

Fifty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2408**

Introduced by

Senators D. Mathern, Bercier, Grindberg

Representatives Hawken, S. Kelsh

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to  
2 section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for  
3 employers who make a contribution to support child care or provide a child care program for  
4 children of employees; and to provide an effective date.

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

6 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is  
7 created and enacted as follows:

8 **Credit for employee child care program or support for child care.**

- 9 1. An employer is entitled to an income tax credit against taxes due and computed  
10 under section 57-38-29, 57-38-30, or 57-38-30.3 for the employer's net cost of  
11 operating a child care program used primarily by children of the taxpayer's  
12 employees or an employer's net cost of any monetary or in-kind contribution to  
13 support child care. For purposes of this section, a contribution to support child  
14 care includes:
- 15 a. Donating money or real or personal property for the establishment or
  - 16 operation of a child care facility;
  - 17 b. Donating money for a grant or voucher program for parents requiring financial
  - 18 assistance for child care;
  - 19 c. Donating money for child care provider training;
  - 20 d. Donating money or other resources to support a family child care network;
  - 21 e. Purchasing slots at a child care facility for use by dependents of employees;
  - 22 and
  - 23 f. Purchasing or providing resource and referral services to assist employees in
  - 24 obtaining care for their children.

2. The amount of the credit allowed by this section for any child care program or support for child care may not exceed twenty-five thousand dollars for any taxable year. If two or more employers share in the costs eligible for the credit provided by this section, each employer is eligible for the portion of the credit which equals that employer's share of the net cost of the contribution or the operation of the child care program. The amount of credit in any taxable year under this section is limited to the lesser of the taxpayer's tax liability under this chapter or the taxpayer's net cost of the contribution or of operating a child care program, and any excess may be carried over and applied against taxes due under this chapter for up to three taxable years.

3. A partnership, limited partnership, subchapter S corporation, limited liability company or any other pass-through entity that is an employer and makes a contribution to support child care or provide a child care program for children of employees must be considered to be the taxpayer for purposes of any credit limitations in this section, and the amount of the credit allowed with respect to the entity's investment must be determined at the pass-through 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 pass-through entity.

**SECTION 2.** A new subsection to section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

An individual, estate, or trust is allowed, as a credit against the tax otherwise due under this section, the employer child care program credit under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 1998.