

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2036

Page 1, line 1, after "to" insert "create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for contributions to qualified universities; to"

Page 1, line 3, remove "and to provide an"

Page 1, line 4, replace "appropriation" with "to provide for the cancellation of appropriation authority; to provide for a legislative management report; to provide an effective date; and to provide an expiration date"

Page 1, line 10, overstrike "During the period beginning July 1, 2015"

Page 1, line 10, remove "2017"

Page 1, line 10, overstrike ", and ending December 31,"

Page 1, line 11, overstrike "2016"

Page 1, line 11, replace "2018" with "Subject to legislative appropriations, each biennium during the period beginning July 1 of each odd-numbered year and ending December 31 of each even-numbered year"

Page 2, line 1, overstrike "before January 1,"

Page 2, line 2, overstrike "2017"

Page 2, line 2, remove "2019"

Page 2, line 2, overstrike the first comma

Page 2, line 18, overstrike "During the period beginning July 1, 2015"

Page 2, line 18, remove "2017"

Page 2, line 18, overstrike ", and ending December 31,"

Page 2, line 19, overstrike "2016"

Page 2, line 19, replace "2018" with "Subject to legislative appropriations, each biennium during the period beginning July 1 of each odd-numbered year and ending December 31 of each even-numbered year"

Page 3, line 1, overstrike "before January 1,"

Page 3, line 2, replace "2019" with "prior to January 1 of each odd-numbered year"

Page 3, remove lines 25 through 30

Page 4, replace lines 1 and 2 with:

**"SECTION 3.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

## **Income tax credit for contributions to a qualified university.**

1. A taxpayer is entitled to a credit against tax liability determined under section 57-38-30.3 for charitable contributions made after June 30, 2017, to a qualified university. To qualify for the credit under this section, a single contribution must be a cash contribution of twenty-five thousand dollars or more.
2. For purposes of this section, "qualified university" means an institution under the control of the state board of higher education, which is a tax-exempt organization under 26 U.S.C. 501(c)(3) to which contributions qualify for federal charitable income tax deductions.
3. The amount of the credit to which a taxpayer is entitled is forty percent of the amount contributed by the taxpayer to a qualified university during the taxable year.
4. The maximum credit that may be earned under this section in a taxable year is thirty thousand dollars for an individual, or sixty thousand dollars for married individuals filing a joint return. This subsection may not be interpreted to limit additional contributions by a taxpayer for which that taxpayer is not earning a credit.
5. The credit under this section may not exceed the taxpayer's income tax liability. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the five succeeding taxable years.
6. The contribution used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.
7. North Dakota taxable income must be increased by the amount of the charitable contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income in any year.
8. The aggregate amount of credits allowed for contributions under this section may not exceed two million five hundred thousand dollars per year. The credit must be allowed to taxpayers in the chronological order of their contributions to a qualified university.
9. A qualified university that is:
  - a. A four-year institution with a full-time equivalent annual enrollment of more than ten thousand students is limited to receiving no more than three million dollars of contributions over all taxable years for purposes of qualifying for the credit.
  - b. A four-year institution with a full-time equivalent annual enrollment of ten thousand students or fewer is limited to receiving no more than one million dollars of contributions over all taxable years for purposes of qualifying for the credit.
  - c. A two-year institution with a full-time equivalent annual enrollment of ten thousand students or fewer is limited to receiving no more than

five hundred thousand dollars of contributions over all taxable years for purposes of qualifying for the credit.

10. Within thirty days after the date on which a taxpayer makes a contribution to the qualified university, the university shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the qualified university by that taxpayer the following:
  - a. The name, address, and social security number or federal employer identification number of the taxpayer that made the contribution;
  - b. The dollar amount contributed to the qualified university; and
  - c. The date the contribution was received by the qualified university.
11. A taxpayer shall claim the credit on the taxpayer's state income tax return in the form and manner prescribed by the tax commissioner and file with the return a copy of the form issued by the qualified university under subsection 10.
12. A passthrough entity making a contribution to a qualified university under this section is 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.
13. The state board of higher education shall approve the use of all funds received by a qualified university pursuant to this section.

**SECTION 4.** 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 contributions to a qualified university under section 3 of this Act (effective for the first two taxable years beginning after December 31, 2016).

**SECTION 5. CANCELLATION OF APPROPRIATION AUTHORITY.** Prior to August first of each year, the tax commissioner shall certify to the office of management and budget the amount of credits claimed during the preceding state fiscal year under section 3 of this Act which apply to contributions to each qualified university. The director of the office of management and budget shall cancel the portion of the current biennium general fund appropriations authority for each qualified university equal to the amount of credits claimed during the preceding fiscal year for contributions to the qualified university.

**SECTION 6. LEGISLATIVE MANAGEMENT REPORT.** During the 2017-18 interim, the state board of higher education shall provide a report to the legislative management regarding tax credits claimed for contributions to qualified universities, including the amount of tax credits claimed for contributions to each university and the use of funds by each university.

**SECTION 7. EFFECTIVE DATE - EXPIRATION DATE.** Sections 3 and 4 of this Act are effective for the first two taxable years beginning after December 31, 2016, and are thereafter ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment:

- Removes reference to specific dates from statutory provisions relating to higher education challenge grants;
- Removes the \$4 million appropriation from the strategic investment and improvements fund for higher education challenge grants;
- Creates an income tax credit for contributions to North Dakota University System institutions; and
- Cancels higher education appropriation authority equal to the amount of tax credits claimed during the preceding fiscal year.