

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2388

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8793

Committee Clerk Signature

Kate Oliver

Minutes:

Mac Schneider: See attached testimony #1

Senator Dever: Is this a tax credit against the employers?

Senator Schneider: An employee of Bobcat gets deployed and suffers a \$1,000 reduction of pay, Bobcat continues to make payments to that employee to make up the difference and the state rewards that employer with the tax credit. Not exceed \$1,000 per employee.

Senator Dever: Has a fiscal note that shows a decrease in general fund revenues of \$400,000. Is there anyone else to speak in support to SB2388, anyone to speak in opposition to SB2388, anyone to speak in a neutral position on SB 2388?

Senator Cook: How did you come up with \$400,000?

Joseph Becker: Joseph Becker, office of tax commissioner. The fiscal note on the bill introduced with a mechanism of re distribution. The bills as introduced had a sealing of \$200,000 a year, with the mechanism that was in there, she considered we were to keep re-distributing that amount until it gets used. It was her conclusion that if we were not going to use the \$200,000 each year of the biennium, so that was the rational.

Senator Cook: That mechanism is now removed, so would it be above that, do you think?

Joseph Baker: Exactly, the ceiling has been removed. If the limitation that would be in the bill as amended would be \$1,000 per eligible employee and as far as what that would change I am not sure.

Senator Cook: Relative to the number of soldiers that were on active duty.

Joseph Baker: Yes

Senator Cook: What about those who are self employed?

Joseph Baker: Only employer and employee situations.

Senator Cook: Does the state employee have a policy as far as state employees that get called up; do we make up difference in their pay?

Joseph Baker: I am not sure

Senator Schneider: Legislative council did survey of state employees that were deployed only 1 experienced a reduction in pay and the decrease in pay was small.

Senator Nelson: How many people are deployed currently and what is your estimate to how many this would impact?

Lt Col Dave Thiele: Lt. Col Dave Thiele director of personal for the North Dakota National Guard. As far as currently deployed, a ballpark figure of 60 would be accurate. We have a major deployment coming up in August and we are looking at a ballpark number of 600 going at that time. I have not seen the amendment, but it is my understanding that it would be \$1,000 per year per employer. I can tell you that the fiscal impact would be significantly less than the projected \$400,000 over the biennium based on the numbers that we have.

Senator Dever: It would seem to me that the purpose of the bill might be to incentivize employers.

Senator Horne: How does the system work, if someone is deployed does state and federal law require he still be paid?

Lt Col Dave Thiele: People in the reserve have rights. 1) Re employment and his employer has to take him back as if he had never left. If he was entitled to raises he has to get them. Treat him as if he never left, again companies do it because it is the right thing to do.

Senator Horne: While he is gone, military pays and Bobcat would make up what he is paid.

Lt Col Dave Thiele: Bobcat will pay the difference than what he is getting paid. For those employers that do that they are

Senator Nelson: Does health insurance paid by employer or military?

Lt Col Dave Thiele: No reason to continue with employer health benefits.

Senator Dever: I ran into a young man who had been deployed and came back. Before he left he was on his parents insurance and was going to school when he came back he found out that he was not able to get back on their insurance when he went back to school.

Lt Col Dave Thiele: If that is still the case we want to know. In the 957 average age is 19, a lot were on parents coverage when they came back they were told they couldn't be on their parents insurance.

Senator Dever then closed the public hearing on SB2388

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

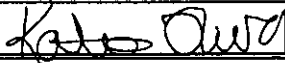
Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8859

Committee Clerk Signature



Minutes:

Senator Cook: There are 2 things in this amendment, the past due entity, does not pay taxes so has no liability but must pass on to share holders. 100% of difference is capped at \$1,000. 50% and capped at \$1,000 not change.

Senator Horne: The business has to make up the difference.

Senator Dever:

Senator Cook: Does the employer have to make up the complete difference. Or can they

Senator Nelson: It says 100% of salary and benefits. Replace 100% with maintaining payments of.

