%. Let's say the donation was \$10,000 and the credit would be \$5,000, and that credit would flow through to the shareholders of the S corporation based on their ownership percentage of that company.

**Sen. Laffen** -- I know there is an income tax deduction for our public higher ed institutions, if I donate \$5,000, I get a 40% tax credit. Is this a better tax credit or is this different? If I donate \$5,000 to a non-endowment, do I get to deduct all of that for my personal taxes?

**Rod Backman** -- The endowment credit applies to all nonprofits, not just colleges. It would be the Salvation Army, for example. That is a 40% credit but you have to give a minimum of \$5,000 and then the entity receiving it is limited in that it has to be endowed where they can't spend the principal. In this case, that endowment provision wouldn't be there. In the case of the University of Mary, they could take the dollars and turn right around and do scholarships for students. As far as the corporation is concerned, it's probably similar, 40%-vs-50%. This would be a little bit better but nominally better. The big advantage would be to the entity received it in that they are not restricted on those dollars to an endowment.

**Sen Laffen** -- I understand that if I make the contribution to U Mary, outside of endowment, I can get the 50% credit. Does that hold for our public institutions as well?

**Rod Backman** -- No, it wouldn't apply because this particular credit, as it's written, is specifically to the nonprofit education entities and I think it was originally put in because there was no state support for those entities and this was a means of having the private sector support with some state benefit via taxpayer.

**Sen Triplett** -- I would like an answer to my question so if anybody from the tax department could make a stab at it, I would appreciate it.

**Matt Peyerl, Office of State Commissioner** -- Sen. Triplett could you repeat your question?

**Sen. Triplett** -- There was some suggestion that the fiscal note cannot be determined how much it might be used, so it shows no fiscal impact. I'm wondering if somebody could give me the range of what we might be giving up here.

**Matt Peyerl** -- I think the best answer I'll have is similar to Mr. Backman's in that it is probably anecdotal in that over time the growth in pass through entities has exceeded the growth in C corp entities. And, for example, in North Dakota we probably have about 10,000 or 11,000 C corporation filers and for some context we probably have about 30,000 pass through entities but they are all different size and different ability to contribute so you can't just equate 10,000 in one and figure out what will be 30,000 new contributors. That's some context and it doesn't surprise me that the fiscal note is cannot determine. The one thing that also is in the bill is the removal of the caps so that might increase the activity just with the corporate side.

One other comment as to Sen. Dotzenrod's question on the secondary education item, the current law is limited to just secondary education and if you have a private k-8 institution, it isn't qualifying under existing law. You have to have at least a 9<sup>th</sup> grade involved to be able to get this credit.

**Chairman Cook** -- Matt, can you give us some historical data as far as what the cost of this credit has been to the state?

**Matt Peyerl** -- The past several years have averaged about 30 participants and the average credit about \$1,500/per. I can get detailed stats but it hasn't been widely used and, as far as credits go, it's fairly generous credit but only 30 participants still looks like it's not that used. I could see what statistics we have back to the 70's and 80's.

**Sen. Dotzenrod** -- There's some definitions on page 2. It defines on line 10, a nonprofit private institution of higher education and also the term on line 15, nonprofit private institution of secondary education. We've heard that one of the speakers was talking about the benefit would fall to Jamestown and to University of Mary. Are there other institutions, I think Ellendale has a Trinity Bible College, that we have in the state that would be entitled to this and others that aren't.

**Matt Peyerl**-- Yes, any private institution. I believe there was a new school that added a 9<sup>th</sup> grade. The list evolves as new participants become eligible.

**Sen. Dotzenrod** -- On a \$5,000 contribution, would they be able to have a deduction reduce their taxable income by having a deduction of \$5,000 for the contribution and then get the credit as well.

**Matt Peyerl** -- That's correct. If you are a corporation, you can deduct charitable contributions. And if you are a pass through entity, the charitable contribution gets passed through to the individual owners and if that individual owner can itemize on their federal return, they could take the deduction for the \$5,000 as well as be entitled to the state credit.

