

FISCAL NOTE
Requested by Legislative Council
02/04/2019

Amendment to: Engrossed HB 1406

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 HB 1406 will expand the existing corporate income tax credit for hiring an individual who is developmentally disabled or chronically mentally ill.

- 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 the bill expands an existing income tax credit allowed to a corporation for hiring an individual who is developmentally disabled or chronically mentally ill. Under current law, the credit is 5% of the first \$6,000 of wages paid during the first 12 months of employment paid to the employee. The credit may not exceed 50% of the corporation’s tax liability.

The bill expands the credit as follows: (1) The credit will allow the credit to other types of taxpayers—individuals, estates, trusts, and passthrough entities, such as partnerships and S corporations. (2) The credit rate will be increased to 25%. (3) The credit may be claimed in each tax year in which wages are paid to an eligible employee. If a taxpayer is unable to use all of the credit in the year it is earned, the taxpayer may carry the unused portion over up to three tax years.

The bill also replaces “chronically mentally ill” with “severe mental illness,” and provides that, to qualify, an employer must apply to the Department of Human Services, Vocational Rehabilitation Division, for a determination that the employee has a most significant disability, is eligible for services, and requires customized employment to obtain competitive integrated employment. No more than 100 individuals may be certified as qualifying for the credit, which is to be determined in the order the applications are received.

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.*

Originally created in 1987, the credit under current law has had little, if any, use. For the 2006 through 2017 tax years, for which data is available, the current law’s credit has not been claimed by any corporation.

If enacted, engrossed HB 1406 may reduce state general fund revenues for the 2019-21 biennium. The amount of the reduction, if any, cannot be determined because it is not known to what extent corporations will hire eligible employees.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 02/05/2019

FISCAL NOTE
Requested by Legislative Council
02/04/2019

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Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 02/05/2019

FISCAL NOTE
Requested by Legislative Council
01/12/2019

Bill/Resolution No.: HB 1406

- 1 A. **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.*

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Section 1 of the bill expands an existing income tax credit allowed to a corporation for hiring an individual who is developmentally disabled or chronically mentally ill. Under current law, the credit is 5% of the first \$6,000 of wages paid during the first 12 months of employment paid to the employee. The credit may not exceed 50% of the corporation's tax liability.

The bill provides that, in lieu of the 5% credit rate, the credit rate is 25% if the Department of Human Services, Vocational Rehabilitation Division, certifies that the employee does not have reasonable prospects for competitive employment.

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- 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.*

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Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/20/2019

2019 HOUSE FINANCE AND TAXATION COMMITTEE

HB 1406

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1406
1/22/2019
31194

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for the employment of individuals with developmental disabilities or chronically mentally ill persons; and to provide an effective date.

Minutes:

Attachments 1-5

Chairman Headland: Opened hearing on HB1406.

Kirstin Dvorak, executive director of The Arc of North Dakota: Distributed written testimony, see attachment #1. Ended testimony at 3:10. The total number of people working in the state in 2017 according to the census bureau's cognitive disabilities was 27,136; 21% were not in the labor force. Vocational Rehabilitation will be proposing some amendments with language that we failed to submit in the bill.

Chairman Headland: Can you explain having to be certified by the Human Services Vocational Rehabilitation?

Kirstin Dvorak: Vocational Rehabilitation can explain that a whole lot better than I can. To be qualified you have to have a level of competency.

Representative Mitskog: How many potential workers are there?

Kirstin Dvorak: Someone else can address that for you.

Representative Kading: Of the 21,000 do you anticipate some of these beginning to work if this is passed?

Kirstin Dvorak: That would be our hope. Right now at 5% the tax department couldn't give us a fiscal impact because people aren't even accessing it now. We're hoping this would create a little more incentive.

Chairman Headland: Are we going to still have a certain group who will only qualify for the five percent?

Kirstin Dvorak: No, we're replacing the 5% with the 25 percent.

Chairman Headland: The gentleman behind you is shaking his head no. We'll get to the bottom of it.

Representative Jon Nelson: Introduced bill. There is a need for this tax credit to spur employers to hire those people with developmental disabilities. This is a subject worthy of discussion and conversation. It's a workforce that can help meet the growing need of jobs in the state. They are willing and able to do a number of things.

Chairman Headland: Further testimony in support?

Bruce Murry, executive director of the North Dakota Association of Community Providers (NDACP): Distributed written testimony, see attachment #2. Ended testimony at 12:30.

Chairman Headland: The way the bill is written it appears to me that we'll still have a certain number fall under the 5% credit and a certain that would qualify for the 25% credit because of Human Services Rehabilitation Division certificate.

Bruce Murry: I believe that is correct. Because of the numbers very few people actually use the 5% credit. The people who promote it found out that employers aren't very excited about the 5% credit which is also limited to \$300 as well. I'm guessing the current incentive could apply to 100s of people. In the next two years if this incentive is taken it could apply to several dozen or maybe 100 individuals which would be extremely successful. If you felt the need to limit the number to 100 I doubt we would be turning anyone away.

Chairman Headland: Further support?

Roxane Romanick, Designer Genes of North Dakota: Distributed written testimony, see attachment #3. Ended testimony at 19:54.

Chairman Headland: Further support?

Robyn Throlson, Interim Director of the Division of Vocational Rehabilitation with the Department of Human Services: Distributed written testimony and proposed amendments, see attachments 4 and 5. Ended testimony at 22:26.

Chairman Headland: I need clarification. Currently this is a corporate income tax. Did I hear someone say we should expand it to individuals as well?

Robyn Throlson: Yes.

Chairman Headland: That's not what the bill does so it would have to be changed. It would definitely change the fiscal impact to the state if it were to be used.

Robyn Throlson: Our stance is to support what has been put forward. Also they were looking to us to certify in changing that to just the process of determining eligibility which would be streamlined for the individuals as well as for the division.

Chairman Headland: The fiscal note indicates this credit hasn't been used since they've been keeping track of it from 2006-2017.

Representative Ertelt: What is the difference in qualifications between sections a and b? As the bill is written it is the reasonable prospect for competitive employment. In the amendment you're looking to change that to most significant disability eligible for services and requires the customized employment. In section a I would assume the person is eligible for services and has a disability. Can you explain the difference between the most significant disability and any other disability? Can you explain the customized employment a little better to see what the differences are?