100%.

Senator Cook: I would hope that is not the case because anyone who gets paid less than 6:25 Intent of sponsor is do employers do it because it was. If you are a doctor making \$400,000 a year

Senator Horne: If that is their intent then we can amend it in order to qualify.

Senator Dever: Amend in a sub sec 3 that says it applies only to employers?

Senator Nelson: Will only get a credit up to the first \$1,000 paid. That is salary and retirement.

Senator Cook: Maybe the easiest thing to do is to make this credit equal to 50% of the salary paid. Incentive and keep it alive,

Senator Dever: Ok

Senator Cook: That is what the credit was. Where is it in the 2nd bill?

Senator Horne: in the amendment it is in Page 1 line 12

Senator Dever: Hold bill where it is at

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8949

Committee Clerk Signature

Kate O'Neil

Minutes:

The proper procedure would be to reconsider the amendments

Senator Cook: I move that we reconsider the amendments on SB2388

Senator Nelson: Second

Senator Dever: All in favor say eye.

Joseph Becker: If at the time the employee enters the service, if he or she would be paid \$50,000 annually and only makes \$40,000 in the army, the credit would be up to 25% of each dollar that the employer would pay, up to \$10,000, with a max of \$1,000 per employee. If the employer pays nothing, then they get nothing. Pay entire differential the credit would be limited to \$1,000.

Senator Dever: On page 2 of the amendment, what is handwritten in was added this morning to provide that there is a \$1,000 cap.

Senator Horne: 25% credit, I am interested in hearing his rationale.

Senator Cook: My rationale is when we look at tax policy, especially income tax, is to raise money for the state. And that is my idealistic approach to tax policy, over the years tax policy gets to be used as an agent of social reforming and this falls under that, we try to change habits, entice people try to get them to spend money that they wouldn't do normally. I think in

the interest of motivation this program has merit and I think that a 25% tax credit would still protect integrity of the tax base.

Senator Horne: My thought is that by reducing it from 100% and up to \$1,000, we would give them half as much incentive so I still favor 50%

Senator Nelson: Yesterday we talked about the deduction of salary, is it salary that is getting paid? What is the money called?

Joseph Becker: Payment of employer to employee.

Senator Nelson: Get a deduction and a tax credit?

Joseph Becker: Yes

Senator Cook: There are some employers that are wise enough to do this without incentive and that is to be admired.

Mac Schneider: I think some credit is good and if this is a program that is successful and we can make it bigger in different session. If committee decides that 25% is a good.

A motion was made by Senator Cook with a second by Senator Nelson to amend SB2388 with the most recent revision from the tax department. There was no discussion, and the motion passed 4-1.

A motion was made by Senator Cook with a second by Senator Oehlke for a Do Pass as amended with a re referral to appropriations. There was no discussion and the motion passed

5-0

FISCAL NOTE
Requested by Legislative Council
02/18/2009

Amendment to: Engrossed
SB 2388

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2388 Second Engrossment creates a corporate and individual income tax credit for salaries and certain benefits that are paid by an employer to a deployed employee.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2388 Second Engrossment provides the specifics of the tax credit, and establishes a limitation on the credit to \$1000 per deployed employee.

The fiscal impact of SB 2388 Second Engrossment cannot be determined.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/18/2009

FISCAL NOTE
Requested by Legislative Council
02/10/2009

Amendment to: SB 2388

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$400,000)			
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed SB 2388 creates a corporate and individual income tax credit for salary and certain benefits that continue to be paid by an employer to a deployed employee.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed SB 2388 provides the parameters of the tax credit, including establishing the limitations of the tax credits to \$1000 per deployed employee, and an overall cap of \$200,000 per tax year.