**Sen. Oehlke** -- Is there a reason why primary education is not included, in addition to secondary education? Aren't their private institutions that are only up to 6<sup>th</sup> grade?

**Matt Peyerl**-- I am aware there are some and I don't know the original rational for why it was limited to just secondary and not k-8.

**Sen. Triplett** -- Looking at the description of what the definition of nonprofit private institution of higher education, it looks like they are trying to avoid internet kinds of institutions because we are talking about maintaining a faculty and curriculum within the state, what about having it as an accredited institution? Or are these like what Sen. Dotzenrod mentioned, is there an accreditation program for private bible colleges?

**Matt Peyerl** -- Our experience in administering it is that we have never had any issues with determining what type of institution qualified or not. I am not aware of any impetus to get that definition changed at all. It seems like it has been working.

No further testimony.

**Chairman Cook** closed the hearing.

# 2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB1462  
3/16/2015  
Job #24898

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Alice Grove*

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

Committee work

## Minutes:

Attachment #1

Chairman Cook opened the committee work on HB1462.

**Sen. Oehlke** -- Presents proposed amendments to engrossed HB1462. **(Attachment #1)**  
On the top of page 2 of the bill it says, secondary education, and I said I'm not so sure I want to vote for the bill but if we are going to do it why shouldn't it apply to primary as well as secondary. I thought you could just add primary in there but apparently it takes more words than that.

Sen. Cook -- Secondary education, meaning higher ed, right?

**Sen. Oehlke** -- No, no. It's like junior high. 7-12 would be secondary. Primary is K-6.

**Sen. Cook** -- Oh, the first section is for higher ed.

**Sen. Bekkedahl** -- I think they consider primary K-8.

**Sen. Oehlke** -- That makes sense, I think. I spent some of my best years in 8<sup>th</sup> grade.

**Sen. Triplett** -- I'm confused here because it says page 2, line 5, after the period, insert...and on page 2, line 5, I don't see there is a period. Or does it mean the period following the number 3?

**Sen. Cook** -- Yes.

**Sen. Cook** -- Is the current credit 50%?

**Sen. Oehlke** -- They don't get a tax credit. They get a deduction.

**Sen. Laffen** -- I've also not understood why it is higher for private than it is for public, which is at 40%.

**Sen. Cook** -- There also is a limiter here of 20%. May not exceed 20% of the corporations total income tax, or \$2,500. That's in the existing law. They are taking that out. I would just as soon we keep that in.

**Sen. Laffen** -- I think that would make sense because then that would be separator between the public one, which is \$5,000 limit. Then 40 would make more sense.

**Sen. Bekkedahl** -- If we kept that in, they would be treated at half the amount of allowable credit then as to higher education than public. Is that what you are saying?

**Sen. Laffen** -- For the public higher ed institutions, if you make a donation of \$5,000 or more to a foundation you get a 40% tax credit.

**Sen. Bekkedahl** -- This is 20%. Explain the difference to me, or are they the same, just written differently?

**Sen. Laffen** -- I believe this one is at 50%.

**Sen. Bekkedahl** -- I was referring to what the chairman was saying about putting that language back in that's been stricken in this bill.

**Sen. Laffen** -- If you left that language in then you would have a different level of giving for private -vs- public. And then in my mind I could justify why you would have a different tax credit. If this one were unlimited, which it is changing it to, then I would suggest we ought to lower the 50% to 40% so that the two match.

**Sen. Cook** -- If you had a \$10,000 tax liability, 50% is \$5,000, whichever is less is going to be 20% of your total taxes which is \$2,000 so that is all you would get.

**Sen. Dotzenrod** -- When you are talking about putting the cap back on, we would remove the overstrike on line 16 through 19 and then on page 2, lines 2-4 that overstrike would come off and that restores the cap and then this new paragraph 3 that's in the bill, which is the passthrough for Sub S corporations, would they be capped then because of the language in these other sections? Or is that a credit that is offered to the taxpayer without a cap?