Robyn Throlson: As far as the change in the proposed language, we're looking at removing the certification of the employee. Vocational Rehabilitation doesn't normally do the certification. We determine eligibility that is outlined and required by our federal law and regulation. We categorized according to the disability and the most significant disability then those that would fall into that highest tier could be considered for the customized employment. That is the group of individuals who truly have not been given the opportunity or haven't been successful with the opportunity to form employment. It's targeting those that are the most significant of our individuals that would qualify for our program.

Representative Ertelt: How does that compare to the existing eligibility for the tax credit?

Robyn Throlson: I don't believe Vocational Rehabilitation has ever been asked to certify if someone is eligible or qualified for the state tax credit. We confirm that individuals who have been working that they qualify for the federal tax credit. We just verify.

Chairman Headland: To qualify for the 25% credit the disability has to be more severe or are we talking about the same group of individuals and just expanding the credit? To me, if that's what we're trying to do there would be a lot easier way to do it than to what has been drawn up in this bill.

Robyn Throlson: I would let the people who sponsored the bill decide. Our part was looking at the certification. We support helping individuals with disabilities become employed.

Chairman Headland: We could probably figure that out with the tax department if we're talking about the same group of individuals. Is there further support? Is there opposition? Seeing none we will close the hearing on HB 1406.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1406
1/23/2019
31319

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for the employment of individuals with developmental disabilities or chronically mentally ill persons; and to provide an effective date.

Minutes:

Attachment 1-2

Chairman Headland: Representative Steiner, do you have amendments ready?

Representative Steiner: Distributed proposed amendments, see attachments #1 and 2. On page 1 line 13 it removes the five percent piece as it is not needed anymore. We went with section b and limited it to the first 100 claimants per taxable year. These people are not working now and the state is taking care of them. This gives them an opportunity to get into the workforce and it rewards the employers who are willing to craft a job for people who are difficult to place. It gives them a chance to have a social life as well. Since we have a limit of up to 100 we can take comfort that the fiscal note would be limited but this puts them in the workforce. There are a lot of gains; a win-win for everyone. **MADE A MOTION TO ADOPT THE AMENDMENT.**

Representative Mitskog: SECONDED

Chairman Headland: Discussion on the amendment?

Representative Ertelt: When we put a limit to the first 100 claimants for the taxable year, how is that decided who the first 100 claimants are?

Dee Wald, General Counsel for the Tax Commissioner's Office: You meant the first 100 individuals who would claim it.

Chairman Headland: It's actually the corporation.

Dee Wald: It added individuals too.

Chairman Headland: Does that make it available to pass throughs and individuals or anybody who is willing to create a job?

Dee Wald: It adds it for individual income tax and the intent is to allow it to pass throughs. We need some pass through language in here that it doesn't contain.

Representative Steiner: We opened it up to LLCs. Part of it was that you open the door for more employers but it's the first 100 claimants. They help 100 people.

Chairman Headland: Apparently the amendment doesn't quite achieve that.

Dee Wald: For every tax credit you intended the credit to be allowed to a pass through entity, there is specific language to explain how the credit is calculated and how it is passed through to its members. We're missing that language from this draft. From an administrative point of view, the language on line six is a little vague on what claimants mean. The claimant is the employer so the way I read it now is the first 100 employers who get their income tax return in first and that's not what you intended. You intended the first 100 individuals for whom the employer is paying the wages. This needs a little bit more work. I can help you with that.

Representative Steiner: Correct. **WITHDREW MOTION.**

Representative Mitskog: **SECONDED**

Chairman Headland: We'll set this aside for now until new amendments are ready.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1406
1/28/2019
31594

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for the employment of individuals with developmental disabilities or chronically mentally ill persons; and to provide an effective date.

Minutes:

Attachment #1

Chairman Headland: Representative Steiner has proposed amendments.

Representative Steiner: Distributed proposed amendments, see attachment #1. We are looking at an income tax credit for the employment of individuals who need to have a special work detail. Right now they are having difficulty getting work because of severe developmental disabilities and the state is taking care of their life right now. We opened it up to more employers so if they do go through the work of helping get these people to a job there is an income tax credit for them. It's limited to 100 people.

Dee Wald, General Counsel for the Office of the State Tax Commissioner: On page 1 line 14 adds individual income tax and position section to the bill so now individuals can take the credit. The credit was changed from the original bill from 5% to 25% for the first 100 employees that are certified by the Department of Vocational Rehabilitation. In order for us to properly track and maintain records for these first 100 employees the new subsection 5 on page 2 requires that the employer apply to Vocational Rehab per determination as to whether the individual meets the qualifications. If the individual makes the qualifications, then Vocational Rehab has to give a letter to the taxpayer which must be filed with its return. This lets us track it when it comes in and have some verification. Line 15 clarifies no more than 100 employees. On line 17 we put in that applications must be processed in the order they are received. Subsection 6 requires the document to be filed with us. The new subsection 7 is the language that allows the pass through entity to claim the credit. That credit is then passed through to its shareholders, employees, and members in proportion to the respective interests in the pass through. Section 2 beginning on line 32 puts the credit into the individual income tax section. Now corporations, LLCs, and sole proprietors who employ individuals with a disability can claim the credit.

Chairman Headland: Is there language that proves employment and whether or not they have to provide a W2? How does the tax department know that they are actually employing?

Dee Wald: All employers have to file W2s with us. We could go back in and do a crosscheck to see if what they are claiming for the credit and what they paid the employee matched.

Representative Trottier: Do they make enough to pay income tax?

Dee Wald: I don't know.

Representative Trottier: Is it a possibility?

Dee Wald: It's a possibility. I don't think so. They have very part time jobs and need assistance.

Chairman Headland: If you reference the fiscal note it hasn't been used since they checked between 2006-2017 on the corporate side. Is there any anticipation that this could be more widely used?

Dee Wald: It's possible because the credit is higher. It's now allowed to pass through entities and there aren't many corporations left in the state. Again, it's limited by the 100 employees which is a huge limiter on this.

Chairman Headland: If we did pass this and it went out to 100 individuals we'd be looking at \$150,000 loss of revenue.

Representative Ertelt: Did you consider the amendments that were offered by the Department of Health on the determination? We heard in testimony from the department that they do not currently provide any certification on not otherwise having prospects for competitive employment. They were asking us to consider language to designate a most significant disability eligible for services and requiring customized employment.

Dee Wald: I was not aware that it was to be incorporated into this amendment.

Representative Ertelt: I don't know how easy it would be to do it.

Chairman Headland: We are broadening the scope.

Representative Ertelt: The testimony from the department was given. In section 2 it really is the same language regarding the reasonable prospects the Health Department may not be able to certify based on that language.