There are provisions for any unused credits to be reassigned among qualifying taxpayers; therefore, we assume enacting Engrossed SB 2388 may result in a reduction in general fund revenues of the full allowable amount of tax credit, which is -\$400,000 for the 2009-11 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/12/2009

FISCAL NOTE
Requested by Legislative Council
01/27/2009

Bill/Resolution No.: SB 2388

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$400,000)			
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2388 creates a corporate and individual income tax credit for salary and benefits paid by an employer to a deployed employee.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2388 provides the parameters of the tax credit, including establishing the overall limitation of total credits to \$200,000 per tax year. The section further requires the tax commissioner to attempt to allocate the entire amount of tax credits available. Therefore, we assume the fiscal impact of this bill is likely to reach the full capped amount of -\$400,000 for the 2009-11 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

- A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/31/2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2388

Page 1, line 2, remove "a corporate"

Page 1, line 3, replace "and individual" with "an", replace "equal to" with "for an employer maintaining payment of" and replace "benefits paid by an employer to" with "related retirement plan contributions for"

Page 1, line 9, replace "benefits" with "related retirement plan contributions" and replace "deployed" with "mobilized"

Page 1, line 12, replace "one hundred percent of" with "the", replace "benefits" with "retirement plan contributions, up to a maximum of one thousand dollars" and after "paid" insert "during the taxable year"

Page 1, line 13, replace "any" with ", or on behalf of, each" and replace "called to" with "mobilized under title 10 of the United States Code"

Page 1, line 14, remove "active military duty" and after "component" insert "of the armed forces of the United States. For purposes of this section, 'related retirement plan contributions' means the employer's portion of voluntary or matching contributions paid into a defined contribution plan maintained for the employee"

Page 1, line 16, after "year" insert ", and an excess credit may be carried forward for up to five tax years"

Page 1, replace lines 17 through 24 with:

"2. A partnership, subchapter S corporation, limited liability company treated like a passthrough entity or any other passthrough entity that is an employer must be considered to be a taxpayer for purposes of this section. The amount of the credit determined at the passthrough entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 2, remove lines 1 through 4

Page 2, line 7, replace "benefits" with "related retirement plan contributions" and replace "deployed" with "mobilized"

Renumber accordingly

Senate Bill 2388 as it would appear if the proposed amendments are adopted and the bill is engrossed. This is for illustrative purposes only and does not constitute an official document.

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A taxpayer who is an employer in this state is entitled to a credit against tax liability as determined under section 57-38-29, 57-38-30, or 57-38-30.3 in the amount of the salary and related retirement plan contributions, up to a maximum of one thousand dollars, paid during the taxable year for employment in this state to, or on behalf of, each employee of the taxpayer during the period that employee is mobilized under title 10 of the United States Code as a member of a reserve or national guard component of the armed forces of the United States. For purposes of this section, "related retirement plan contributions" means the employer's portion of voluntary or matching contributions paid into a defined contribution plan maintained for the employee. The amount of the tax credit may not exceed the amount of the taxpayer's state tax liability for the tax year, and an excess credit may be carried forward for up to five tax years.

2. A partnership, subchapter S corporation, limited liability company treated like a passthrough entity, or any other similar passthrough entity that is an employer must be considered to be a taxpayer for purposes of this section. The amount of the credit determined at the passthrough 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 subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

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

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

FOR REFERENCE ONLY

Date:
Roll Call Vote #:

2388

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Motion Made By Nelson Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes 5 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date:
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2385

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Cook Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes 5 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-5-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2883
APP Amend

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Nelson Seconded By Home

Senators	Yes	No	Senators	Yes	No
Dick Dever	<u>x</u>		Dwight Cook	<u>x</u>	
Dave Oehlke	<u>x</u>		Carolyn Nelson	<u>x</u>	
Robert M. Home	<u>x</u>				

Total Yes 5 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-5-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2388

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass as Amended re referral

Motion Made By

Horne

Seconded By

Nelson

Senators	Yes	No	Senators	Yes	No
Dick Dever			Dwight Cook		
Dave Oehlke			Carolyn Nelson		
Robert M. Horne					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Page 1, line 11, replace "in the amount of" with "equal to twenty-five percent of the reduction in compensation that the taxpayer continues to pay during the taxable year to, or on behalf of, each"

