

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2294

Introduced by

Senator Grindberg

Representative Berg

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 corporate and individual
3 income tax credit for fees paid to the small business administration for guaranteed financing; to
4 provide an effective date; and to provide an expiration date.

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

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

8 **Small business tax credit.**

- 9 1. A taxpayer is entitled to a credit against tax liability as determined under section
10 57-38-29, 57-38-30, or 57-38-30.3 as determined under this section.
- 11 2. A small business formed under the laws of this state and operating within this state
12 is entitled to a credit equal to the amount paid during the taxable year by the
13 business to the United States small business administration as an annual
14 guarantee fee to obtain small business administration guaranteed financing
15 through the small business administration 504 loan program. The credit is
16 available for the first sixty months in which the fee is paid. The credit may be
17 claimed only by the small business that is the primary obligor in the financing
18 transaction and which actually paid the fee. The credit may not exceed the
19 taxpayer's tax liability under this chapter and may not be carried back or forward.
- 20 3. For purposes of this section, "small business" means a corporation, partnership,
21 sole proprietorship, or other business entity qualifying as a small business under
22 title 13, Code of Federal Regulations, part 121.
- 23 4. A partnership, subchapter S corporation, limited partnership, limited liability
24 company, or any other passthrough entity that qualifies for a credit under this

1 section must determine allocation of the credit at the passthrough entity level. The
2 amount of the credit determined at the passthrough entity level must be passed
3 through to the individuals, estates, or trusts that are partners, shareholders, or
4 members in proportion to their respective interests in the passthrough entity.

5 5. For purposes of this section, a "guarantee fee" paid to the small business
6 administration means the fee identified in the small business administration 504
7 loan authorization to the business applying for guaranteed financing as the
8 ongoing guarantee fee.

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

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

13 **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for small
14 business administration 504 program loans funded during calendar years 2001 and 2002.