

Introduced by

1 A BILL for an Act to create and enact sections 57-38-01.24 and 57-38-01.25, two new
2 subsections to section 57-38-30.3, and chapter 57-38.7 of the North Dakota Century Code,
3 relating to income tax credits for recruitment expenses for hard-to-fill employment positions,
4 internship employment, and contributions to and investments in tourism organizations; and to
5 provide an effective date.

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

7 **SECTION 1.** Section 57-38-01.24 of the North Dakota Century Code is created and
8 enacted as follows:

9 **57-38-01.24. Workforce recruitment credit for hard-to-fill employment positions.**

10 A taxpayer that is an employer in this state is entitled to a credit as determined under this
11 section against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3 for
12 specified direct costs of the taxpayer associated with recruitment of employees for hard-to-fill
13 employment positions within this state.

14 1. The amount of the credit to which a taxpayer is entitled is five percent of the direct
15 costs incurred by the taxpayer during the taxable year associated with recruiting for
16 a hard-to-fill employment position in this state. For purposes of this section:

17 a. "Direct costs" include:

18 (1) Expenses of creating a targeted recruitment program, including salary
19 and expenses of dedicated recruitment staff;

20 (2) Registration and travel costs of recruiting efforts, including attendance
21 at job fairs;

22 (3) Moving expenses paid to or for newly recruited employees; and

23 (4) Signing bonuses paid to newly recruited employees.

1 b. "Hard-to-fill employment position" means a job that is identified by the
2 executive director of job service North Dakota as one that offers an above
3 market average wage but which requires extraordinary recruitment costs for
4 the employer due to the nature or location of the employment or the skills,
5 education, training, or professional licensing or certification required of the
6 employee. The executive director of job service North Dakota may identify a
7 hard-to-fill employment position on a statewide basis or for defined regions of
8 the state.

9 2. Any amount of unused credit under this section may be carried forward for up to
10 four taxable years after the taxable year in which the costs were incurred.

11 3. A passthrough entity that incurs direct costs associated with recruiting for
12 hard-to-fill employment positions within this state must be considered to be the
13 taxpayer for purposes of this section and the amount of the credit allowed with
14 respect to a passthrough entity's costs associated with that recruiting must be
15 determined at the passthrough entity level. The amount of the total credit
16 determined at the passthrough entity level must be allowed to the members in
17 proportion to their respective interests in the passthrough entity.

18 **SECTION 2.** Section 57-38-01.25 of the North Dakota Century Code is created and
19 enacted as follows:

20 **57-38-01.25. Internship employment tax credit.** A taxpayer that is an employer
21 within this state is entitled to a credit as determined under this section against state income tax
22 liability under section 57-38-29, 57-38-30, or 57-38-30.3 for qualified compensation paid to a
23 college intern employed by the taxpayer.

24 1. The amount of the credit to which a taxpayer is entitled is ten percent of the stipend
25 or salary paid to a college intern employed by the taxpayer. For purposes of this
26 subsection:

27 a. An intern must be an enrolled full-time student in a North Dakota institution of
28 higher education; and

29 b. The tax credit under this section applies to a stipend or salary for not more
30 than five interns employed at the same time.

1 2. An additional credit is allowed to a taxpayer for employment by the taxpayer of an
2 individual, who previously served in an intern position with the taxpayer, who is
3 employed by the taxpayer in a permanent full-time employment position with the
4 taxpayer within the twenty-four months following completion of that individual's
5 internship. The additional tax credit is equal to two percent of the new employee's
6 salary during the first twelve months of full-time permanent employment by the
7 taxpayer and the taxpayer becomes eligible for the additional credit upon
8 completion by the new employee of the first twelve months of employment by the
9 taxpayer.

10 **SECTION 3.** Two new subsections to section 57-38-30.3 of the North Dakota Century
11 Code are created and enacted as follows:

12 A taxpayer filing a return under this section is entitled to the credits provided under
13 sections 57-38-01.24 and 57-38-01.25.

14 A taxpayer filing a return under this section is entitled to the credits provided under
15 chapter 57-38.7.

16 **SECTION 4.** Chapter 57-38.7 of the North Dakota Century Code is created and
17 enacted as follows:

18 **57-38.7-01. Definitions.** As used in this chapter, unless the context otherwise
19 requires:

- 20 1. "Director" means the director of the department of commerce division of economic
21 development and finance.
- 22 2. "Passthrough entity" means a corporation that for the applicable tax year is treated
23 as an S corporation or a general partnership, limited partnership, limited liability
24 partnership, trust, or limited liability company and which for the applicable tax year
25 is not taxed as a corporation under chapter 57-38.
- 26 3. "Qualified tourism business" means a business that is involved in a tourism-related
27 business or activity, including recreation, historical or cultural interpretation, special
28 events, guide services, or unique lodging and food services, which serve as
29 destination attractions, and which:

- 1 a. Is incorporated or its satellite operation is incorporated as a for-profit or
2 nonprofit corporation or is a partnership, limited partnership, limited liability
3 company, limited liability partnership, or joint venture;
4 b. Is in compliance with the requirements for filings with the securities
5 commissioner under the securities laws of this state;
6 c. Has North Dakota residents as a majority of its employees in the North
7 Dakota principal office or the North Dakota satellite operation; and
8 d. Has its principal office in this state and has the majority of its business activity
9 performed in this state, except sales activity, or has a significant operation in
10 North Dakota that has or is projected to have more than ten employees or one
11 hundred fifty thousand dollars of sales annually.
12 4. "Taxpayer" means an individual, estate, or trust or a corporation or passthrough
13 entity.