Page 1, remove line 12

Page 1, line 13, remove "state to any", after "that" insert "the", and replace "called to" with "mobilized under title 10 of the United States Code"

Page 1, line 14, remove "active military duty", after "component" insert "of the armed forces of the United States", and replace "The" with "For purposes of this subsection"

Page 1, after line 14, insert: • The maximum credit allowed for each eligible employee is one thousand dollars

- "a. "Reduction in compensation" means the amount by which the pay received during the taxable year by the employee for service under title 10 of the United States Code is less than the total amount of salary and related retirement plan contributions that would have been paid by the taxpayer to the employee for the same time period had the employee not been mobilized.
- b. "Related retirement plan contributions" means the portion of voluntary or matching contributions paid by the taxpayer into a defined contribution plan maintained by the taxpayer for the employee."

Page 1, line 15, replace the first "amount" with "The amount"

Date: 2-16-09
Roll Call Vote #: 1

2388

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Amended

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Consider Amendment

Motion Made By Cook Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Home	X	X			

Total Yes 4 No 1

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

February 6, 2009

JB
2-6-9

PROPOSED AMENDMENTS TO SENATE BILL NO. 2388

Page 1, line 2, remove "a corporate"

Page 1, line 3, replace "and individual" with "an", replace "equal to" with "for an employer maintaining payment of", and replace "benefits paid by an employer to" with "related retirement plan contributions for"

Page 1, line 9, replace "**benefits**" with "**related retirement plan contributions**" and replace "**deployed**" with "**mobilized**"

Page 1, line 11, replace "in the amount of" with "equal to twenty-five percent of the reduction in compensation that the taxpayer continues to pay during the taxable year to, or on behalf of, each"

Page 1, remove line 12

Page 1, line 13, remove "state to any", after "that" insert "the", and replace "called to" with "mobilized under title 10 of the United States Code"

Page 1, line 14, remove "active military duty", after "component" insert "of the armed forces of the United States. The maximum credit allowed for each eligible employee is one thousand dollars"

Page 1, line 16, after the underscored period insert "For the purposes of this subsection:"

Page 1, after line 16, insert:

- "a. "Reduction in compensation" means the amount by which the pay received during the taxable year by the employee for service under title 10 of the United States Code is less than the total amount of salary and related retirement plan contributions that would have been paid by the taxpayer to the employee for the same time period had the employee not been mobilized.
- b. "Related retirement plan contributions" means the portion of voluntary or matching contributions paid by the taxpayer into a defined contribution plan maintained by the taxpayer for the employee."

Renumber accordingly

Date: 2-6-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2300
Carver
Cook

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass - re refer

Motion Made By

Cook

Seconded By

Oehlke

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total

Yes

5

No

6

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2388: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2388 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "a corporate"

Page 1, line 3, replace "and individual" with "an", replace "equal to" with "for an employer maintaining payment of", and replace "benefits paid by an employer to" with "related retirement plan contributions for"

Page 1, line 9, replace "**benefits**" with "**related retirement plan contributions**" and replace "**deployed**" with "**mobilized**"

Page 1, line 11, replace "in the amount of" with "equal to twenty-five percent of the reduction in compensation that the taxpayer continues to pay during the taxable year to, or on behalf of, each"

Page 1, remove line 12

Page 1, line 13, remove "state to any", after "that" insert "the", and replace "called to" with "mobilized under title 10 of the United States Code"

Page 1, line 14, remove "active military duty", after "component" insert "of the armed forces of the United States. The maximum credit allowed for each eligible employee is one thousand dollars"

Page 1, line 16, after the underscored period insert "For the purposes of this subsection:"

Page 1, after line 16, insert:

"a. "Reduction in compensation" means the amount by which the pay received during the taxable year by the employee for service under title 10 of the United States Code is less than the total amount of salary and related retirement plan contributions that would have been paid by the taxpayer to the employee for the same time period had the employee not been mobilized.

