

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2395

Introduced by

Senator O'Connell

Representative S. Kelsh

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to
2 section 57-38-30.3 of the North Dakota Century Code, relating to a small business investment
3 income tax credit; 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
6 created and enacted as follows:

7 **Small business investment tax credit.**

- 8 1. An individual is entitled to a one-time credit as provided in this section against the
9 tax imposed under section 57-38-29 or 57-38-30.3 for investment in the creation or
10 expansion of a small business.
- 11 2. The amount of the credit under this section is twenty percent of the individual
12 investment in the business during the taxable year, limited to a maximum credit of
13 five thousand dollars. The amount of the credit may not exceed the individual's
14 income tax liability under this chapter. An individual is eligible to claim the credit
15 under this section for investment in only one taxable year. However, any unused
16 portion of the credit from the taxable year in which the individual qualified for the
17 credit may be carried forward for up to four additional years.
- 18 3. Qualifying small businesses under this section include:
- 19 a. A business with fifteen or fewer employees which was created during the
20 taxable year; or
- 21 b. A business that expanded during the taxable year and which had five or fewer
22 employees before expansion.
- 23 4. The credit for an individual doing business as a partnership, subchapter S
24 corporation, limited partnership, limited liability company, or other passthrough

entity with respect to the individual's share of investment must be determined at the passthrough entity level.

5. For purposes of this section:

- a. "Business" means a for-profit venture other than production agriculture.
- b. "Expansion of a small business" means an increase of twenty percent or more in the number of full-time employees and is measured by the amount of increased investment in the business for the taxable year of expansion as compared to investment in the business for the previous taxable year.
- c. "Investment" means business expenses allowed on schedule C of federal income tax form 1040 or a comparable schedule for determining profit or loss from a passthrough entity.

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

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2002.