

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2340

Introduced by

Senators Campbell, Robinson, Sorvaag

Representatives Keiser, Mock, Steiner

1 A BILL for an Act to ~~create and enact a new subdivision to subsection 3 of section 1 of Senate~~  
2 ~~Bill No. 2057, as approved by the sixty fourth legislative assembly, relating to regular evaluation~~  
3 ~~of economic development tax incentives created by the sixty-fourth legislative assembly; to~~  
4 amend and reenact section 57-38-01.33 and subdivision r of subsection 7 of section 57-38-30.3  
5 of the North Dakota Century Code, relating to an income tax credit for purchases of  
6 manufacturing machinery and equipment for automating manufacturing processes; ~~and to~~  
7 provide a statement of legislative intent; to provide an effective date; and to provide an  
8 expiration date.

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

10 ~~SECTION 1. A new subdivision to subsection 3 of section 1 of Senate Bill No. 2057, as~~  
11 ~~approved by the sixty fourth legislative assembly, is created and enacted as follows:~~  
12 ~~Any economic development tax incentive created by the sixty fourth legislative~~  
13 ~~assembly.~~

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

16 **57-38-01.33. (Effective for the first three taxable years beginning after December 31,**  
17 **20122014) Income tax credit for purchases of manufacturing machinery and equipment**  
18 **for the purpose of automating manufacturing processes.**

19 1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against  
20 the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing  
21 machinery and equipment for the purpose of automating manufacturing processes in  
22 this state. The amount of the credit under this section is twenty percent of the ~~costs~~  
23 ~~incurred in the taxable year to purchase~~ cost of the manufacturing machinery and  
24 equipment for the purpose of automating manufacturing processes purchased in the

- 1           taxable year. Qualified expenditures under this section may not be used in the  
2           calculation of any other income tax deduction or credit allowed ~~by law~~under this  
3           chapter.
- 4           2. For purposes of this section:
- 5           a. "Manufacturing machinery and equipment for the purpose of automating  
6           manufacturing processes" means new or used automation and robotic  
7           equipment.
- 8           b. "Primary sector business" means a business certified by the department of  
9           commerce which, through the employment of knowledge or labor, adds value to a  
10          product, process, or service that results in the creation of new wealth.
- 11          c. "Purchase" includes manufacturing machinery and equipment acquired under a  
12          capital lease only for the taxable year in which the lease is executed. A capital  
13          lease is a lease which meets generally accepted accounting principles. The  
14          qualifying costs of the equipment acquired under a capital lease is the fair market  
15          value of the equipment at the inception of the lease.
- 16          3. The taxpayer shall claim the total credit amount for the taxable year in which the  
17          manufacturing machinery and equipment are purchased. The credit under this section  
18          may not exceed the taxpayer's liability as determined under this chapter for any  
19          taxable year.
- 20          4. If the amount of the credit determined under this section exceeds the liability for tax  
21          under this chapter, the excess may be carried forward to each of the next five  
22          succeeding taxable years.
- 23          5. ~~The~~For the 2015 calendar year, the aggregate amount of credits allowed under this  
24          section may not exceed two million dollars ~~in any calendar year.~~ Credits subject to this  
25          limitation ~~must be determined based upon the date of the qualified purchase~~For the  
26          2016 and 2017 calendar years, the aggregate amount of credits allowed each  
27          calendar year may not exceed five hundred thousand dollars. However, if the  
28          maximum amount of allowed credits are not claimed in any calendar year, any  
29          remaining unclaimed credits may be carried forward and made available in the next  
30          succeeding calendar year. If the aggregate amount of credits claimed under this

1 section exceeds ~~two million dollars~~the amount available in a calendar year, the tax  
2 commissioner shall prorate the ~~allowable amount of~~credits among the claimants.

3 6. If a taxpayer entitled to the credit provided by this section is a member of a group of  
4 corporations filing a North Dakota consolidated tax return using the combined  
5 reporting method, the credit may be claimed against the aggregate North Dakota tax  
6 liability of all the corporations included in the North Dakota consolidated return.

7 7. A passthrough entity entitled to the credit under this section must be considered to be  
8 the taxpayer for purposes of calculating the credit. The amount of the allowable credit  
9 must be determined at the passthrough entity level. The total credit determined at the  
10 entity level must be passed through to the partners, shareholders, or members in  
11 proportion to their respective interests in the passthrough entity. An individual taxpayer  
12 may take the credit passed through under this subsection against the individual's state  
13 income tax liability under section 57-38-30.3.

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

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

22 b. An itemization of:

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

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

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

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

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

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

5 | **SECTION 3. LEGISLATIVE INTENT REGARDING AUTOMATING MANUFACTURING**  
6 | **PROCESSES CREDIT.** It is the intent of the sixty-fourth legislative assembly that the income  
7 | tax credit for purchases of manufacturing machinery and equipment for automating  
8 | manufacturing processes be one of the economic development tax incentives selected for  
9 | analysis during the 2015-16 interim by the legislative management interim committee assigned  
10 | the study responsibility under subsection 3 of section 1 of Senate Bill No. 2057, as approved by  
11 | the sixty-fourth legislative assembly.

12 | **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for ~~purchases-~~  
13 | ~~made~~the first three taxable years after December 31, 2014, and is thereafter ineffective.