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

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2388

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2388

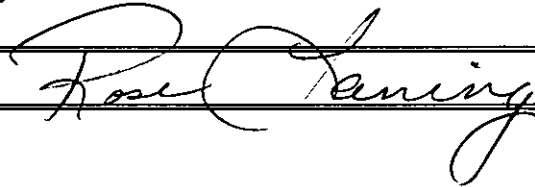
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9455

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order at 11:00 AM in regards to SB 2388 relating to a corporate and individual income tax credit equal to salary and benefits paid by an employer to an employee called to active military duty as a member of a reserve or National Guard component.

Sen. Mac Schneider, District 42, Grand Forks

Testified in favor of SB 2388. (Written attached testimony # 1)

Sen. Schneider introduced the bill which reduces the number of National Guard reserve soldiers who are forced to take a pay cut when they're deployed. SB 2388, as amended, would provide a tax credit of up to 25% of the amount an employer pays to make up for the difference between military and civilian services soldiers. For some, the cost of service means financial sacrifice as well. One national survey found that close to 40% of reservists make less money while they are mobilized than they do in their civilian jobs. The average deduction was about \$3000 a year, nationally.

Chairman Holmberg stated that all committee members should have the fiscal note which is \$400,000.

Sen. Schneider reminded him that the fiscal note reflected the original bill which would've provided a \$1000 tax credit through employers. The engrossed bill provides a 25% tax credit up to \$1000. This is estimated that 20 employers would take benefit for this credit.

Senator Christmann asked for clarification for the 20 employers.

Senator Warner moved Do Pass.

Senator Christmann seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

Date: 2-13-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2388

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen Warner Seconded By RC Sen Christmann

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator Seymour	<input checked="" type="checkbox"/>	
Senator Fischer	<input checked="" type="checkbox"/>		Senator Lindaas	<input checked="" type="checkbox"/>	
Senator Wardner	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Kilzer	<input checked="" type="checkbox"/>		Senator Warner		
V. Chair Bowman	<input checked="" type="checkbox"/>		Senator Krauter	<input checked="" type="checkbox"/>	
Senator Christmann	<input checked="" type="checkbox"/>		Senator Mathern	<input checked="" type="checkbox"/>	
V. Chair Grindberg	<input checked="" type="checkbox"/>				
Chairman Holmberg	<input checked="" type="checkbox"/>				

Total Yes 13 No 0

Absent 1

Floor Assignment back to SVA

If the vote is on an amendment, briefly indicate intent:

Cook

REPORT OF STANDING COMMITTEE (410)
February 13, 2009 11:51 a.m.

Module No: SR-29-2640
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2388, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2388 was placed on the Eleventh order on the calendar.

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2388

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

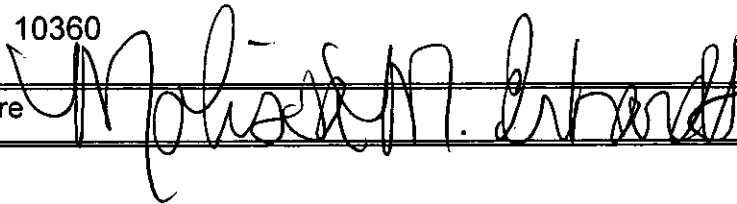
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 3-6-09

Recorder Job Number: 10360

Committee Clerk Signature



Minutes:

Chairwoman Grande: We'll open the hearing on SB 2388.

Senator Mac Schneider: See Attachment # 1

Rep. Dahl: Do you have any specific numbers for ND?

Sen. Schneider: Most of the definitive numbers are from Bobcat. We know of one company alone that had 13 soldiers who experienced this pay cut. If it is happening to one company to that extent, it's probably happening to others.

Rep. Schneider: Would you walk through your Hypotheticals? See Attachment # 2.

Chairwoman Grande: Fargo deals with this for their firefighters and peace officers. How would that apply here?

