

Introduced by

Legislative Management

(Political Subdivision Taxation Committee)

1 A BILL for an Act to amend and reenact section 57-38-01.33 and subdivision r of subsection 7 of  
2 section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for  
3 purchases of manufacturing machinery and equipment for automating manufacturing  
4 processes; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-38-01.33 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **57-38-01.33. (~~Effective for the first three taxable years beginning after December 31,~~**  
9 **2014) Income tax credit for purchases of manufacturing machinery and equipment for**  
10 **the purpose of automating manufacturing processes.**

11 1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against  
12 the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing  
13 machinery and equipment for the purpose of automating manufacturing processes in  
14 this state. The amount of the credit under this section is twenty percent of the cost of  
15 the manufacturing machinery and equipment purchased in the taxable year. Qualified  
16 expenditures under this section may not be used in the calculation of any other income  
17 tax deduction or credit allowed under this chapter.

18 2. For purposes of this section:

19 a. "Manufacturing machinery and equipment for the purpose of automating  
20 manufacturing processes" means new or used automation and robotic  
21 equipment.

22 b. "Primary sector business" means a business certified by the department of  
23 commerce which, through the employment of knowledge or labor, adds value to a  
24 product, process, or service that results in the creation of new wealth.

- 1           c. "Purchase" includes manufacturing machinery and equipment acquired under a  
2           capital lease only for the taxable year in which the lease is executed. A capital  
3           lease is a lease which meets generally accepted accounting principles. The  
4           qualifying costs of the equipment acquired under a capital lease is the fair market  
5           value of the equipment at the inception of the lease.
- 6           3. The taxpayer shall claim the total credit amount for the taxable year in which the  
7           manufacturing machinery and equipment are purchased. The credit under this section  
8           may not exceed the taxpayer's liability as determined under this chapter for any  
9           taxable year.
- 10          4. If the amount of the credit determined under this section exceeds the liability for tax  
11          under this chapter, the excess may be carried forward to each of the next five  
12          succeeding taxable years.
- 13          5. For the 2015 calendar year, the aggregate amount of credits allowed under this  
14          section may not exceed two million dollars. For ~~the 2016 and 2017~~ calendar years  
15          after 2015, the aggregate amount of credits allowed each calendar year may not  
16          exceed five hundred thousand dollars. However, if the maximum amount of allowed  
17          credits are not claimed in any calendar year, any remaining unclaimed credits may be  
18          carried forward and made available in the next succeeding calendar year. If the  
19          aggregate amount of credits claimed under this section exceeds the amount available  
20          in a calendar year, the tax commissioner shall prorate the credits among the  
21          claimants.
- 22          6. If a taxpayer entitled to the credit provided by this section is a member of a group of  
23          corporations filing a North Dakota consolidated tax return using the combined  
24          reporting method, the credit may be claimed against the aggregate North Dakota tax  
25          liability of all the corporations included in the North Dakota consolidated return.
- 26          7. A passthrough entity entitled to the credit under this section must be considered to be  
27          the taxpayer for purposes of calculating the credit. The amount of the allowable credit  
28          must be determined at the passthrough entity level. The total credit determined at the  
29          entity level must be passed through to the partners, shareholders, or members in  
30          proportion to their respective interests in the passthrough entity. An individual taxpayer

1           may take the credit passed through under this subsection against the individual's state  
2           income tax liability under section 57-38-30.3.

3           8. The department of commerce shall provide the tax commissioner the name, address,  
4           and federal identification number or social security number of the taxpayer approved  
5           as qualifying for the credit under this section, and a list of those items that were  
6           approved as a qualified expenditure by the department. The taxpayer claiming the  
7           credit shall file with the taxpayer's return, on forms prescribed by the tax  
8           commissioner, the following information:

9           a. The name, address, and federal identification number or social security number  
10           of the taxpayer who made the purchase; and

11           b. An itemization of:

12                 (1) Each item of machinery or equipment purchased for automation;

13                 (2) The amount paid for each item of machinery or equipment if the amount  
14                 paid for the machinery or equipment is being used as a basis for calculating  
15                 the credit; and

16                 (3) The date on which payment for the purchase was made.

17           9. Notwithstanding the time limitations contained in section 57-38-38, this section does  
18           not prohibit the tax commissioner from conducting an examination of the credit  
19           claimed and assessing additional tax due under section 57-38-38.

20           **SECTION 2. AMENDMENT.** Subdivision r of subsection 7 of section 57-38-30.3 of the North  
21           Dakota Century Code is amended and reenacted as follows:

22                 r. Automating manufacturing processes tax credit under section 57-38-01.33  
23                 ~~(effective for the first five taxable years beginning after December 31, 2012).~~

24           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
25           December 31, 2016.