**Sen. Cook** -- I would want them all to be capped.

**Sen. Dotzenrod** -- That's what I was thinking.

**Sen Cook** -- You were talking about subsection what?

**Sen. Dotzenrod** -- Subsection 3 looks to me like the pass through. There's no reference. There's no language in there about any cap. It says entitled to a credit under this section. The other 2 paragraph that we had before that, 1 & 2 are the higher education and the

**Sen. Cook** -- I'll have Walstad draft the amendments or Cole. They will do them right. We don't need to vote on it now. Provided you support the concept of the amendments. How about Sen. Oehlke's amendments? Any serious problem putting primary?

**Sen. Laffen** - I don't mind primary as long as we have the cap. I don't think I would vote for the primary if we left the cap off.

**Sen. Cook** -- The cap is the most important thing.

**Sen. Laffen** -- If you are a very wealthy corporation or individual, your tax rate is approaching 50%. If there is no cap here you are pretty much self-directing where you want your tax to go then. I'm not sure we should allow that.

**Sen. Dotzenrod** -- Just in terms of general discussion, I have somewhat of a dim view of the idea of using the public tax money to be available to help support the private schools. We heard the argument that this in some way takes a burden off of the taxpayer to have those children in these schools, but if we do put the cap back on, that's a big help. But this Sub S pass through, which would also be capped, I really don't know how much impact that would have. The fiscal note really says we can't figure this out. I don't know what paragraph 3 really means in terms of changing the dollars.

**Sen. Cook** -- I'm a firm believer if the tax department didn't like the bill, they would figure out the fiscal note.

**Sen. Dotzenrod** -- It seemed like in this session, more than any others, we're getting a lot of these fiscal note that say we can't figure this out.

**Sen. Cook** -- Let's get a new set of amendments drafted for this; it will end up in a conference committee, if we do pass it out.

**Sen. Bekkedahl** -- To clarify for me, Sen. Laffen, when you talk about the public at 40% and the private at 20%, you said you had reason why you would support that.

**Sen. Laffen** -- We currently have a tax credit, if you make a contribution for a foundation of \$5,000 or greater, you get a 40% tax credit. This one would go to a private organization and you would get a 50% tax credit but this one is capped out at \$2,500 donation. It's half of what the higher education one is so in my mind that allows us to have a different rate. If you could give a \$5,000 donation to public higher ed or a \$5,000 donation to a private higher ed to me then they ought to be the same percentage of credit. But because this one is capped at a lower rate, if we leave the cap, in my mind I can justify having it at a higher credit.

Sen. Cook -- Its capped at a \$2,500 credit.

**Sen. Laffen** -- \$2,500 credit? So the donation would be \$5,000.

**Sen. Cook** -- \$5,000 would get a \$2,500 credit.

**Sen. Laffen** -- Then they are the same?

**Sen. Cook** -- It would be \$2,500.

**Sen. Laffen** -- If you give a \$5,000 donation right now to public higher ed, you get a \$1,000 credit because that is less than the \$2,500.

**Sen. Dotzenrod** -- This 20% applies to, you cannot exceed 20% of the total tax liability. We are talking the computation of the credit as a share of what you gave. That's different than the 20% cap on the total obligation.

**Sen. Laffen** -- So, now as I understand it, a \$5,000 donation under this one, gets you a \$2,500 credit. A \$5,000 donation to public higher ed gets you a \$2,000 credit.

**Sen. Cook** -- You'd have to have considerable tax liability to get to \$2,500 credit. Let's get the amendments drafted and we will look at them down here.

Committee work closed.

# 2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB1462  
3/17/2015  
Job #25005

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Alice Grove*

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

Committee work

## Minutes:

**Chairman Cook** opened the committee work on HB1462.

**Chairman Cook** -- We have a set of amendments here from Sen. Oehlke, I believe that adds primary education. I would like to see the cap put back on the bill. The two caps: the 20% and \$2,500.

