

**HOUSE BILL NO. 1384  
with Senate Amendments  
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Sixty-sixth  
Legislative Assembly  
of North Dakota

Introduced by

Representatives Nathe, Bosch, Dockter, Martinson

Senators 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 the individual income tax credit for charitable contributions; to provide an effective  
3 date; and to provide an expiration 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.**

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

1            may not exceed ~~twenty~~twenty-five percent of the taxpayer's total income tax under this  
2            chapter for the year, or two thousand five hundred dollars, whichever is less.

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

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           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           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. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for the first two  
8           taxable years beginning after December 31, 2018, after which this Act becomes ineffective.