

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1462

Introduced by

Representative Dosch

1 A BILL for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of
2 the North Dakota Century Code, relating to income tax credits for charitable contributions to
3 private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota
4 Century Code, relating to income tax credits for charitable contributions to private education
5 institutions; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-38-01.7. Income tax credit for charitable contributions - Limitation.**

- 10 1. At the election of the taxpayer, there must be allowed, subject to the applicable
11 limitations provided in this subsection, as a nonrefundable credit against the income
12 tax liability under section 57-38-30 or, in the case of contributions by a passthrough
13 entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent
14 of the aggregate amount of charitable contributions made by the taxpayer during the
15 year to nonprofit private institutions of higher education located within the state or to
16 the North Dakota independent college fund. The amount allowable as a credit under
17 this subsection for any taxable year may not exceed twenty percent of the
18 corporation's taxpayer's total income tax under this chapter for the year, or two
19 thousand five hundred dollars, whichever is less.
- 20 2. At the election of the taxpayer, there must be allowed, subject to the applicable
21 limitations provided in this subsection, as a nonrefundable credit against the income
22 tax liability under section 57-38-30 or, in the case of contributions by a passthrough
23 entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent
24 of the aggregate amount of charitable contributions made by the taxpayer during the

1 year directly to nonprofit private institutions of secondary education, located within the
2 state. The amount allowable as a credit under this subsection for any taxable year
3 may not exceed twenty percent of the corporation's taxpayer's total income tax under
4 this chapter for the year, or two thousand five hundred dollars, whichever is less.

5 3. At the election of the taxpayer, there must be allowed, subject to the applicable
6 limitations provided in this subsection, as a nonrefundable credit against the income
7 tax liability under section 57-38-30 or, in the case of contributions by a passthrough
8 entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent
9 of the aggregate amount of charitable contributions made by the taxpayer during the
10 year directly to nonprofit private institutions of primary education, located within the
11 state.

12 4. A passthrough entity entitled to a credit under this section must be considered to be
13 the taxpayer for purposes of this section and the amount of the credit allowed must be
14 determined at the passthrough entity level. The amount of the total credit determined
15 at the entity level must be passed through to the partners, shareholders, or members
16 in proportion to their respective interests in the passthrough entity.

17 4.5. For purposes of this section, the term "nonprofit private institution of higher education"
18 means only a nonprofit private educational institution located in the state of North
19 Dakota which normally maintains a regular faculty and curriculum, which normally has
20 a regularly organized body of students in attendance at the place where its
21 educational activities are carried on, and which regularly offers education at a level
22 above the twelfth grade. The term "nonprofit private institution of secondary education"
23 means only a nonprofit private educational institution located in North Dakota which
24 normally maintains a regular faculty and curriculum approved by the state department
25 of public instruction, which normally has a regularly organized body of students in
26 attendance at the place where its educational activities are carried on, and which
27 regularly offers education to students in the ninth through the twelfth grades. The term
28 "nonprofit private institution of primary education" means only a nonprofit private
29 educational institution located in North Dakota which normally maintains a regular
30 faculty and curriculum approved by the state department of public instruction, which
31 normally has a regularly organized body of students in attendance at the place where

1 its educational activities are carried on, and which regularly offers education to
2 students in kindergarten through eighth grade.

3 4.5.6. For purposes of this section, a taxpayer may elect to treat a contribution as made in
4 the preceding taxable year if the contribution and election are made not later than the
5 time prescribed in section 57-38-34 for filing the return for that taxable year, including
6 extensions granted by the commissioner.

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

9 Income tax credit for passthrough entity contributions to private education
10 institutions under section 1 of this Act.

11 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
12 December 31, 2014.