**Sen. Bekkedahl** -- I would move that on HB1462, lines 16 through 19, the stricken language be reinserted into the bill as an amendment. Also on page 2, lines 2 through 4.

**Sen. Oehlke** -- Seconded.

**Sen. Cook** -- Dee Wald, do you want to speak to that amendment?

**Dee Wald, General Counsel, State Tax Commissioners Office** -- The bill as brought over here giving that credit also to individuals and pass through entities so you may want to think about the same limitations so you would have to, it says, the language on page 2, line 3, if you are going to put that back in, change corporations to taxpayers. Because before it was just a tax credit for corporations. You would have to make that same, line 18, page 1.

**Sen. Unruh** -- Crossing out corporation on those two lines and putting taxpayer there instead.

**Sen. Cook** -- I thought that was what Sen. Bekkedahl said when he made his motion.

**Sen. Bekkedahl** -- I apologize if I wasn't clear.

**Sen. Cook** -- All in favor of that motion, signify by saying aye. Motion to amend passes 6-1-0.

**Sen. Oehlke** -- I would move amendment 15.0513.04001 adding primary grades into the mix.

**Sen. Unruh** -- Seconded.

**Sen. Dotzenrod** -- On these other two sections where we removed the overstrike, so we've got the cap now on secondary and we've got the cap on higher ed, by adopting this amendment does that have the cap on it? It looks like it doesn't have the cap on it.

**Sen. Cook** -- I think as it goes into the bill, I'm going to have to read this for a bit. I believe the cap that is in the bill, that we just put in the bill, will apply to this.

**Sen. Cook** -- Clerk to take Roll Call on the amendments 513.04001. 4-3-0. Carried.

**Sen. Cook** -- We've got 2 amendments on 1462. Any other amendments?

**Sen. Laffen** -- Just a question now when somebody carries these to the floor, they get combined into 1 amendment, I assume? So, one had a unanimous vote and 1 had a 4-3 vote. How that does that show up?

**Sen. Oehlke** -- The amendment won't show up. Votes on the amendment don't show up.

**Sen. Cook** -- I've been confused on that. I've been looking at that most of the session. Sometimes the votes on the 6<sup>th</sup> order, as I check them, reflect the vote on the amendment and sometimes they seem to reflect the vote on the bill. I've seen no consistency. I'm not sure if it has to do with how Joe puts together the calendar or what.

**Sen. Laffen** -- I've always wished that it would list both. The carrier sometimes also says.

**Sen. Cook** -- When you carry the bill, make sure you try to explain that.

**Sen. Laffen** -- Yeah, I probably won't do that.

**Sen. Dotzenrod** -- The lines on page 2, lines 27 & 28, that is the, it says contributions to private education institutions under section 1 of this act. What we just added is with the primary. That's going to be in section 1, right? Section 1 is only higher education. Those lines 27 & 28 apply only, this pass through provision, only applies to the higher education and not to the others, if I read that right? Oh, I have that mixed up. I follow that.

**Sen. Cook** -- Cole, can you get these amendments put into the bill so that we have a final bill draft in front of us, as amended?

**Cole Derks** -- Yes.

**Sen. Cook** -- Can we have it tomorrow? Okay. Then both amendments will be in the final bill. We will have a reengrossed bill before us with the amendments in it so that we can all read it as it has now been amended.

Senate Finance and Taxation Committee

HB1462

March 17, 2015

Page 3

Committee work closed.

# 2015 SENATE STANDING COMMITTEE MINUTES

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

HB1462  
3/18/2015  
Job #25071

- Subcommittee  
 Conference Committee

Committee Clerk Signature

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

Committee work

**Minutes:**

Attachment #1

**Vice Chairman Laffen** opened the committee work on HB1462.

**Vice Chairman Laffen** -- Sen Cook wants some action on this bill because of all the emails that we're getting. We've heard amendments. We've amended them. Have we officially added this amendment to this bill? We added both of these amendments and now we have the Christmas tree version in front of us, if you want to look that over. **(Attachment #1)** This is the one that put the caps back on. This is the higher ed version.

