

**JOURNAL OF THE HOUSE****Sixty-second Legislative Assembly**

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**Bismarck, March 23, 2011**

The House convened at 1:00 p.m., with Speaker Drovdal presiding.

The prayer was offered by Pastor Renee Splichal Larson, Heart River Lutheran Church, Mandan.

The roll was called and all members were present except Representatives Belter, Boehning, and Conklin.

A quorum was declared by the Speaker.

**MOTION**

**REP. VIGESAA MOVED** that the House be on a Special Order of Business, which motion prevailed.

**CHANGE OF CHAIR**

**SPEAKER DROVDAL YIELDED** the Chair to Rep. Heller.

**HOUSE MEMORIAL SERVICE****Memorial Service Committee**

Representative Brenda Heller, Chairwoman  
Representative Gary R. Sukut  
Representative Mike Nathe  
Representative Ralph Metcalf  
Representative Kathy Hogan

**Invocation**

Representative Bob Hunskor

**"In This Very Room"**

by the House Choir comprised of Representatives and  
Employees of the 62nd Legislative Assembly  
Accompanied by Joel Gilbertson

**Poem**

Composed and read by Representative Kathy Hawken

**"Far Side Banks of Jordan"**

Musical Selection by Special Delivery  
comprised of Representative Chuck Damschen,  
Naomi Damschen, Gabrielle Damschen, and Cathy Anfinson

**First and Second Reading of Memorial Resolution**

Representative Mike Nathe  
Representative Ralph Metcalf

**Presentation of Resolution and Roses**

Secretary of State, Alvin A. Jaeger  
Representative Kathy Hogan  
Representative Gary R. Sukut

**"Jewels"**

Special Delivery

**"Amazing Grace"**  
House Choir

**"The Lord Be With You"**

Benediction written and accompanied by Joel Gilbertson

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Ninth order of business, First Readings of House Bills and Resolutions, which motion prevailed.

**FIRST READING OF HOUSE MEMORIAL RESOLUTION**

Memorial Resolutions Committee introduced:

**HMR 7001:** A memorial resolution for deceased members of the House of Representatives of North Dakota.

Was read the first time.

**MOTION**

**REP. VIGESAA MOVED** that the rules be suspended, that HMR 7001 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and placed on the calendar for immediate second reading and final passage, which motion prevailed.

Memorial Resolutions Committee introduced:

**HOUSE MEMORIAL RESOLUTION NO. 7001**

A memorial resolution for deceased members of the House of Representatives of North Dakota.

**WHEREAS**, God has welcomed to their eternal home our former colleagues:

Clare H. Aubol, who served in the 48<sup>th</sup> Legislative Assembly, from District 4, died March 30, 2009;

Florenz Bjornson, who served in the 46<sup>th</sup> Legislative Assembly, from District 13, died January 19, 2011;

A. G. "Art" Bunker, who served in the 40<sup>th</sup> through the 44<sup>th</sup> Legislative Assemblies, from District 21, died October 31, 2009;

Pat Galvin, who served in the 54<sup>th</sup> through the 59<sup>th</sup> Legislative Assemblies, from District 33, died April 25, 2010;

Charles Herman, who served in the 35<sup>th</sup> Legislative Assembly, from District 37, and in the 42<sup>nd</sup> and 43<sup>rd</sup> Legislative Assemblies, from District 21, died June 12, 2010;

Kenneth Knudson, who served in the 40<sup>th</sup> through the 50<sup>th</sup> Legislative Assemblies, from District 38, died December 12, 2009;

Arthur A. Link, who served in the 30<sup>th</sup> through the 39<sup>th</sup> Legislative Assemblies, from District 41, and in the 40<sup>th</sup> and 41<sup>st</sup> Legislative Assemblies, from District 36, died June 1, 2010;

Arthur Melby, who served in the 46<sup>th</sup> through the 51<sup>st</sup> Legislative Assemblies, from District 14, died December 3, 2010;

Walter A. Meyer, who served in the 44<sup>th</sup> through the 47<sup>th</sup> Legislative Assemblies, from District 35, and in the 48<sup>th</sup> Legislative Assembly, from District 53, died October 6, 2010;

Eldor Miller, who served in the 42<sup>nd</sup> Legislative Assembly, from District 33, died November 21, 2010;

Doug Nordby, who served in the 45<sup>th</sup> Legislative Assembly, from District 39, died February 6, 2010;

Alice Olson-Byron, who served in the 43<sup>rd</sup> through the 52<sup>nd</sup> Legislative Assemblies, from District 11, and in the 53<sup>rd</sup> through the 55<sup>th</sup> Legislative Assemblies, from District 10, died February 21, 2010;

