

Sixty-first  
Legislative Assembly  
of North Dakota

Introduced by

(At the request of the Office of State Tax Commissioner)

1 A BILL for an Act to amend and reenact section 57-38-01.24 and subsection 2 of section  
2 57-38-01.25 of the North Dakota Century Code, relating to an employment tax credit for  
3 employment of apprentices and the workforce recruitment tax credit; and to provide an effective  
4 date.

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

6 **SECTION 1. AMENDMENT.** Section 57-38-01.24 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **57-38-01.24. Internship and apprenticeship employment tax credit.**

9 1. A taxpayer that is an employer within this state is entitled to a credit as determined  
10 under this section against state income tax liability under section 57-38-29,  
11 57-38-30, or 57-38-30.3 for qualified compensation paid to an intern or apprentice  
12 employed in this state by the taxpayer. ~~To qualify for the credit under this section,~~  
13 ~~the internship program must meet the following qualifications:~~

14 2. To qualify for the credit under this section, the internship program must meet the  
15 following qualifications:

16 a. The intern must be an enrolled student in an institution of higher education or  
17 vocational technical education program who is seeking a degree or a  
18 certification of completion in a major field of study closely related to the work  
19 experience performed for the taxpayer; and

20 b. The internship must be taken for academic credit or count toward the  
21 completion of a vocational technical education program; and

22 c. The intern must be supervised and evaluated by the taxpayer; ~~and~~

23 d. The internship position must be located in this state.

- 1           3.   To qualify for the credit under this section, the apprenticeship program must meet  
2           the following qualifications:
- 3           a.   The apprentice must be a worker at least sixteen years of age, except where  
4           a higher minimum age standard is otherwise fixed by law, who is employed to  
5           learn a skilled trade.
- 6           b.   The apprenticeship position must be in a skilled trade which possesses all of  
7           the following characteristics:
- 8           (1)   It is customarily learned in a practical way through a structured  
9           systematic program of on-the-job supervised training;
- 10          (2)   It is clearly identified and commonly recognized throughout an industry;
- 11          (3)   It involves manual, mechanical, or technical skills and knowledge which  
12          require a minimum of two thousand hours of on-the-job work  
13          experience; and
- 14          (4)   It requires related instruction to supplement the on-the-job training.
- 15          c.   The apprentice must be supervised and evaluated by the taxpayer.
- 16          d.   The apprenticeship position must be located in this state.
- 17          e.   The apprenticeship program must be registered with the office of  
18          apprenticeship for the United States department of labor.
- 19       ~~2.4.~~ The amount of the credit to which a taxpayer is entitled is ten percent of the stipend  
20       or salary paid to a college intern or apprentice employed by the taxpayer. A  
21       taxpayer may not receive more than three thousand dollars in total credits under  
22       this section for all taxable years combined.
- 23       a.   The tax credit under this section applies to a stipend or salary for not more  
24       than five interns or apprentices employed at the same time.
- 25       b.   A partnership, subchapter S corporation, or limited liability company that for  
26       tax purposes is treated like a partnership that is entitled to the credit under  
27       this section must be considered to be the taxpayer for purposes of calculating  
28       the credit. The amount of the allowable credit must be determined at the  
29       passthrough entity level. The total credit determined at the entity level must  
30       be passed through to the partners, shareholders, or members in proportion to  
31       their respective interests in the passthrough entity.

1           **SECTION 2. AMENDMENT.** Subsection 2 of section 57-38-01.25 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           2. For purposes of this section:

4           a. "Extraordinary recruitment methods" means using ~~at~~ one or more of the  
5 following:

6           (1) A person with the exclusive business purpose of recruiting employees  
7 and for which a fee is charged by that recruiter.

8           (2) An advertisement in a professional trade journal, magazine, or other  
9 publication, the main emphasis of which is providing information to a  
10 particular trade or profession.

11           (3) A web site, the sole purpose of which is to recruit employees and for  
12 which a fee is charged by the web site.

13           (4) Payment of a signing bonus, moving expenses, or nontypical fringe  
14 benefits.

15           b. "Hard-to-fill employment position" means a job that requires the employer to  
16 use extraordinary recruitment methods and for which the employer's  
17 recruitment efforts for the specific position have been unsuccessful for six  
18 consecutive calendar months.

19           c. "State average wage" means one hundred twenty-five percent of the state  
20 average wage published annually by job service North Dakota and which is in  
21 effect at the time the employee is hired.

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