**Sen. Triplett** -- Moves a do not pass.

**Sen. Oehlke** -- Second.

Roll call vote on do not pass on HB1462 3-3-0. Motion failed.

**Vice Chair Laffen** adjourns committee work.

# 2015 SENATE STANDING COMMITTEE MINUTES

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

HB1462  
3/18/2015  
Job #25074

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Alice Grove*

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

Committee work

Minutes:

**Chairman Cook** opened the committee work on HB1462.

**Sen. Cook** -- Is there a motion on HB1462?

**Sen. Laffen** -- I would move a do pass on engrossed HB1462, as amended.

**Sen. Bekkedahl** -- Seconded.

**Sen. Triplett** -- I think I know where this is going, but for the record, I think the issue here regarding nonpublic schools is problematic. The folks who came in and testified on this were pretty clear that they think that this is like the beginning of funding for nonpublic schools. In particular my concern is with religious schools; that if we are funding religious schools with taxpayer dollars that we are starting down a path. I was especially troubled by the commentary that there is an expectation on the part of the advocates for this kind of tax treatment that their long-term goal is full taxpayer support of nonpublic institutions and that concerns me.

**Sen. Cook** -- Vouchers, you mean.

**Sen. Triplett** -- Yes.

**Sen. Cook** -- More so on 1254, though than 1462?

**Sen. Triplett** -- Right, but because we put primary schools into this one it applies to both of them.

**Sen. Cook** -- It will not be the last time we hear those comments. And you are not the only person that has them.

Senate Finance and Taxation Committee  
HB1462  
March 18, 2015  
Page 2

No further discussion.

**Sen. Cook** -- We'll have the clerk take this bill and hold this bill open until all 7 can vote.

Roll call vote on do pass motion. 3-2-0.

**Sen. Cook** -- Motion passes 3-2-0. We will until the other 2 vote before we see the total. We will let Sen. Unruh carry this bill, or Sen. Oehlke if it doesn't pass.

Final vote 4-3-0.

Committee work closed.

March 10, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

Page 2, line 5, after the period insert: "At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

4."

Page 2, line 10, replace "4." with "5."

Page 2, line 20, after the period insert "The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade."

Page 2, line 21, replace "5." with "6."

Renumber accordingly

TD  
3/18/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

Page 1, line 16, remove the overstrike over "~~The amount allowable as a credit under~~"

Page 1, remove the overstrike over line 17

Page 1, line 18, after "~~corporation's~~" insert "taxpayer's"

Page 1, line 18, remove the overstrike over "~~total income tax under this chapter for the year, or two thousand five~~"

Page 1, remove the overstrike over line 19

Page 2, line 2, remove the overstrike over "~~The amount allowable as a credit under this subsection for any taxable year~~"

Page 2, line 3, remove the overstrike over "~~may not exceed twenty percent of the~~"

Page 2, line 3, after "~~corporation's~~" insert "taxpayer's"

Page 2, line 3, remove the overstrike over "~~total income tax under this chapter~~"

Page 2, remove the overstrike over line 4

Page 2, line 5, after "3." insert: "At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

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Page 2, line 21, replace "5." with "6."

Renumber accordingly

Date: 3-17-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1462

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: Sen. Bekkedahl's amendment:  
Amend lines 16-19 to reinsert stricken  
language. Also on page 2, lines 2-4.

