

Sixty-first  
Legislative Assembly  
of North Dakota

## REENGROSSED 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 and an excess credit may be  
20 carried forward for up to five taxable years. For the purposes of this 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. A partnership, subchapter S corporation, limited liability company treated like a  
7                   passthrough entity, or any other similar passthrough entity that is an employer in  
8                   this state must be considered to be a taxpayer for purposes of this section. The  
9                   amount of the credit determined at the passthrough entity level must be passed  
10                   through to the partners, shareholders, or members in proportion to their respective  
11                   interests in the passthrough entity.

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

14                   Employer tax credit for salary and related retirement plan contributions of  
15                   mobilized employees under section 1 of this Act.

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