Dee Wald: There would have to be some changes with the chronically mentally ill and change it to severe mental illness. We would also have to change line 25 page 1 after "division" insert "determines that the individual has the most significant disability is eligible for services." That is the proposed language on their amendment on page 1 line 19. It's not hard to do.

Chairman Headland: Is severe mental illness the same as chronically disabled? Do we need a definition?

Dee Wald: This is pretty old language in there right now. I'd have to check with them but I think it might be the more appropriate way to describe persons with a disability and mental illness.

Representative B. Koppelman: In the Department of Human Services' testimony they said they were proposing the amendments to update the language using people-first language.

Chairman Headland: Is the committee comfortable with incorporating this language into the amendment? We'll send this back for a little more work.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1406
1/29/2019
31736

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for the employment of individuals with developmental disabilities or chronically mentally ill persons; and to provide an effective date.

Minutes:

Attachments 1-2

Representative Steiner: Distributed proposed amendments, see attachments 1-2.

Dee Wald, General Counsel for the Office of State Tax Commissioner: Explained the amendments. Refer to attachment 2, Christmas tree version of the bill. We used the people-first language and changed the qualification. On page 1 we added the individual income tax and changed the language for the severe mental illness. Subsection 2 changes the credit to 25% up to \$6,000 for employing an individual that has a significant disability, is eligible for services, and requires customized employment. This is the new language requested by the Department of Human Services. Subsections 5 and 6 are the administrative aspects and what we'll need from Vocational Rehabilitation and the employer when they file their return. Subsection 7 is the pass through language. On page 3 it allows the credit and puts it in the individual income tax section of law.

Chairman Headland: Do you want to move your amendment?

Representative Steiner: MADE A MOTION TO ADOPT AMENDMENT

Representative Trottier: SECONDED

Chairman Headland: Discussion?

Representative Steiner: I think we have a pretty good handle on this bill. We know exactly how much money is being given and how many people. These people right now are completely dependent on the state for the costs of their life so if they can work they benefit from the social aspect as well as work that needs to be done. It should be encouraged. I think the state would end up saving dollars by this action.

Representative Trottier: I like the bill because it addresses the workforce. I also think the employers deserve something for doing this.

Representative B. Koppelman: I like that this applies to all entities equally. I don't like that change in the amount. I'm not sure if the bill keeps the 25 percent.

Chairman Headland: I think it's still limited to the first 100, is it not?

Representative Dockter: Since we have the 100 in there I'm okay with the bill. We'll know next biennium how much appropriation was used. I'd have an issue if we didn't have a cap.

Representative B. Koppelman: I wonder if we could do an amendment to put a sunset on this credit at the end of the biennium to reconsider it and see if it's used while leaving the amendment as it is. **MADE A MOTION TO FURTHER AMEND BY ADDING A SUNSET FOR THE END OF THE BIENNIUM ON THIS CREDIT.**

Chairman Headland: I don't have a problem with that because I feel it might make the bill better. I don't know what would warm my heart more than to have them come in and say they could use more than 100 and it's working. I like this idea. I favor the amendment.

Representative Steiner: SECONDED

Chairman Headland: Let's set this aside for now because we already have a motion to adopt the amendment.

VOICE VOTE: MOTION CARRIED

Chairman Headland: Now the motion is to further amend by adding the sunset.

VOICE VOTE: MOTION CARRIED TO FURTHER AMEND

Chairman Headland: We have the amended version of HB 1406 before us.

Representative Dockter: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Mitskog: SECONDED

Chairman Headland: Discussion?

**ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT
MOTION CARRIED**

Representative Steiner will carry this bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1406

Page 1, line 1, after “to” insert “create and enact 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 the employment of individuals with developmental disabilities or severe mental illness; to”

Page 1, line 3, replace “chronically mentally ill persons” with “severe mental illness”

Page 1, line 8, overstrike “**chronically mentally ill persons**” and insert immediately thereafter “**severe mental illness**”

Page 1, line 10, after “57-38-30” insert “or section 57-38-30.3”

Page 1, line 11, overstrike “chronically mentally ill employee” and insert immediately thereafter “severe mental illness”

Page 1, line 12, remove the underscored colon

Page 1, line 13, remove “a. Five”

Page 1, line 13, overstrike “percent of up to six thousand dollars in wages paid during the first twelve”

Page 1, overstrike line 14

Page 1, line 15, overstrike “disability or chronically mentally ill employee of the taxpayer”

Page 1, line 15, remove “; or”

Page 1, line 16, replace “b. Twenty-five” with “twenty-five”

Page 1, line 17, replace “chronically” with “severe mental illness”

Page 1, line 18, remove “mentally ill employee of the taxpayer”

Page 1, line 19, replace “certifies the employee does not otherwise have” with “determines that the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment”

Page 1, line 20, remove “reasonable prospects for competitive employment”

Page 2, after line 2, insert:

5. A taxpayer shall apply, on a form and in the manner prescribed by the department of 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. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.

6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of 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, shareholder, 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. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for employment of individuals with developmental disabilities or severe mental illness under section 57-38-01.16."

Renumber accordingly

January 29, 2019

OK
1/29/19
10/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1406

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Page 1, line 8, overstrike "**chronically mentally ill persons**" and insert immediately thereafter "**severe mental illness**"

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Page 1, line 11, overstrike "chronically mentally ill employee" and insert immediately thereafter "severe mental illness"

Page 1, line 12, remove the underscored colon

Page 1, line 13, remove "a. Five"

Page 1, line 13, overstrike "percent of up to six thousand dollars in wages paid during the first twelve"

Page 1, overstrike line 14

Page 1, line 15, overstrike "disability or chronically mentally ill employee of the taxpayer"

Page 1, line 15, remove "; or"

Page 1, line 16, replace "b. Twenty-five" with "twenty-five"

Page 1, line 17, remove "chronically"

Page 1, line 18, replace "mentally ill employee of the taxpayer" with "severe mental illness"

Page 1, line 19, remove "certifies the employee does not otherwise have"

Page 1, line 20 replace "reasonable prospects for competitive employment" with "determines the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment"

Page 2, after line 2, insert:

"5. A taxpayer shall apply, on a form and in the manner prescribed by the department of 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. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.

6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of 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. A new subdivision to subsection 7 of section 57-38-30.3 the North Dakota Century Code is created and enacted as follows:

Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill persons under section 57-38-01.16."

