

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.