

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1244
(Representative Headland)

AN ACT to amend and reenact section 57-38-01.16 of the North Dakota Century Code, relating to the income tax credit for employment of individuals with developmental disabilities or severe mental illness; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of individuals with developmental disabilities or ~~chronically mentally ill persons~~severe mental illness. (~~Effective after the first two taxable years beginning after December 31, 2020~~)

1. A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 or section 57-38-30.3 for a portion of the wages paid to an employee with a developmental disability or a ~~chronically mentally ill employee~~severe mental illness.
2. The credit allowed under this section equals ~~five~~twenty-five percent of up to six thousand dollars in wages paid ~~during the first twelve months of employment~~annually by the taxpayer for each employee with a developmental disability or ~~chronically mentally ill employee of the taxpayer~~severe mental illness, if the department of health and human services' vocational rehabilitation division determines the individual has a most significant disability, is eligible for services, and requires customized employment or supported employment to obtain competitive integrated employment.
3. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.
4. The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.
5. A taxpayer shall apply, on a form and in the manner prescribed by the department of health and human services' vocational rehabilitation division, for a determination of whether an employee meets the requirements under subsection 2. If an employee meets the requirements, a letter of certification containing the names of the taxpayer and the qualifying employee must be issued to the taxpayer.
6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of health and human services' vocational rehabilitation division with the taxpayer's return filed under this chapter for each taxable year the credit is claimed.
7. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this section against the individual's state income tax liability under section 57-38-30.3.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1244.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State