Page 2, line 3, remove "taxable years beginning after"

Page 2, line 4, replace "December 31, 2018" with "the first two taxable years after December 31, 2018."

Renumber accordingly

CP
1/29/19
2 of 2

Date: 1-29-19
Roll Call Vote #: /

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1406

House Finance and Taxation Committee

Subcommittee *Change qualification +
Use people first language*

Amendment LC# or Description: Jan. 29, 2019 Rep. Steiner *See attachments 1-2*

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Steiner Seconded By Rep. Trottier

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion carried

Date: 1-29-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1406

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: adding sunset for 2 years

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - Motion carried

2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1406

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.0993.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Dockter Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt	✓				
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman	✗				
Representative Trottier	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Steiner

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

REPORT OF STANDING COMMITTEE

HB 1406: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1406 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact 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 the employment of individuals with developmental disability or severe mental illness; to"

Page 1, line 3, replace "chronically mentally ill persons" with "severe mental illness"

Page 1, line 8, overstrike "**chronically mentally ill persons**" and insert immediately thereafter "**severe mental illness**"

Page 1, line 10, after "57-38-30" insert "or section 57-38-30.3"

Page 1, line 11, overstrike "chronically mentally ill employee" and insert immediately thereafter "severe mental illness"

Page 1, line 12, remove the underscored colon

Page 1, line 13, remove "a. Five"

Page 1, line 13, overstrike "percent of up to six thousand dollars in wages paid during the first twelve"

Page 1, overstrike line 14

Page 1, line 15, overstrike "disability or chronically mentally ill employee of the taxpayer"

Page 1, line 15, remove "; or"

Page 1, line 16, replace "b. Twenty-five" with "twenty-five"

Page 1, line 17, remove "chronically"

Page 1, line 18, replace "mentally ill employee of the taxpayer" with "severe mental illness"

Page 1, line 19, remove "certifies the employee does not otherwise have"

Page 1, line 20 replace "reasonable prospects for competitive employment" with "determines the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment"

Page 2, after line 2, insert:

5. A taxpayer shall apply, on a form and in the manner prescribed by the department of 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. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.
6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of 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. A new subdivision to subsection 7 of section 57-38-30.3 the North Dakota Century Code is created and enacted as follows:

Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill persons under section 57-38-01.16."

Page 2, line 3, remove "taxable years beginning after"

Page 2, line 4, replace "December 31, 2018" with "the first two taxable years after December 31, 2018."

Renumber accordingly

2019 SENATE FINANCE AND TAXATION

HB 1406

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1406
3/5/2019
Job #33196

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Attachments: 2

Chairman Cook: Called the hearing to order on HB 1406.

Representative Jon Nelson, District 14: Introduced the bill. This bill met the approval of the House. There are people behind me that are best prepared to respond to questions and address the specifics of the bill. I urge you to support this bill.

Chairman Cook: You are basically trying to increase the credit from 5% to 25%.

Representative Nelson: Yes. It is my understanding that this hasn't been used to the full extent in the past. This might allow for more use.

Kristen Dvorak, Executive Director, Arc of ND: Testified in favor of the bill. See attachment #1. We ask for a do pass as amended. We are okay with the cap and the sun set clause.

Chairman Cook: The amendments are on the bill correct?

Kristen Dvorak: Yes.

Chairman Cook: What does VR stand for?

Kristen Dvorak: Vocational Rehabilitation

Senator Dotzenrod: On page 1, line 14-15, you make a distinction between chronically mentally ill and severe. You overstrike what is in the law now and replace it with severe. Then

on page 2, line 26-27, you use the same term that you already had overstruck. Is that a mistake?

Kristen Dvorak: That was a mistake. VR asked to make it more of a people first language. This would be that language. Since we are amending the bill anyways, they came in and asked that the language be updated. With that catch, we would want it to say "severe mental illness".

Senator Dotzenrod: Is there a distinction between the two?

Kristen Dvorak: It is just a language update.

Kristen Dvorak: Bruce from ND Community of Providers will be sending in his testimony. He is out with the flu.

Robyn Throlson, Interim Director of the Division of Vocational Rehabilitation: Testified in favor of the bill. See attachment #2.

Chairman Cook: Where is the language that speaks to the 100.

Robyn Throlson: It is in one of the amendments that was added by the House.

Senator Dotzenrod: Page 2, line 10.

Chairman Cook: Do you want to clarify so that it is in place?

Robyn Throlson: VR does not have a preference if it would be the employees or the employees.

Chairman Cook: You need to be clear?

Robyn Throlson: Yes, we do so our record keeping is accurate and we can do our count.

Chairman Cook: Any further testimony in favor? Any testimony opposed? Any neutral?

Joe Becker, Tax Department: Testified neutrally on the bill. We had a conversation with Robyn the other day about these issues. Our reading of the bill with respect to the 100 employee limitation, we think it is clear that no more than 100 employees may be certified. The concern that popped up is that it is not uncommon for an individual to have more than one job during the year. There was concern about how the \$6,000 wage limitation applies and how we count the number. We think that if they certify an employee and if they have more than one job, we have one employee with respect to the 100 as it reads. As far as the \$6,000 wage limitation, the credit is allowed to the employer for the first \$6,000 they pay to an individual who is certified. We do not have any concerns that if we have one employee working for two employers, both employers could get the credit up to the first \$6,000 they pay. They are wondering if we should limit it to one \$6,000 run for the employee.

Chairman Cook: The last thing I would want to do is pass something that is confusing to the point that two different attorneys would read it differently. How could we clarify this so it is clear?

Joe Becker: Regarding the \$6,000, I think the question is what limitation does the legislative body want to put on it. I think it is \$6,000 for each of those employers.

Senator Unruh: Was there a fiscal note assigned to the original version? I imagine the original version was more broad than what is in front of us.

Joe Becker: The fiscal note is essentially the same. We do not know what the activity here is going to be so we cannot determine.

Chairman Cook: Did I hear that Robyn wanted clarification as to whether this is for new employees only?

Joe Becker: That is an issue we agreed with them on. It isn't clear whether this is just for new employees.

Chairman Cook: So there could be someone that was getting a 5% but now could get a 25%.

Joe Becker: I am not sure if that is an issue because no one has claimed the credit to date.

Chairman Cook: So you do not have any concerns about how this reads.

Joe Becker: Not in respect to the counting of the 100 employees nor the application of the \$6,000 limit. As far as the new employees, I do not know if that is a practical matter that because it has never been claimed, they also have to apply to VR to get a certification. I am not sure if there are employees already out there that could meet these conditions and just have to get an application.

