

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2340**

Introduced by

Senators Campbell, Robinson, Sorvaag

Representatives Keiser, Mock, Steiner

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; to provide a statement of legislative intent; to provide an effective date; and to
5 provide an expiration date.

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

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

9 **57-38-01.33. (Effective for the first three taxable years beginning after December 31,**
10 **~~2012~~2014) Income tax credit for purchases of manufacturing machinery and equipment**
11 **for the purpose of automating manufacturing processes.**

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

21 2. For purposes of this section:

22 a. "Manufacturing machinery and equipment for the purpose of automating
23 manufacturing processes" means new or used automation and robotic
24 equipment.

- 1 b. "Primary sector business" means a business certified by the department of
2 commerce which, through the employment of knowledge or labor, adds value to a
3 product, process, or service that results in the creation of new wealth.
- 4 c. "Purchase" includes manufacturing machinery and equipment acquired under a
5 capital lease only for the taxable year in which the lease is executed. A capital
6 lease is a lease which meets generally accepted accounting principles. The
7 qualifying costs of the equipment acquired under a capital lease is the fair market
8 value of the equipment at the inception of the lease.
- 9 3. The taxpayer shall claim the total credit amount for the taxable year in which the
10 manufacturing machinery and equipment are purchased. The credit under this section
11 may not exceed the taxpayer's liability as determined under this chapter for any
12 taxable year.
- 13 4. If the amount of the credit determined under this section exceeds the liability for tax
14 under this chapter, the excess may be carried forward to each of the next five
15 succeeding taxable years.
- 16 5. ~~The~~For the 2015 calendar year, the aggregate amount of credits allowed under this
17 section may not exceed two million dollars ~~in any calendar year. Credits subject to this~~
18 ~~limitation must be determined based upon the date of the qualified purchase~~For the
19 2016 and 2017 calendar years, the aggregate amount of credits allowed each
20 calendar year may not exceed five hundred thousand dollars. However, if the
21 maximum amount of allowed credits are not claimed in any calendar year, any
22 remaining unclaimed credits may be carried forward and made available in the next
23 succeeding calendar year. If the aggregate amount of credits claimed under this
24 section exceeds the amount available in a calendar year, the tax commissioner shall
25 prorate the credits among the claimants.
- 26 6. If a taxpayer entitled to the credit provided by this section is a member of a group of
27 corporations filing a North Dakota consolidated tax return using the combined
28 reporting method, the credit may be claimed against the aggregate North Dakota tax
29 liability of all the corporations included in the North Dakota consolidated return.
- 30 7. A passthrough entity entitled to the credit under this section must be considered to be
31 the taxpayer for purposes of calculating the credit. The amount of the allowable credit

1 must be determined at the passthrough entity level. The total credit determined at the
2 entity level must be passed through to the partners, shareholders, or members in
3 proportion to their respective interests in the passthrough entity. An individual taxpayer
4 may take the credit passed through under this subsection against the individual's state
5 income tax liability under section 57-38-30.3.

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

- 12 a. The name, address, and federal identification number or social security number
13 of the taxpayer who made the purchase; and
14 b. An itemization of:
15 (1) Each item of machinery or equipment purchased for automation;
16 (2) The amount paid for each item of machinery or equipment if the amount
17 paid for the machinery or equipment is being used as a basis for calculating
18 the credit; and
19 (3) The date on which payment for the purchase was made.

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

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

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

27 **SECTION 3. LEGISLATIVE INTENT REGARDING AUTOMATING MANUFACTURING**
28 **PROCESSES CREDIT.** It is the intent of the sixty-fourth legislative assembly that the income
29 tax credit for purchases of manufacturing machinery and equipment for automating
30 manufacturing processes be one of the economic development tax incentives selected for
31 analysis during the 2015-16 interim by the legislative management interim committee assigned

Sixty-fourth
Legislative Assembly

1 the study responsibility under subsection 3 of section 1 of Senate Bill No. 2057, as approved by
2 the sixty-fourth legislative assembly.

3 **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for the first
4 three taxable years after December 31, 2014, and is thereafter ineffective.