

HOUSE BILL NO. 1137

Introduced by

Representatives Nathe, Bosch, Dockter, Lefor, Martinson, Nehring

Senators Hogue, Patten, J. Roers

1 A BILL for an Act to amend and reenact section 57-38-01.7 of the North Dakota Century Code,
2 relating to an individual income tax credit for charitable contributions; and to provide an effective
3 date.

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

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

7 **57-38-01.7. Income tax credit for charitable contributions - Limitation. (~~Effective for~~**
8 **~~taxable years beginning after December 31, 2020~~)**

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

1 state. The amount allowable as a credit under this subsection for any taxable year
2 may not exceed ~~twenty~~fifty percent of the taxpayer's total income tax under this
3 chapter for the year, or two thousand five hundred dollars, whichever is less.

- 4 3. At the election of the taxpayer, there must be allowed, subject to the applicable
5 limitations provided in this subsection, as a nonrefundable credit against the income
6 tax liability under section 57-38-30 or, ~~in the case of contributions by a passthrough~~
7 ~~entity, under section 57-38-30.3~~ for the taxable year, an amount equal to fifty percent
8 of the aggregate amount of charitable contributions made by the taxpayer during the
9 year directly to nonprofit private institutions of primary education, located within the
10 state. The amount allowable as a credit under this subsection for any taxable year
11 may not exceed ~~twenty~~fifty percent of the taxpayer's total income tax under this
12 chapter for the year, or two thousand five hundred dollars, whichever is less.

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

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

1 normally has a regularly organized body of students in attendance at the place where
2 its educational activities are carried on, and which regularly offers education to
3 students in kindergarten through eighth grade.

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

8 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
9 December 31, 2020.