Senator Dotzenrod: Does it appear there are employers that are interested in this? It looks like we haven't had any takers on this.

Kristen Dvorak: No. This is only for Corps. We would like to open it up for more. We were hoping that with the 25%, it would be a more incentive to an employee individual that comes with that customized employment to get people out of sub minimal wage.

Senator Dotzenrod: I see on line 13; wouldn't this individual be on their too?

Kristen Dvorak: It is just expanding it now.

Senator Dotzenrod: It would be available to an individual or a corporation?

Joe Becker: She is correct. Current law is limited. This is now going to allow it to expand to allow to the sole or to partnerships, etc.

Chairman Cook: I see a lot of mentally disabled kids working such as waiting or busting tables. What are we trying to fix here?

Kristen Dvorak: Those are the kids that do not need as much support as these individuals. These are those that are working sub-minimal wage. We do the job for less than the average citizen. 14-C businesses can hire individuals with severe disabilities and pay them the low minimum wage. While helping with this bill, it would allow more companies to take that investment and pay them at minimum wage and employ them with this tax credit.

Chairman Cook: Any further testimony? Hearing none, we will close the hearing on HB 1406.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1406
3/20/2019
Job #34002

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Attachments: 0

Chairman Cook: Called the committee to order on HB 1406. This changes the income tax credit from 5% to 25%.

Senator Kannianen: Was there clarification of what constitutes the 100 employees on page 2, line 10-11 as far as whether it was 100 separate individuals or if someone was to work for two different employers and if that would double count or not?

Chairman Cook: It is 100 individuals.

Senator Patten: I have a note here about amend on line 27 of page 2 from chronically to severe.

Senator Dotzenrod: I have the same note.

Chairman Cook: Can someone come up and speak to why that is noted.

Kirsten Dvorak, Executive Director, Arc of ND: The amendment we talked about was an oversight to make it more people first. If you look online 6 where it says "severe mental illness" that is the proper term and the legislation council just missed that line to change it.

Senator Dotzenrod: Moved to adopt amendment 19.0993.02001.

Senator Patten: Seconded.

Chairman Cook: Any Discussion?

A Voice Vote Was Taken

Motion Carried

Senator Patten: Moved a Do Pass on HB 1406 as Amended.

Senator Meyer: Seconded.

Chairman Cook: Any Discussion?

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent

Senator Dotzenrod will carry the bill.

19.0993.02001
Title.03000

Adopted by the Senate Finance and Taxation
Committee

March 20, 2019

JK
3/20
(2)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1406

Page 2, line 27, replace "chronically mentally ill persons" with "severe mental illness"

Renumber accordingly

Date: 3-20-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1406

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Patten Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Dotzenrod

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

REPORT OF STANDING COMMITTEE

HB 1406, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1406 was placed on the Sixth order on the calendar.

Page 2, line 27, replace "chronically mentally ill persons" with "severe mental illness"

Renumber accordingly

2019 TESTIMONY

HB 1406



#1
HB 1406
1-22-19
p.1

House of Finance and Taxation

HB 1406

January 2019

Chairman Headland and members of the committee, my name is Kirsten Dvorak. I am the executive director of The Arc of North Dakota, which includes all six Arc chapters in the state: Bismarck, Bowman, Dickinson, Fargo, Grand Forks, and Valley City. Our mission is to improve the quality of life of people with intellectual and developmental disabilities and actively support their full inclusion and participation in the community.

Historically, the majority of people with intellectual / developmental delayed (I/DD) have been either unemployed or underemployed despite their ability, desire, and willingness to work in the community. Many have been placed in “prevocational” programs and “disability-only” workshops where they are paid below minimum wage and have little expectation of moving into jobs where they work alongside people without disabilities. For all people with I/DD, employment programs should first explore employment alongside people without disabilities at comparable wages, with comparable benefits, before considering other options in the community.

The Arc of North Dakota hopes with the tax incentive of 25 percent tax incentive would help in employers realize the possibility in hiring a person with a disability. The bill is targeted to those that has the most significant disabilities and would benefit from customized employment.

“**Customized Employment**” is like sitting down with an architect and designing the house from scratch - you are creating a job that benefits both the business and the employee.

#1
HB 1406
1-22-19
p.2

In September of 2015, Vocational Rehabilitation initiated a 3 year Pilot Project. The goal of this project was to build capacity to deliver employment services for individuals with intellectual and developmental disabilities that lead to integrated and competitive employment opportunities for those in day habilitation and/or segregated employment. Vocational Rehabilitation awarded a grant to Minot State to coordinate and provide Training and Technical Assistance on the component of Customized Employment to four Community Rehab Providers (Hit, CLS, Pride and Kalix).

Criteria for receiving employment services through the Pilot individuals had to be:

- eligible to receive waived services through the Developmental Disabilities Division
- Day Habilitation or Segregated Employment
- eligible for Vocational Rehabilitation Services
- interested in working in the community and referred for a benefits analysis if they were receiving SSI /SSDI

Outcomes of Customized Employment:

- Prior to the grant individuals worked on crews, shelter work or did not work.
- Average Wage before participating in the grant -\$6.04 with one participant making \$4.68 an hour.
- Average Wage of \$9.01 after participating in the grant, with one participant receiving \$14.00 an hour.
- On average individuals wage increased by 149%.
- Individual's behaviors decreased when their interest and abilities matched their job.
- Increased financial self-sufficiency
- Co-worker connections and friendship at work

#1
HB 1406
1-22-19
p.3

It's a win win situation when you can match the individuals abilities, talents and interests with the unmet needs of the employer.

People with intellectual and/or developmental disabilities can be employed in the community alongside people without disabilities and earn competitive wages. This bill would help in making that happen.

The Arc of North Dakota asks for a do pass on HB 1406

Kirsten Dvorak, Executive Director

222-1854

#2
HB 1406
1-22-19

HB 1406
House Finance and Taxation Committee
Chairman Craig Headland
Testimony of North Dakota Association of Community Providers
January 22, 2019

Good morning, Chairman Headland and members of the House Finance and Taxation Committee. I am Bruce Murry, the executive director of the North Dakota Association of Community Providers (NDACP), a statewide membership association of 32 licensed providers of services to people with developmental disabilities.

NDACP supports HB 1406 and believes it would be a valuable tool to help people without successful job experiences become employed.