14 **57-38.7-02. Certification - Investment reporting by qualified tourism businesses -**
15 **Maximum investments in qualified tourism businesses.** The director shall certify whether a
16 business that has requested to become a qualified tourism business meets the requirements of
17 subsection 3 of section 57-38.7-01 and the certification must include the period of time the
18 certification covers. The director shall establish the necessary forms and procedures for
19 certifying qualified tourism businesses. The maximum aggregate amount of qualified
20 investments or contributions a qualified tourism business may receive is limited to five hundred
21 thousand dollars which qualify for credits under this chapter. The limitation on investments or
22 contributions under this section may not be interpreted to limit additional investments or
23 contributions by a taxpayer for which that taxpayer is not applying for a credit under this
24 chapter.

25 **57-38.7-03. Tourism business investment tax credit.** If a taxpayer makes a qualified
26 investment in or contribution to a qualified tourism business, the taxpayer is entitled to a credit
27 against state income tax liability under section 57-38-29, 57-38-30, or 57-38-30.3. The amount
28 of the credit to which a taxpayer is entitled is forty-five percent of the amount invested or
29 contributed by the taxpayer in qualified tourism businesses during the taxable year, subject to
30 the following:

- 1 1. The aggregate annual investments or contributions for which a taxpayer may
2 obtain a tax credit under this section is not more than two hundred fifty thousand
3 dollars. This subsection may not be interpreted to limit additional investments or
4 contributions by a taxpayer for which that taxpayer is not applying for a credit.
- 5 2. In any taxable year, a taxpayer may claim no more than one-third of the credit
6 under this section which is attributable to investments or contributions in a single
7 taxable year.
- 8 3. Any amount of credit under this section not allowed because of the limitations in
9 this section may be carried forward for up to four taxable years after the taxable
10 year in which the investment was made.
- 11 4. A passthrough entity that invests in or contributes to a qualified tourism business
12 must be considered to be the taxpayer for purposes of the investment limitations in
13 this section and the amount of the credit allowed with respect to a passthrough
14 entity's investment or contribution in a qualified tourism business must be
15 determined at the passthrough entity level. The amount of the total credit
16 determined at the passthrough entity level must be allowed to the members in
17 proportion to their respective interests in the passthrough entity.
- 18 5. The investment must be at risk in the for-profit tourism business. An investment for
19 which a credit is received under this section must remain in the for-profit tourism
20 business for at least three years. Investments placed in escrow do not qualify for
21 the credit.
- 22 6. The entire amount of an investment for which a credit is claimed under this section
23 must be expended by a for-profit qualified tourism business for the purchase of real
24 property or equipment, expansion of facilities, working capital, or inventory.
- 25 7. A taxpayer who owns a controlling interest in the for-profit qualified tourism
26 business or whose full-time professional activity is the operation of the for-profit
27 qualified tourism business is not entitled to a credit under this section. A member
28 of the immediate family of a taxpayer disqualified by this subsection is not entitled
29 to the credit under this section. For purposes of this subsection, "immediate
30 family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any
31 such person.

1 8. The tax commissioner may disallow any credit otherwise allowed under this section
2 if any representation by a tourism business in the application for certification as a
3 qualified tourism business proves to be false or if the taxpayer or qualified tourism
4 business fails to satisfy any conditions under this section or any conditions
5 consistent with this section otherwise determined by the tax commissioner. The
6 amount of any credit disallowed by the tax commissioner which reduced the
7 taxpayer's income tax liability for any or all applicable tax years, plus penalty and
8 interest as provided under section 57-38-45, must be paid by the taxpayer.

9 **57-38.7-04. Taxable year for tourism business investment tax credit.** The tax
10 credit under section 57-38.7-03 must be credited against the taxpayer's income tax liability for
11 the taxable year in which the investment in or contribution to the qualified tourism business was
12 received by the qualified tourism business.

13 **57-38.7-05. Tourism business investment tax credit limits.** The aggregate amount
14 of tourism business investment tax credit allowed for investments under this chapter is limited to
15 two million five hundred thousand dollars for each calendar year. If investments in qualified
16 tourism businesses reported to the commissioner under section 57-38.7-03 exceed the limits on
17 tax credits for investments imposed by this section, the credit must be allowed to taxpayers in
18 the chronological order of their investments in qualified tourism businesses as determined from
19 the forms filed under section 57-38.7-07.

20 **57-38.7-06. Tourism business investment tax credit - Procedure - Rules.** To
21 receive the tax credit provided by section 57-38.7-03, a taxpayer must claim the credit on the
22 taxpayer's annual state income tax return in the manner prescribed by the tax commissioner
23 and file with the return a copy of the form issued by the qualified tourism business as to the
24 taxpayer's investment in or contribution to the qualified tourism business under section
25 57-38.7-07.

26 **57-38.7-07. Investment or contribution reporting forms.** Within thirty days after the
27 date on which an investment is purchased in or a contribution is made to a qualified tourism
28 business, the qualified tourism business shall file with the tax commissioner and the director
29 and provide to the investor completed forms prescribed by the tax commissioner which show as
30 to each investment in or contribution to the qualified tourism business the following:

- 1 1. The name, address, and social security number of the taxpayer who made the
- 2 investment or contribution.
- 3 2. The dollar amount paid for the investment or contribution by the taxpayer.
- 4 3. The date on which full consideration was received by the qualified tourism
- 5 business for the investment or contribution.

6 **57-38.7-08. Rules and administration.** The tax commissioner shall administer this
7 chapter as it relates to an income tax credit and the tax commissioner has the same powers as
8 provided under section 57-38-56 for purposes of this chapter. The director shall administer this
9 chapter as it relates to certification of qualified tourism businesses and the director may adopt
10 rules for that purpose.

11 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
12 December 31, 2006.