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

Motion Made By Sen. Bekkedahl Seconded By Sen. Oehlke  
voice vote 6-1-0 Carried

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

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

Absent \_\_\_\_\_

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

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

Date: 3-17-15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO HB1462

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0513.04001

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

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

Motion Made By Sen Oehlke    Seconded By Sen Unruh

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

Total (Yes) 4 No 3

Absent 0

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

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

Date: 3.18.15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1462

Senate Finance and Taxation Committee

Subcommittee

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

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

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

Motion Made By: Sen. Triplett Seconded By Sen. Oehlke

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

Total (Yes) 3 No 3

Absent 0

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

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

Date: 3-18-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO HB 1462

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0513.04002 Title .05000

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

Motion Made By Sen Laffen Seconded By Sen. Bekkedahl

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

Total (Yes) 4 No 3

Absent \_\_\_\_\_

Floor Assignment Sen. Unruh

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

REPORT OF STANDING COMMITTEE

HB 1462, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1462 was placed on the Sixth order on the calendar.

Page 1, line 16, remove the overstrike over "~~The amount allowable as a credit under~~"

Page 1, remove the overstrike over line 17

Page 1, line 18, after "~~corporation's~~" insert "taxpayer's"

Page 1, line 18, remove the overstrike over "~~total income tax under this chapter for the year, or two thousand five~~"

Page 1, remove the overstrike over line 19

Page 2, line 2, remove the overstrike over "~~The amount allowable as a credit under this subsection for any taxable year~~"

Page 2, line 3, remove the overstrike over "~~may not exceed twenty percent of the~~"

Page 2, line 3, after "~~corporation's~~" insert "taxpayer's"

Page 2, line 3, remove the overstrike over "~~total income tax under this chapter~~"

Page 2, remove the overstrike over line 4

Page 2, line 5, after "3." insert: "At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state."

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Page 2, line 21, replace "5." with "6."

Re-number accordingly

**2015 TESTIMONY**

**HB 1462**

HB 1462  
2-4-15  
#1

## HB 1462

House Finance and Taxation

Chairman Craig Headland

February 4, 2015

Mr. Chairman and members of the committee, for the record my name is Mark Dosch, Representative from District 32 Bismarck.

Mr. Chairman, last week you said to me, that it is a lot easier to change a tax credit that already exists in code, than to create a new one. So Mr. Chairman, I took to heart your advice, and present to you HB 1462 which is already in code. I seek only to make some minor modifications.

The current code has been in law for some 30-40 years or so, and is very limiting, so limiting that it is seldom used. This bill will make 3 changes.

1. It increases the credit against income tax liability from 50 to 75%, still resulting in plenty of skin in the game for the corporate giver.
2. Increases the maximum contribution from 20 to 25% of a corporation's total income liability.
3. Eliminates the maximum contribution, which is not needed with the two previously mentioned contribution limiters.

Mr. Chairman, and committee, last week the Senate passed on what they are calling the surge bill. Over 1.1 Billion dollars to help the hub and oil producing counties with the impact they are experiencing with the oil activity. The common schools trust fund has gone from 644 million 10 years ago to over 3 Billion Dollars today, a direct result of oil activity. What a huge positive outcome for our public schools. In addition the last two governors have showed their commitment to education, and together we have made great strides in increasing teacher salaries. Funding for k-12 has more than doubled in the past 10 years, now amounting to over a 2 Billion dollar budget. What great progress we have been making in education funding.

However that prosperity has not been enjoyed by all. Teacher compensation in non-public schools has fallen to just 70% of that of a public school teacher. Cost for those operating non-public schools has also seen their costs sky rocket. Unfortunately they have no "surge funding" from the state, no benefits from the budgeting common schools trust fund... they are left to fend for themselves. My question is, are not ALL Teachers important to the State? Are not all Kids important?

**This would provide Scholarship dollars for truly the most needy in our state.**

Mr. Chairman that is why I have brought this bill before you. We are asking **NO grant dollars** from the State, **NO surge money**. Rather just a little help to enhance our efforts to attract money from the private sector. This concludes my testimony, I will be happy to answer any questions.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1462

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for charitable contributions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. ~~The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.~~
3. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

4. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.

4.5. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

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

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014."