Sen. Schneider: There are individuals who work for companies such as Ag Country Farm Credit for example that are taxed through their coop. So this tax incentive wouldn't necessarily incentivize those employers to make up the difference but we hope that if employed by the city we could encourage some of our political subdivisions to do that on their own.

Chairwoman Grande: Any other questions from the committee?

Rep. Winrich: The obvious follow-up is do you know of any examples of employees of State Agencies that are working under these conditions?

Sen. Schneider: We had the Legislative Council look at that. When the members of National Guard were deployed during the last year there was one individual, who took a cut with this, de minimus, obviously not a good situation but it was, I think less than a \$100. That is another thing for the committee to consider. I know that there are other States out there who say that we have a State employee who is deployed and they get called to active duty the State will make up the difference. It certainly is something for the committee to consider and if not this session possibly next session.

Chairman Grande: Any other questions? Anyone else wishing to speak in favor? Favor? Opposition? Neutral? Closing the hearing on 2388.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One 2388

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10365

Committee Clerk Signature

Minutes:

COMMITTEE WORK ONE:

Chairman Grande: We will discuss SB 2388.

Vice Chairman Randy Boehning: Motion for a Do Pass.

Rep. Wolf: 2nd.

Chairman Grande: We have a motion for a Do Pass by Rep. Boehning and a 2nd by Rep. Wolf.

Rep. Froseth: I am going to resist a Do Pass, I feel that maybe the federal government should step up to the plate and do this. There are 8000 ear marks in that stimulus bill maybe one of those ear marks should have been diverted to something like this rather than a bunch of junk. I think this puts another responsibility on employers that they may be looking for people other than service personnel to hire if they get another mandate placed like this on them.

It is a tax credit I understand but also kind of mandates that they fill in the wage gap that might be necessary.

Chairman Grande: Is this language mandatory?

Rep. Froseth: It is not mandatory but it lends to the mandatory.

Rep. Karls: I have a question on the tax credit and why there is no fiscal note.

Chairman Grande: Rep. Froseth do you want to explain all this work?

Rep. Froseth: There is no fiscal note because they have no idea how many people might take advantage of this piece of Legislation. The best thing they would have is a guess and it would probably be way out in left field ball park area.

Chairman Grande: Rep. Froseth, Rep. Winrich, and I deal with that multiple times a day, it is what we deal with in Finance and Tax constantly and next week is just going to be unbelievable.

Rep. Froseth: If in fact it was taken advantage of for all 2700 servicemen that are serving overseas, it could be huge.

Chairman Grande: I know one of the things that I had discussed with some of my Fire Fighter's, they actually make more when they leave so they don't mind going. It does not affect all per say, it is just for those that are in that gap.

Rep. Froseth: Because of the employees that the municipalities have, it might place a sting on them if they will be looking for other than service personnel to hire and I don't know if that is true or not.

Chairman Grande: This has actually been reversed, the Fire Fighters actually make less money being Fire Fighter's than they do being military people so there is no gap to be made up. They would not qualify in this.

Rep. Winrich: This does not affect municipalities.

Chairman Grande: Unless you are an employer who is paying really well such as Bobcat, the gap is the other way. I don't know that it will affect that many people.

Rep. Schneider: I am saying this second hand but I believe that Colonel Thiele testified in the Senate that it impact less than 100 people.

Chairman Grande: It is a small group. Any other questions or discussion?

Clerk will call the roll on a Do Pass.

Clerk Erhardt: Roll Call. Yes: 10. No: 1. Absent: 2. Carrier: Rep. Boehning.

Date: 3/6/9
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2388

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Boehning Seconded By Wolf

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth		✓	Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 10 No 1

Absent 2

Floor Assignment Rep. Boehning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 6, 2009 12:23 p.m.

Module No: HR-41-4200
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2388, as reengrossed: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends DO PASS (10 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Reengrossed SB 2388 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2388

Testimony of Sen. Mac Schneider – SB 2388

February 5, 2009

Mr. Chairman, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I'm happy to be here to introduce Senate Bill 2388 – legislation which would reduce the number of National Guard and Reserve soldiers who are forced to take a pay cut when called to serve their country.