First and foremost, HB 1406 is about relationships. It seeks to foster a relationship between an enthusiastic employer and a worker with disabilities. Many employers employ people with disabilities currently, and the relationship between the employee and employer. Some use the current 5% tax credit, while others either don't know about it or think the paperwork is more expensive than the credit.

However, this bill asks employers to think about what they might do to stretch a little further, and hire someone who in the past has not been able to earn minimum wage. When someone has shown years of commitment to prevocational activities, or to working below minimum wage, they are often extremely grateful for a chance at a job integrated with other workers. Employees who want to show up every day, and will take jobs others pass up, can be extremely valuable to North Dakota, with our workforce shortage.

Some advocates have suggested this tax credit should be available to proprietorships and LLCs, and that might be a good idea.

I would be happy to answer any questions, and my contact information is below.



Bruce Murry
Executive Director

Phone: (701) 390-1021
Cell: (701) 220-4933

1500 E Capitol Ave
Suite 200
Bismarck, ND 58501

brucemurry@ndacp.org
NDACP.org

North Dakota Association of Community Providers

HB 1406
House Finance and Tax
Tuesday, January 22, 2019

Chairman Headland and Members of the House Finance and Tax Committee:

My name is Roxane Romanick and I'm representing Designer Genes of ND, Inc., as their Executive Director. Designer Genes' membership represents 220 individuals with Down syndrome that either live in our state or are represented by family members in North Dakota. Designer Genes' mission is to strengthen opportunities for individuals with Down syndrome and those who support them to **earn, learn, and belong.**

I am here today to ask for a "do pass" on HB 1406. In a 2015 study by Kumin and Schoenbrodt around employment statistics for individuals living with Down syndrome, while 57% of the individuals surveyed reported they were working, only 3% of those surveyed had full-time employment (1). The breakdown of some of the employment sites were: 19 percent in restaurant/food services, 19 percent in office/clerical settings, 14 percent in cleaning/housekeeping/custodial services, 12 percent in grocery stores, and eight percent in workshop/warehouse settings. Individuals with Down syndrome no longer live in institutions in our state. Young adults are coming from inclusive school settings with work experiences and are no longer are okay with day program and group work settings. We need to create employment opportunities that play to an individual's strengths and skills and use vehicles such as this tax credit to open doors to employment.

I am requesting three modifications to the current bill:

1. Broaden the scope of which businesses can use the tax credit beyond C-corporations to all business entities.
2. Apply people-first language and modify "chronically mentally ill persons" to read persons with severe behavioral health conditions.
3. Include the Division of Developmental Disabilities as a certifying organization as well as the Division of Vocational Rehabilitation and assure that the certification process is as streamlined and simplified as possible to protect an individual's right to privacy.

I will answer any questions and thank you for your time.

Roxane Romanick, Executive Director
701-391-7421 info@designergenesnd.com

1. Kumin, L., & Schoenbrodt, L. (2015). Employment in Adults with Down Syndrome in the United States: Results from a National Survey. *Journal of Applied Research in Intellectual Disabilities*

#4
HB 1406
1-22-19
p. 1

Testimony
House Bill 1406 - Department of Human Services
House Finance and Taxation Committee
Representative Craig Headland, Chairman

January 22, 2019

Chairman Headland, and members of the House Finance and Taxation Committee, I am Robyn Throlson, the Interim Director of the Division of Vocational Rehabilitation with Department of Human Services (Department). I appear before you to support House Bill 1406, with amendments to clarify and simplify the intent of this Bill.

Section 1:

The Department proposes an amendment to page 1, lines 3, 8, 11, 15, 17, and 18 as a housekeeping matter, to update the language using “people first language.”

The Department proposes an amendment to page 1, lines 19 and 20 to replace the responsibility of the division to “certify an employee does not have reasonable prospects for competitive employment” with the process that is currently in place in which the Division of Vocational Rehabilitation “determines that the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment.” The Division of Vocational Rehabilitation has a process which we are required to follow as required by 29 U.S.C. 720. Utilizing that process will not require additional funds to determine eligibility for this tax credit. In addition, customized employment is a highly individualized service which is intended for those with the most significant disabilities for whom competitive employment has not traditionally been an option or has not been successful. It takes into consideration their interests and abilities and creates a job that benefits both the business and the employee. It is also important to add the word “integrated” to competitive employment as without it, there is a possibility of segregated employment rather than employment that is typically found in the community.

#4
HB 1406
1-22-19
p. 2

It is the Department's position that this proposed amendment would be consistent with the intent of this Bill.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

#5
HB 1406
1-22-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1406

Page 1, line 3, replace “chronically mentally ill persons” with “severe mental illness”

Page 1, line 8, overstrike “**chronically mentally ill persons**” and insert immediately thereafter “**severe mental illness**”

Page 1, line 11, overstrike “chronically mentally ill employee” and insert immediately thereafter “severe mental illness”

Page 1, line 15, overstrike “chronically mentally ill employee of the taxpayer” and insert immediately thereafter “a severe mental illness”

Page 1, line 17, replace “chronically” with “severe mental illness”

Page 1, line 18, remove “mentally ill employee of the taxpayer”

Page 1, line 19, replace “certifies the employee does not otherwise have” with “determines that the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment”

Page 1, line 20, remove “reasonable prospects for competitive employment”

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1406

Page 1, line 1, after "to" insert "create and enact 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 the employment of individuals with developmental disabilities or chronically mentally ill persons; to"

Page 1, line 10, after "57-38-30" insert "or 57-38-30.3"

Page 1, line 12, remove the underscored colon

Page 1, line 13, remove "a. Five"

Page 1, line 13, overstrike "percent of up to six thousand dollars in wages paid during the first twelve"

Page 1, overstrike line 14

Page 1, line 15, overstrike "disability or chronically mentally ill employee of the taxpayer"

Page 1, line 15, remove "; or"

Page 1, line 16, replace "b. Twenty-five" with "twenty-five"

Page 2, after line 2, insert:

"5. The credit under this section is limited to the first one hundred claimants per taxable year.

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:

Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill persons under section 57-38-01.16."

Re-number accordingly

#2
HB 1406
1-23-19
P. 1

Introduced by

Representatives J. Nelson, Hager, Sanford, Schreiber-Beck

Senators Dever, Heckaman, Poolman

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 an income tax credit for the employment of
3 individuals with developmental disabilities or chronically mentally ill persons; to amend and
4 reenact section 57-38-01.16 of the North Dakota Century Code, relating to an income tax credit
5 for the employment of individuals with developmental disabilities or chronically mentally ill
6 persons; and to provide an effective date.