Vincent C. Olson, who served in the 49<sup>th</sup> through the 51<sup>st</sup> Legislative Assemblies, from District 24, died May 31, 2010;

Art Raymond, who served in the 42<sup>nd</sup> through the 44<sup>th</sup> Legislative Assemblies, from District 18, died April 1, 2009;

Verdine D. Rice, who served in the 47<sup>th</sup> through the 50<sup>th</sup> Legislative Assemblies, from District 1, died March 30, 2009;

August Ritter, who served in the 52<sup>nd</sup> Legislative Assembly, from District 47, died January 17, 2008;

Emil E. Schaffer, who served in the 38<sup>th</sup> and 39<sup>th</sup> Legislative Assemblies, from District 36, and in the 40<sup>th</sup> and 41<sup>st</sup> Legislative Assemblies, from District 30, died November 5, 2010;

Michael Unhjem, who served in the 44<sup>th</sup> Legislative Assembly, from District 29, and in the 45<sup>th</sup> through the 49<sup>th</sup> Legislative Assemblies, from District 48, died September 13, 2010;

Adella J. Williams, who served in the 48<sup>th</sup> through the 51<sup>st</sup> Legislative Assemblies, from District 27, died November 1, 2010;

Dean Winkjer, who served in the 43<sup>rd</sup> through the 46<sup>th</sup> Legislative Assemblies, from District 1, died April 25, 2009;

**WHEREAS**, we now pause to mourn the passing of our former House colleagues and to honor their memories; and

**WHEREAS**, these legislators rendered outstanding service to the people of the state by their contributions to public service;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA:**

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

**BE IT FURTHER RESOLVED**, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the House of Representatives and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased representatives.

#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HMR 7001:** A memorial resolution for deceased members of the House of Representatives of North Dakota.

The question being on the final adoption of the resolution, which has been read.

HMR 7001 was declared adopted on a voice vote.

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#### **CHANGE OF CHAIR**

**REP. HELLER YIELDED** the Chair to Speaker Drovdal.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HCR 3045.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, unchanged: SB 2134, SB 2175, SB 2366, SCR 4008, SCR 4018, SCR 4019, SCR 4022.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2027, SB 2060, SB 2254, SCR 4002.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2361.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2055, SB 2345, SCR 4023.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1133, HB 1182, HB 1428, HCR 3019, HCR 3021, HCR 3026, HCR 3040.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1132, HB 1335, HB 1459.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1163.

#### **MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1009, HB 1017, HB 1022, HB 1023, HB 1024, HB 1097, HB 1196, HB 1197, HB 1216, HB 1221, HB 1343, HB 1415,

HCR 3008.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2066, SB 2101, SB 2120, SB 2256.

**SIGNING OF BILLS AND RESOLUTIONS**

The Speaker signed the following enrolled resolution: HMR 7001.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2066, SB 2101, SB 2120, SB 2256.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on March 23, 2011: HMR 7001.

**MOTION**

**REP. VIGESAA MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Thursday, March 24, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HCR 3043: Constitutional Revision Committee (Rep. Koppelman, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (8 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HCR 3043 was placed on the Tenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2037, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2037 was placed on the Sixth order on the calendar.

Page 3, line 20, after the comma insert "the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced."

Page 3, line 20, overstrike "and the state health officer"

Page 4, line 24, replace "Establish policies and adopt" with "Adopt"

Page 4, line 24, replace "and standards" with "under chapter 28-32"

Page 4, line 25, replace "and establish requirements for the" with an underscored comma

Page 4, line 26, after "exchange" insert an underscored comma

Page 4, line 27, replace "Establish minimum standards" with "Adopt rules under chapter 28-32"

Page 4, line 28, remove "adopt rules"

Page 5, line 26, after "providers" insert "and state agencies"

Page 5, after line 28, insert:

- "3. If the health information technology advisory committee determines that establishing a health information exchange with another state or states will assist in providing health information exchange services in a cost-effective manner, the health information technology office director, in

collaboration with the health information technology advisory committee, may join with another state or states to establish, implement, and administer a health information exchange consistent with other provisions of this chapter."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2042, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2042 was placed on the Sixth order on the calendar.