Senate Bill 2388 (under the proposed amendments) would provide a tax credit to employers who continue to make payments or provide benefits to deployed soldiers. The credit would be worth up to \$1,000 per employee, and could be carried forward for up to five years.

I don't need to explain to the members of this committee the heroism shown by our National Guard and Reserve soldiers in North Dakota. In the Army National Guard alone, over 2,700 soldiers have been mobilized since September 11, 2001 in support of the global war on terror and peacekeeping missions around the world. Each and every one of them has made us proud.

Regrettably, difficult missions, dangerous deployments, and extended periods of time away from loved-ones are not the only significant sacrifices experienced by the men and women of the Guard and Reserve. For some, the cost of service means financial sacrifice as well.

One national survey found that close to 40% of reservists made less money while they were mobilized than they did in their civilian jobs.¹ Of the soldiers who experienced a cut, the average reduction was around \$3,000 per year.

While it is difficult to precisely define the scope of this problem in our state, we know for certain that many of our soldiers do take a pay cut when called to serve. For example, according to an official who manages payroll at Bobcat in North Dakota, the company had 13 employees last year who saw a reduction in pay when they were called to serve their country. Several years ago, close to 40

¹ Washington Post. 11/11/04

soldiers employed by Bobcat fell into this situation. The average reduction in pay for these employees was about \$1,000 per year.

Thankfully, Bobcat voluntarily makes up the difference between military and civilian pay for these employees because, according to the manager I spoke with, "it's the right thing to do."

And it's the right thing for us to do as well, Mr. Chairman. By rewarding the supportive actions of companies like Bobcat and encouraging others to do the same, we can help eliminate one less worry for our soldiers and their families. Because when you're driving through a narrow street in Baghdad, you shouldn't have to wonder whether you're family will be able to pay the electric bill back in Bismarck.

...

Before I conclude, Mr. Chairman, I would like to briefly explain the reason for the proposed amendments to the bill. The original draft by Legislative Council was based on legislation introduced in Missouri and would have equitably "apportioned" no more than \$200,000 in tax credits per year to employers throughout the state. After receiving very helpful feedback from the Tax Department, we have proposed several changes to the legislation that would make the credit not only easier to administer, but also more valuable to employers and relevant to their deployed employees. I want to thank Joe Becker from the Tax Department for his thoughtful and dedicated help with these amendments, and I respectfully ask the committee to work from the amended version if possible.

Thank you and I would be happy to try and answer any questions.

Testimony of Sen. Mac Schneider – SB 2388

February 13, 2009

Mr. Chairman, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I'm happy to be here to introduce Senate Bill 2388 – legislation which would reduce the number of National Guard and Reserve soldiers who are forced to take a pay cut when called to serve their country.

Senate Bill 2388, as amended, would provide a tax credit of up to 25% of the amount that an employer pays to a soldier who makes less during deployment than they do in their civilian job. The credit is limited to \$1,000 per employee, and could be carried forward for up to five years.

I don't need to explain to the members of this committee the heroism shown by our National Guard and Reserve soldiers in North Dakota. In the Army National Guard alone, over 2,700 soldiers have been mobilized since September 11, 2001 in support of the global war on terror and peacekeeping missions around the world. Each and every one of them has made us proud.

Regrettably, difficult missions, dangerous deployments, and extended periods of time away from loved-ones are not the only significant sacrifices experienced by the men and women of the Guard and Reserve. For some, the cost of service means financial sacrifice as well.

One national survey found that close to 40% of reservists made less money while they were mobilized than they did in their civilian jobs.¹ Of the soldiers who experienced a cut, the average reduction was around \$3,000 per year.