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

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

10 **57-38-01.16. Income tax credit for employment of individuals with developmental**
11 **disabilities or chronically mentally ill persons.**

12 1. A taxpayer filing an income tax return under this chapter may claim a credit against the
13 tax liability imposed under section 57-38-30 or 57-38-30.3 for a portion of the wages
14 paid to an employee with a developmental disability or a chronically mentally ill
15 employee.

16 2. The credit allowed under this section equals ~~five~~
17 ~~a. Five percent of up to six thousand dollars in wages paid during the first twelve~~
18 ~~months of employment by the taxpayer for each employee with a developmental~~
19 ~~disability or chronically mentally ill employee of the taxpayer; or~~
20 ~~b. Twenty five~~twenty-five percent of up to six thousand dollars in wages paid
21 annually by the taxpayer for each employee with a developmental disability or
22 chronically mentally ill employee of the taxpayer, if the department of human
23 services' vocational rehabilitation division certifies the employee does not
24 otherwise have reasonable prospects for competitive employment.

1 3. Only wages actually paid during the taxpayer's taxable year may be considered for
2 purposes of this section. An employee of a subcontractor is considered an employee
3 of the contractor to the extent of any wages paid under the contract.

4 4. The total of credits allowed under this section may not exceed fifty percent of the
5 taxpayer's liability under this chapter.

6 5. The credit under this section is limited to the first one hundred claimants per taxable
7 year.

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

10 Income tax credit for employment of individuals with developmental disabilities or
11 chronically mentally ill persons under section 57-38-01.16.

12 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
13 December 31, 2018.

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Introduced by

Representatives J. Nelson, Hager, Sanford, Schreiber-Beck
Senators Dever, Heckaman, Poolman

1 A BILL for an Act to create and enact a new subdivision to subsection 7 of section 57-38-
2 30.3 of the North Dakota Century Code, relating to an income tax credit for the
3 employment of individuals with developmental disabilities or chronically mentally ill
4 persons; to amend and reenact section 57-38-01.16 of the North Dakota Century Code,
5 relating to an income tax credit for the employment of individuals with developmental
6 disabilities or chronically mentally ill persons; and to provide an effective date.

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

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

10 **57-38-01.16. Income tax credit for employment of individuals with**
11 **developmental disabilities or chronically mentally ill person**

- 12 1. A taxpayer filing an income tax return under this chapter may claim
- 13 a credit against the tax liability imposed under section 57-38-30 or
- 14 section 57-38-30.3 for a portion of the wages paid to an employee
- 15 with a developmental disability or a chronically mentally ill
- 16 employee.
- 17 2. The credit allowed under this section equals five ;
- 18 ~~a. — Five percent of up to six thousand dollars in wages paid~~
- 19 ~~during the first twelve months of employment by the taxpayer for~~
- 20 ~~each employee with a developmental disability or chronically~~
- 21 ~~mentally ill employee of the taxpayer; or twenty-five percent of up~~
- 22 ~~to six thousand dollars in wages paid annually by the taxpayer for~~
- 23 ~~each employee with a developmental disability or chronically~~
- 24 ~~mentally ill employee of the taxpayer, if the department of human~~
services' vocational rehabilitation division certifies the employee

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1. does not otherwise have reasonable prospects for competitive
2. employment.

3. 3. Only wages actually paid during the taxpayer's taxable year may be
5. considered for purposes of this section. An employee of a
6. subcontractor is considered an employee of the contractor to the
7. extent of any wages paid under the contract.

8. 4. The total of credits allowed under this section may not exceed fifty
9. percent of the taxpayer's liability under this chapter.

10. 5. A taxpayer shall apply, on a form and in the manner prescribed by
11. the department of human services' vocational rehabilitation division,
12. for a determination of whether an employee meets the requirements
13. under subsection 2. If an employee meets the requirements, a letter
14. of certification containing the names of the taxpayer and the
15. qualifying employee must be issued to the taxpayer. No more than
16. one hundred employees may be certified as qualifying under this
17. section. Applications must be processed in the order the
18. applications are received.

19. 6. A taxpayer claiming a credit under this section shall include a copy
20. of the certification letter received from the department of human
21. services' vocational rehabilitation division with the taxpayer's return
22. filed under this chapter for each taxable year the credit is claimed.

23. 7. A passthrough entity entitled to the credit under this section must be
24. considered to be the taxpayer for purposes of calculating the credit.
25. The amount of the allowable credit must be determined at the
26. passthrough entity level. The total credit determined at the entity
27. level must be passed through to the partners, shareholder, or
28. members in proportion to their respective interests in the
29. passthrough entity. An individual taxpayer may take the credit
30. passed through under this section against the individual's state
31. income tax liability under section 57-38-30.3.

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

34. Income tax credit for employment of individuals with developmental disabilities or
35. chronically mentally ill persons under section 57-38-01.16.

1. **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning
2 after December 31, 2018.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1406

Page 1, line 1, after "to" insert "create and enact 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 the employment of individuals with developmental disabilities or severe mental illness; to"

Page 1, line 3, replace "chronically mentally ill persons" with "severe mental illness"

Page 1, line 8, overstrike "**chronically mentally ill persons**" and insert immediately thereafter "**severe mental illness**"

Page 1, line 10, after "57-38-30" insert "or section 57-38-30.3"

Page 1, line 11, overstrike "chronically mentally ill employee" and insert immediately thereafter "severe mental illness"

Page 1, line 12, remove the underscored colon

Page 1, line 13, remove "a. Five"

Page 1, line 13, overstrike "percent of up to six thousand dollars in wages paid during the first twelve"

Page 1, overstrike line 14

Page 1, line 15, overstrike "disability or chronically mentally ill employee of the taxpayer"

Page 1, line 15, remove "; or"

Page 1, line 16, replace "b. Twenty-five" with "twenty-five"

Page 1, line 17, replace "chronically" with "severe mental illness"

Page 1, line 18, remove "mentally ill employee of the taxpayer"

Page 1, line 19, replace "certifies the employee does not otherwise have" with "determines that the individual has a most significant disability, is eligible for services, and requires customized employment in order to obtain competitive integrated employment"

Page 1, line 20, remove "reasonable prospects for competitive employment"

Page 2, after line 2, insert:

5. A taxpayer shall apply, on a form and in the manner prescribed by the department of 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

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names of the taxpayer and the qualifying employee must be issued to the taxpayer. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.

