

HOUSE BILL NO. 1476

Introduced by

Representatives Boschee, C. Johnson, D. Johnson, Mitskog

Senators Dotzenrod, Wanzek

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to
2 subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the creation of
3 an individual income tax credit for beginning farmers; and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Individual income tax credit for beginning farmers.**

8 1. As used in this section, unless the context otherwise requires:

- 9 a. "Agricultural assets" means agricultural land, livestock, facilities, buildings, and
10 machinery used for farming in the state.
- 11 b. "Beginning farmer" has the meaning provided in section 6-09.8-01.
- 12 c. "Board" has the meaning provided in section 6-09.10-01.
- 13 d. "Farm product" means plants and animals useful to humans, including forage and
14 sod crops, oilseeds, grain and feed crops, dairy and dairy products, poultry and
15 poultry products, livestock, fruits, and vegetables.
- 16 e. "Farming" means the active use, management, and operation of real and
17 personal property for the production of a farm product.
- 18 f. "Owner of agricultural assets" means an individual, trust, or passthrough entity, if
19 any partner or shareholder of the passthrough entity satisfy this subsection,
20 which:
- 21 (1) Is the owner in fee of agricultural land or has legal title to any other
22 agricultural asset;
- 23 (2) Is a resident of the state;

- 1 (3) Derived at least fifty percent of gross income from farming in at least five of
2 the preceding fifteen years; and
- 3 (4) Provided the majority of the day-to-day physical labor and management of a
4 farm in at least five of the preceding fifteen years.
- 5 g. "Share rent agreement" means a rental agreement in which the principal
6 consideration given to the owner of agricultural assets is a predetermined portion
7 of the production of farm products produced from the rented agricultural assets
8 and which provides for sharing production costs or risk of loss, or both.
- 9 2. a. An individual is entitled to a credit against the income tax liability under
10 section 57-38-30.3 for selling or renting agricultural assets to a beginning farmer.
11 The credit is equal to:
- 12 (1) Five percent of the sale price of the agricultural asset;
13 (2) Ten percent of the gross rental income in each of the first, second, and third
14 years of a rental agreement; or
- 15 (3) Fifteen percent of the cash equivalent of the gross rental income in each of
16 the first, second, and third years of a share rent agreement.
- 17 b. A qualifying rental agreement includes cash rent of agricultural assets or a share
18 rent agreement. The agricultural asset must be rented at prevailing community
19 rates as determined by the board. The credit may be claimed only after approval
20 and certification by the board.
- 21 c. An owner of agricultural assets or the beginning farmer may terminate a rental
22 agreement, including a share rent agreement, for reasonable cause upon
23 approval of the board. If a rental agreement is terminated without the fault of the
24 owner of agricultural assets, the tax credits may not be retroactively disallowed. If
25 an agreement is terminated with fault by the owner of agricultural assets, any
26 prior tax credits claimed under this subsection by the owner of agricultural assets
27 must be disallowed and must be repaid.
- 28 d. The credit is limited to the liability for income tax as determined under
29 section 57-38-30.3 for the taxable year. If the amount of the credit determined
30 under this subsection for any taxable year exceeds the limitation, the excess may
31 be carried forward to each of the fifteen succeeding taxable years.

- 1 3. a. An individual is entitled to a credit against the income tax liability under
2 section 57-38-30.3 for participating as a beginning farmer in a financial
3 management program approved by the board. The credit is equal to one hundred
4 percent of the cost of participating in the program during the taxable year. An
5 individual is limited to claiming a credit for participating as a beginning farmer in a
6 financial management program approved by the board for a maximum of three
7 years while the farmer is in the program. The board shall maintain a list of
8 approved financial management programs and establish a procedure for
9 approving equivalent programs that are not on the list.
- 10 b. The credit is limited to the liability for income tax as determined under
11 section 57-38-30.3 for the taxable year. If the amount of the credit determined
12 under this subsection for any taxable year exceeds the limitation, the excess may
13 be carried forward to each of the three succeeding taxable years.
- 14 4. The board shall:
- 15 a. Approve and certify beginning farmers as eligible for the program under this
16 section;
- 17 b. Approve and certify owners of agricultural assets as eligible for tax credits under
18 this section;
- 19 c. Provide necessary and reasonable assistance and support to beginning farmers
20 for qualification and participation in financial management programs approved by
21 the board; and
- 22 d. Refer beginning farmers to agencies and organizations that may provide
23 additional information and assistance.

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

26 Beginning farmer tax credits under section 2 of this Act.

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