

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2388

Introduced by

Senators Schneider, Hogue

Representative DeKrey

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to
2 subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax
3 credit for an employer maintaining payment of salary and related retirement plan contributions
4 for an employee called to active military duty as a member of a reserve or national guard
5 component; and to provide an effective date.

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

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

9 **Employer tax credit for salary and related retirement plan contributions for**
10 **mobilized employees.**

11 1. A taxpayer who is an employer in this state is entitled to a credit against tax liability
12 as determined under section 57-38-29, 57-38-30, or 57-38-30.3 equal to
13 twenty-five percent of the reduction in compensation that the taxpayer continues to
14 pay during the taxable year to, or on behalf of, each employee of the taxpayer
15 during the period that the employee is mobilized under title 10 of the United States
16 Code as a member of a reserve or national guard component of the armed forces
17 of the United States. The maximum credit allowed for each eligible employee is
18 one thousand dollars. The amount of the tax credit may not exceed the amount of
19 the taxpayer's state tax liability for the tax year. For the purposes of this
20 subsection:

21 a. "Reduction in compensation" means the amount by which the pay received
22 during the taxable year by the employee for service under title 10 of the
23 United States Code is less than the total amount of salary and related

1 retirement plan contributions that would have been paid by the taxpayer to the
2 employee for the same time period had the employee not been mobilized.

3 b. "Related retirement plan contributions" means the portion of voluntary or
4 matching contributions paid by the taxpayer into a defined contribution plan
5 maintained by the taxpayer for the employee.

6 2. The cumulative amount of tax credits which may be issued under this section in
7 any one taxable year may not exceed two hundred thousand dollars. The tax
8 commissioner shall establish a procedure by which, during the taxable year, the
9 cumulative amount of tax credits available are equally apportioned among all
10 taxpayers qualifying for the credit. If a taxpayer fails to use all of the taxpayer's
11 apportioned tax credits during the taxable year, the tax commissioner may
12 reapportion these unused tax credits to those taxpayers that have used all of their
13 apportioned tax credits during the taxable year and would be able to claim more
14 tax credits. To the maximum extent possible, the tax commissioner shall establish
15 the procedure described in this subsection in such a manner as to ensure that
16 taxpayers are able to claim all the tax credits possible up to the cumulative amount
17 of tax credits available for the taxable year.

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

20 Employer tax credit for salary and benefits of deployed employees under
21 section 1 of this Act.

22 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
23 December 31, 2008.