

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 of the North Dakota Century Code,
2 relating to an income tax credit for purchases of manufacturing machinery and equipment for
3 automating manufacturing processes; and to provide an effective date.

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

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

7 **57-38-01.33. (~~Effective for the first three taxable years beginning after December 31,~~**
8 **2012) Income tax credit for purchases of manufacturing machinery and equipment for**
9 **the purpose of automating manufacturing processes.**

- 10 1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against
11 the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing
12 machinery and equipment for the purpose of automating manufacturing processes in
13 this state. The amount of the credit under this section is twenty percent of the costs
14 incurred in the taxable year to purchase manufacturing machinery and equipment for
15 the purpose of automating manufacturing processes. Qualified expenditures under this
16 section may not be used in the calculation of any other income tax deduction or credit
17 allowed by law 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 acquisition through a lease-purchase agreement.
- 2 3. The taxpayer shall claim the total credit amount for the taxable year in which the
3 manufacturing machinery and equipment are purchased. The credit under this section
4 may not exceed the taxpayer's liability as determined under this chapter for any
5 taxable year.
- 6 4. If the amount of the credit determined under this section exceeds the liability for tax
7 under this chapter, the excess may be carried forward to each of the next five
8 succeeding taxable years.
- 9 5. The aggregate amount of credits allowed under this section may not exceed two
10 million dollars in any calendar year. ~~Credits subject to this limitation must be~~
11 ~~determined based upon the date of the qualified purchase~~ the aggregate amount of
12 credits claimed under this section exceeds two million dollars in any calendar year, the
13 tax commissioner shall prorate the allowable amount of credits among the claimants.
- 14 6. If a taxpayer entitled to the credit provided by this section is a member of a group of
15 corporations filing a North Dakota consolidated tax return using the combined
16 reporting method, the credit may be claimed against the aggregate North Dakota tax
17 liability of all the corporations included in the North Dakota consolidated return.
- 18 7. A passthrough entity entitled to the credit under this section must be considered to be
19 the taxpayer for purposes of calculating the credit. The amount of the allowable credit
20 must be determined at the passthrough entity level. The total credit determined at the
21 entity level must be passed through to the partners, shareholders, or members in
22 proportion to their respective interests in the passthrough entity. An individual taxpayer
23 may take the credit passed through under this subsection against the individual's state
24 income tax liability under section 57-38-30.3.
- 25 8. The department of commerce shall provide the tax commissioner the name, address,
26 and federal identification number or social security number of the taxpayer approved
27 as qualifying for the credit under this section, and a list of those items that were
28 approved as a qualified expenditure by the department. The taxpayer claiming the
29 credit shall file with the taxpayer's return, on forms prescribed by the tax
30 commissioner, the following information:

- 1 a. The name, address, and federal identification number or social security number
2 of the taxpayer who made the purchase; and
3 b. An itemization of:
4 (1) Each item of machinery or equipment purchased for automation;
5 (2) The amount paid for each item of machinery or equipment if the amount
6 paid for the machinery or equipment is being used as a basis for calculating
7 the credit; and
8 (3) The date on which payment for the purchase was made.
9 9. Notwithstanding the time limitations contained in section 57-38-38, this section does
10 not prohibit the tax commissioner from conducting an examination of the credit
11 claimed and assessing additional tax due under section 57-38-38.

12 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
13 December 31, 2014.