

Introduced by

Senators Cook, Grindberg, J. Lee

Representatives R. Kelsch, Porter

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 an individual  
3 and corporate income tax credit for targeted retail businesses; 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 **Targeted retail business credit.**

8 Upon application by the owner or operator of a new or expanding retail business, a credit  
9 against tax liability determined under section 57-38-30 or 57-38-30.3 may be granted by the  
10 department of commerce to that taxpayer as provided in this section.

11 1. Grants of credits by the department of commerce must be made in credit grant rounds  
12 awarded by December fifteenth and June fifteenth of each year. December grants  
13 must be based on applications received by the department from the immediately  
14 preceding period from May sixteenth through November fifteenth. June grants must be  
15 based on applications received by the department from the immediately preceding  
16 period from November sixteenth through May fifteenth.

17 2. A grant application must identify the name of the owner or operator and location of the  
18 retail business of the applicant. The retail business that is the subject of the application  
19 must be located in a city with a population of fewer than thirty thousand which imposes  
20 a city sales tax at a rate of at least one percent and ranks below the state average of  
21 city sales tax collections per capita at one percent equivalents as computed by the tax  
22 department for the most recent full calendar year.

23 3. The department of commerce shall score the applications for credits by assigning  
24 points within selected categories determined by the department which relate to

1 encouragement of new retail businesses in cities with a population of fewer than thirty  
2 thousand and below-average city sales tax collections per capita. Among the  
3 categories that must be used by the department to score applicants are:

4 a. The city sales tax collections per capita at one percent equivalents as computed  
5 by the tax department for the most recent full calendar year for the city where the  
6 property is located, with greater scoring points awarded for a lower collections  
7 per capita ranking;

8 b. The expected annual retail sales tax collections for the business, as estimated by  
9 the department of commerce, with consideration of the estimates provided by the  
10 owner or operator, with greater scoring points awarded for greater expected  
11 collections;

12 c. The percentage that the credit applied for is of the amount of private investment  
13 in the business, with greater scoring points awarded as the percentage declines;

14 d. The existence of a strategic plan for retail business development, implemented  
15 by the city in which the business is located, with greater scoring points awarded  
16 based on the department's judgment of the viability of the plan; and

17 e. If the retail sector in which the business will operate is underrepresented in the  
18 city, as evidenced by information provided by the applicant or by a retail gap  
19 analysis performed by the city, greater scoring points must be awarded for lower  
20 representation of that retail sector in the city.

21 4. The total of credits that may be awarded under this section is limited to not more than  
22 one million two hundred fifty thousand dollars in each grant round.

23 5. The credit awarded to an applicant is limited to not more than forty percent of the initial  
24 investment in the business. All or part of the credit received by an applicant may be  
25 transferred by the applicant to the owner of the property in which the business is  
26 located, upon compliance with any conditions and reporting required by the tax  
27 commissioner. Any credit awarded to an applicant or transferred to a property owner  
28 may be carried forward for up to five taxable years.

29 6. An expanding existing business may apply for and receive a credit subject to the same  
30 provisions provided for a new business under this section except:

- 1           a. The expansion must be estimated by the department of commerce, with  
2                   consideration of the estimates provided by the applicant, to result in an increase  
3                   in taxable sales of the business of fifty percent or more within five years;
- 4           b. Not more than twenty-five percent of the credits available in the credit grant  
5                   round may be awarded to expanding existing businesses; and
- 6           c. The credit for an expanding existing business is limited to not more than twenty  
7                   percent of the investment in the expansion.
- 8        7. If within five years after a credit is awarded under this section the recipient ceases  
9           doing retail business at the location for which the credit was awarded, the credit is  
10           terminated and any benefit provided to the business, or transferred by the business,  
11           under this section and used in any previous taxable year becomes a tax obligation of  
12           the taxpayer that claimed the credit, to be paid and subject to enforcement as provided  
13           under this chapter.
- 14        8. A partnership, subchapter S corporation, limited partnership, limited liability company,  
15           or any other passthrough entity entitled to the credit under this section must be  
16           considered to be the taxpayer for purposes of this section, and the amount of the  
17           credit allowed must be determined at the passthrough entity level. The amount of the  
18           total credit determined at the entity level must be passed through to the partners,  
19           shareholders, or members in proportion to their respective interests in the passthrough  
20           entity.

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

23                   Targeted retail business credit under section 1 of this Act.

24        **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
25 December 31, 2010.