Renumber accordingly

1  
3.9.15

**HB 1462**

**Senate Finance and Taxation**

**Chairman Dwight Cook**

**March 9, 2015**

Mr. Chairman and members of the committee, for the record my name is Mark Dosch, Representative from District 32 Bismarck.

HB 1462 seeks to update a section of code that relates to income tax credits for charitable contributions to private education institutions. This section which has been in law for some 30-40 years or so, however, it has not been updated to reflect more recent types of corporate structures.

HB 1462 will incorporate pass-through entities into code. This is the same provision that is in other sections of code. Entities such as Sub Chapter S Corps will now also be able to participate in this section as well. It retains the 50% deductibility, however adds that the deduction be nonrefundable, again to match other sections of code.

Mr. Chairman, and committee, a few weeks ago, the Senate passed on what they are calling the surge bill. Over 1.1 Billion dollars to help the hub and oil producing counties with the impact they are experiencing with the oil activity. The common schools trust fund has gone from 644 million 10 years ago to over 3 Billion Dollars today, a direct result of oil activity. What a huge positive outcome for our public schools. Funding for k-12 has more than doubled in the past 10 years, now amounting to over a 2 Billion dollar budget. What great progress we have been making in education funding.

However that prosperity has not been enjoyed by all. Cost for those operating non-public schools has also seen their costs sky rocket. Unfortunately they have no "surge funding" from the state, no benefits from the common schools trust fund... they are left to fend for themselves.

What this bill does, is not only update current code, it will allow all classifications of business donate money to private education institutions, by providing funds that can help provide the necessary infrastructure needs, as well as scholarships for those students most in need of financial help.

This bill seeks to encourage more corporate involvement in the private sector, resulting in the need for less government.

Mr. Chairman that is why I have brought this bill before you. We are asking **NO grant dollars** from the State, **NO surge money**. Rather just a little help to enhance our efforts to attract money from the private sector. This concludes my testimony, I will be happy to answer any questions.

#2  
3.9.15

Senate Finance and Taxation Committee - January 26, 2015

HB 1462

Testimony by Morgan Forness, SANS

Chairman Cook & members of the committee my name is Morgan Forness. I am here today representing The State Association of Non-Public Schools to speak in support of **HB 1462**.

The bill will allow a tax credit for charitable contributions to be directed private, non-public educational institutions. These funds will greatly help support non-public schools who provide a valuable educational resource to the state of North Dakota while at the same time saving the taxpayer ~~missions~~ <sup>Millions</sup> of dollars.

Non-public schools, just as our public counter-parts, are all equally committed to quality academics and high standards and this is good for North Dakota. **HB 1462** recognizes a desire for the state to commit to providing support for all schools.

Private schools provide tremendous resources and rich learning environments to many communities, ultimately saving the taxpayer additional burden. Please support **HB 1462**. I would be happy to answer any questions you may have.

March 10, 2015

1  
3.16.15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

Page 2, line 5, after the period insert: "At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

4."

Page 2, line 10, replace "4." with "5."

Page 2, line 20, after the period insert "The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade."

Page 2, line 21, replace "5." with "6."

Renumber accordingly

**HB 1462**

Amendment 15.0513.4001 & "Bekkedahl" Amendment *Incorporated*

FOR VISUAL REFERENCE

A BILL for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for charitable contributions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

**Comment [I21]:** "Bekkedahl" Amendment

2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

**Comment [I22]:** "Bekkedahl" Amendment

1.2  
3-18-15  
JAB/ALB

**HB 1462**

Amendment 15.0513.4001 & "Bekkedahl" Amendment *Incorporated*

FOR VISUAL REFERENCE

3. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

Comment [I23]: Amendment 15.0513.4001

3.4. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

4.5. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades. The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade.

Comment [I24]: Amendment 15.0513.4001

1.3  
HB 1462  
3-18-15

**HB 1462**

Amendment 15.0513.4001 & "Bekkedahl" Amendment *Incorporated*

FOR VISUAL REFERENCE

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~~5-6.~~ For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

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

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014.