6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of 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, shareholder, 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. A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for employment of individuals with developmental disabilities or severe mental illness under section 57-38-01.16."

Renumber accordingly

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Introduced by

Representatives J. Nelson, Hager, Sanford, Schreiber-Beck
Senators Dever, Heckaman, Poolman

1 A BILL for an Act to create and enact a new subdivision to subsection 7 of section 57-38-
2 30.3 of the North Dakota Century Code, relating to an income tax credit for the
3 employment of individuals with developmental disabilities or severe mental illness; to
4 amend and reenact section 57-38-01.16 of the North Dakota Century Code, relating to an
5 income tax credit for the employment of individuals with developmental disabilities or
6 ~~chronically mentally ill persons~~ severe mental illness; and to provide an effective date.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9 57-38-01.16. Income tax credit for employment of individuals with
10 developmental disabilities or ~~chronically mentally ill persons~~ severe mental
11 illness.

12 1. A taxpayer filing an income tax return under this chapter may claim
13 a credit against the tax liability imposed under section 57-38-30 or
14 section 57-38-30.3 for a portion of the wages paid to an employee
15 with a developmental disability or a ~~chronically mentally ill employee~~
16 severe mental illness.

17 2. The credit allowed under this section equals five ;
18 a. ~~Five percent of up to six thousand dollars in wages paid~~
19 ~~during the first twelve months of employment by the taxpayer for~~
20 ~~each employee with a developmental disability or chronically~~
21 ~~mentally ill employee of the taxpayer; or twenty-five percent of up~~
22 ~~to six thousand dollars in wages paid annually by the taxpayer for~~
23 ~~each employee with a developmental disability or chronically~~
24 ~~mentally ill employee of the taxpayer~~ severe mental illness, if the

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department of human services' vocational rehabilitation division
~~certifies the employee does not otherwise have~~ determines that the
individual has a most significant disability, is eligible for services,
and requires customized employment in order to obtain
competitive integrated employment ~~reasonable prospects for~~
~~competitive 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 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. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.
6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of 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, shareholder, 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.

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

3 Income tax credit for employment of individuals with developmental disabilities or
4 chronically mentally ill persons under section 57-38-01.16.

5 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning
6 after December 31, 2018.



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Senate Finance and Taxation

HB 1406

January 2019

Chairman Cook and members of the committee, my name is Kirsten Dvorak. I am the executive director of The Arc of North Dakota, which includes all six Arc chapters in the state: Bismarck, Bowman, Dickinson, Fargo, Grand Forks, and Valley City. Our mission is to improve the quality of life of people with intellectual and developmental disabilities and actively support their full inclusion and participation in the community.

Historically, the majority of people with intellectual / developmental delayed (I/DD) have been either unemployed or underemployed despite their ability, desire, and willingness to work in the community. Many have been placed in “prevocational” programs and “disability-only” workshops where they are paid below minimum wage and have little expectation of moving into jobs where they work alongside people without disabilities. For all people with I/DD, employment programs should first explore employment alongside people without disabilities at comparable wages, with comparable benefits, before considering other options in the community.

The Arc of North Dakota hopes with the tax incentive of 25 percent tax incentive would help in employers realize the possibility in hiring a person with a disability. The bill is targeted to those that has the most significant disabilities and would benefit from customized employment.

“**Customized Employment**” is like sitting down with an architect and designing the house from scratch - you are creating a job that benefits both the business and the employee.

In September of 2015, Vocational Rehabilitation initiated a 3 year Pilot Project. The goal of this project was to build capacity to deliver employment services

for individuals with intellectual and developmental disabilities that lead to integrated and competitive employment opportunities for those in day habilitation and/or segregated employment. Vocational Rehabilitation awarded a grant to Minot State to coordinate and provide Training and Technical Assistance on the component of Customized Employment to four Community Rehab Providers (Hit, CLS, Pride and Kalix).

Criteria for receiving employment services through the Pilot individuals had to be:

- eligible to receive waived services through the Developmental Disabilities Division
- Day Habilitation or Segregated Employment
- eligible for Vocational Rehabilitation Services
- interested in working in the community and referred for a benefits analysis if they were receiving SSI /SSDI

Example from one Agency at the end of the grant

- Prior to the grant individuals worked on crews, shelter work or did not work.
- Average Wage before participating in the grant -\$6.04 with one participant making \$4.68 an hour.
- Average Wage of \$9.01 after participating in the grant, with one participant receiving \$14.00 an hour.
- On average individuals wage increased by 149%.
- Individual's behaviors decreased when their interest and abilities matched their job.
- Increased financial self-sufficiency
- Co-worker connections and friendship at work

It's a win win situation when you can match the individuals abilities, talents and interests with the unmet needs of the employer. Because of the complexity of skills necessary to provide Customized Employment VR continues to invest in training for Community Rehab Providers. In October 2018, four new Community Rehab Providers

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will begin receiving training for Customized Employment (Red River, Hav-IT, Lake Region and Opportunity Foundation).

VR's goal is for Customized Employment services to be available statewide by qualified providers who have participated in VR sponsored training.

People with intellectual and/or developmental disabilities can be employed in the community alongside people without disabilities and earn competitive wages. This bill would help in making that happen.

The Arc of North Dakota asks for a do pass on HB 1406

Kirsten Dvorak, Executive Director

222-1854

Testimony
Engrossed House Bill 1406 - Department of Human Services
Senate Finance and Taxation Committee
Senator Dwight Cook, Chairman

March 5, 2019

Chairman Cook and members of the Senate Finance and Taxation Committee, I am Robyn Throlson, the Interim Director of the Division of Vocational Rehabilitation with Department of Human Services (Department). I appear before you in support of Engrossed House Bill 1406, but I would like to pose a couple of questions to ensure the Department follows the intent of the bill.

Our interpretation is that the employees covered by this bill would be new hires who began their employment with the employer requesting the tax credit after January 1, 2019 as we see this as an incentive for employers to hire individuals with the most significant disabilities. In addition, there was a tax credit in existence prior to the date this bill would become effective, if passed, that could have been utilized.

We are requesting clarification on what constitutes one of the 100 identified in the bill, 100 individual employees or 100 employers? For example, if an individual has two part-time jobs, therefore is hired by two different employers both of whom apply for the tax credit, does it count as one for the employee or two for the employers who are requesting the tax credit?

Based on federal and state confidentiality laws, the Department will work with the employee to obtain a signed release of information which would allow us to release confidential client information to the employer and the Tax Department.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.