

HOUSE BILL NO. 1289

Introduced by

Representatives Clark, Gulleason, Hawken, S. Kelsh

Senators Every, Wardner

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 for contributions or support for child care programs for dependents of employees;
4 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 **Employer credit for employee child care program or child care contribution.**

- 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 in an amount equal to twenty-five
11 percent of the employer's net cost of operating a child care program used primarily
12 by dependents of the taxpayer's employees or fifty percent of an employer's net
13 cost of any monetary or in-kind contribution to support child care. For purposes of
14 this section, a contribution to support child care may be made by a single employer
15 or jointly by one or more employers and includes:
- 16 a. Donating money or real or personal property for the establishment or
17 operation of a child care facility, including funding for child care facility
18 employee benefits that are not required by law;
 - 19 b. Contributing money for employees' dependents' child care facility expenses,
20 including funding an employee's flexible benefit account for that purpose;
 - 21 c. Donating money for training employees of a child care program or facility used
22 by dependents of employees;
 - 23 d. Donating money or other resources to support a family child care network;
24 and

e. Purchasing or providing resource and referral services to assist employees in obtaining care for their dependents.

2. The amount of the credit allowed by this section for any child care program or support for child care may not exceed twenty 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 twenty-five percent of 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 fifty percent of the taxpayer's tax liability under this chapter or twenty-five percent of 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. For purposes of this section, "child care program" and "child care facility" mean a provider of early childhood services licensed by the department of human services under chapter 50-11.1.
4. Any expenditure of an employer which is otherwise deductible by the employer for federal or North Dakota income tax purposes is not eligible for inclusion in determining the credit under this section.
5. A partnership, limited partnership, subchapter S corporation, limited liability company or any other passthrough 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 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 2. A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the employer child care program credit under section 1 of this Act.

1 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
2 December 31, 2002.