Page 3, line 23, replace "one" with "two"

Page 4, line 1, replace "ten" with "five"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2188, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (19 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2188 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2204, as engrossed: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **DO PASS** (8 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2204 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2210, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2210 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 two new sections to chapter 54-17, a new subdivision to subsection 2 of section 54-60.1-01, a new subsection to section 57-35.3-05, 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 a housing incentive fund and tax credits for contributions to the fund; to amend and reenact subsection 2 of section 54-17-07.2 and section 57-35.3-07 of the North Dakota Century Code, relating to the definition of multifamily housing facility and payment of the financial institutions tax; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 54-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. "Multifamily housing facility" means any facility containing ~~five~~four or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for ~~such~~the period of time as the industrial commission may determine and may include ~~such~~the related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.

**SECTION 2.** Two new sections to chapter 54-17 of the North Dakota Century Code are created and enacted as follows:

**Housing incentive fund - Continuing appropriation.**

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.
2. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund. At least twenty-five percent of the fund must be used to assist developing communities with a population of not more than ten thousand individuals to address an unmet housing need or alleviate a housing shortage. At least fifty percent of the fund must be used to benefit households with incomes at not more than fifty percent of the area median income. The agency may collect a reasonable administrative fee from the fund.
3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:
  - a. New construction, rehabilitation, or acquisition of a multifamily housing project;
  - b. Gap assistance, matching funds, and accessibility improvements;
  - c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
  - d. Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.
5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.

**Report.**

Upon request, the housing finance agency shall report to the industrial commission on the activities of the housing incentive fund.

**SECTION 3.** A new subdivision to subsection 2 of section 54-60.1-01 of the North Dakota Century Code is created and enacted as follows:

Assistance from the housing finance agency through housing incentive funds.

**SECTION 4.** A new subsection to section 57-35.3-05 of the North Dakota Century Code is created and enacted as follows:

There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under section 2 of this Act. The taxpayer may not claim more than twenty percent of the credit for each separate contribution made in any taxable year. For the purposes of the credit allowed in this subsection, subsections 2 through 8 of section 6 of this Act apply.

**SECTION 5. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-07. Payment of tax.**

Two-sevenths of the tax before credits allowed under section 57-35.3-05, less the ~~credit~~credits allowed under subsection 1 of section 57-35.3-05 and section 4 of this Act, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Five-sevenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

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

**Housing incentive fund tax credit.**

1. A taxpayer is entitled to a credit as determined under this section against state income tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing incentive fund under section 2 of this Act. The amount of the credit is equal to the amount contributed to the fund during the taxable year. The taxpayer may not claim more than twenty percent of the credit for each separate contribution made in any taxable year.
2. North Dakota taxable income must be increased by the amount of the contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income.
3. The contribution amount used to calculate the credit under this section may not be used to calculate any other state income tax deduction or credit allowed by law.
4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years.
5. The aggregate amount of tax credits allowed to all eligible contributors is limited to four million dollars per biennium. This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.
6. Within thirty days after the date on which a taxpayer makes a contribution to the housing incentive fund, the housing finance agency shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the fund 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 paid for the contribution by the taxpayer.
  - c. The date the payment was received by the fund.
7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income or financial institutions tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

8. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.
9. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity making a contribution to the housing incentive fund 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.

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

Housing incentive fund tax credit under section 6 of this Act.

**SECTION 8. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 2, and 3 of this Act are effective through June 30, 2013, and are thereafter ineffective. Sections 4, 5, 6, and 7 of this Act are effective for the first two taxable years beginning after December 31, 2010, and are thereafter ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2267, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (18 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2267 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2314, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (17 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2314 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2320, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2320 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to amend and reenact sections 57-35.3-03, 57-35.3-05, 57-35.3-07, and 57-35.3-08 of the North Dakota Century Code, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax;"

Page 1, line 1, after "study" insert "; and to provide an effective date"

Page 1, after line 2, insert:

**"SECTION 1. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-03. Imposition and basis of tax.**

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is sevensix and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

**SECTION 2. AMENDMENT.** Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-05. Credits.**

1.
  - a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable 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 subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
  - b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
  - c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and 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 department of public instruction and 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 twelfth grades.
  - d. For the purposes of this subsection, 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 for filing the return for the taxable year.
2.
  - a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
  - b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
    - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
    - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that

received the tax overpayment until the sum of the deductions equals the credit; and

- (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 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. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

**SECTION 3. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-07. Payment of tax.**

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

**SECTION 4. AMENDMENT.** Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-08. Disposition of tax.**

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund."

Page 1, after line 8, insert:

**"SECTION 6. EFFECTIVE DATE.** Sections 1 through 4 of this Act are effective for taxable years beginning after December 31, 2010."

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

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

Page 1, line 8, remove the underscored colon

Page 1, remove lines 9 and 10

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

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

"a."

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

"b."

Renumber accordingly

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**