While it is difficult to define the scope of this problem in our state, we know for certain that many of our soldiers do take a pay cut when called to serve. For example, according to an official who manages payroll at Bobcat in North Dakota, the company had 13 employees last year who saw a reduction in pay when they were called to serve their country. Several years ago, close to 40 soldiers

¹ Washington Post. 11/11/04

employed by Bobcat fell into this situation. The average reduction in pay for these employees was about \$1,000 per year.

Thankfully, Bobcat voluntarily makes up the difference between military and civilian pay for these employees because, according to the manager I spoke with, "it's the right thing to do."

And it's the right thing for us to do as well, Mr. Chairman. By rewarding the supportive actions of companies like Bobcat and encouraging others to do the same, we can help eliminate one less worry for our soldiers and their families. Because when you're driving through a narrow street in Baghdad, you shouldn't have to wonder whether you're family will be able to pay the electric bill back in Bismarck.

Thank you and I would be happy to try and answer any questions.

Attachment
#1

Testimony of Sen. Mac Schneider – SB 2388

March 6, 2009

Madam Chair, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I'm happy to be here to introduce Senate Bill 2388 – legislation which would reduce the number of National Guard and Reserve soldiers who are forced to take a pay cut when asked to serve their country.

Senate Bill 2388 would provide a tax credit to employers who continue to make payments or provide benefits to deployed soldiers when they experience a reduction in salary upon being called to active duty. The credit would be worth up to 25% of the amount paid to a deployed soldier with a maximum credit of \$1,000 per employee. The credit could be carried forward for up to five years.

I don't need to explain to the members of this committee the heroism shown by our National Guard and Reserve soldiers in North Dakota. In the Army National Guard alone, over 2,700 soldiers have been mobilized since September 11, 2001 in support of the global war on terror and peacekeeping missions around the world. Each and every one of them has made us proud.

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While it is difficult to precisely define the scope of this problem in our state, we know for certain that many of our soldiers do take a pay cut when called to serve. For example, according to an official who manages payroll at Bobcat in North Dakota, the company had 13 employees last year who saw a reduction in pay

¹ Washington Post. 11/11/04

when they were called to serve their country. Several years ago, close to 40 soldiers employed by Bobcat fell into this situation. The average reduction in pay for these employees was about \$1,000 per year.

Thankfully, Bobcat voluntarily makes up the difference between military and civilian pay for these employees because, according to the manager I spoke with, "it's the right thing to do."

And it's the right thing for us to do as well. By rewarding the supportive actions of companies like Bobcat and encouraging others to do the same, we can help eliminate one less worry for our soldiers and their families. Because when you're driving through a narrow street in Baghdad, you shouldn't have to wonder whether you're family will be able to pay the electric bill back in Bismarck.

###

SB 2388 Hypothetical Examples

Example 1: “. . . equal to twenty-five percent of the reduction in compensation that the taxpayer continues to pay during the taxable year . . .”

John works at Company making \$40,000 a year. When he is called to active duty, he makes \$39,000. Company pays \$1,000 to John during his year-long activation and deployment. Company may claim a \$250 tax credit.

Example 1(a):

If John made only \$36,000 on active duty and Company paid \$4,000 while John was serving his country, Company could claim a \$1,000 credit.

Example 2: “The maximum credit allowed for each eligible employee is one thousand dollars.”

Dorothy works at Company making \$50,000 per year. When she is called to active duty, she makes \$45,000. Company pays \$5,000 to Dorothy during her year-long activation and deployment. Even though 25% of \$5,000 is \$1,250, Company may claim only a \$1,000 credit since this is the maximum amount allowed *per employee*.

Example 2(a):

John, Steve, Mark, Joe and Richard all work at Company and are faced with the same situation discussed in Example 1 (a \$1,000 reduction in pay). Company pays \$1,000 a piece to John, Steve, Mark, Joe and Richard. Since the credit is available on a *per employee* basis, Company may claim a \$250 credit once for John, once for Steve, once for Mark, once for Joe, and once for Richard (\$1,250 total -- the \$1,000 maximum credit applies only on a *per employee* basis).