Sixty-second Legislative Assembly of North Dakota

SENATE BILL NO. 2055

Introduced by

23

2. For purposes of this section:

Legislative Management

(Workforce Committee)

1	A BILL f	or an Act to create and enact two new sections to chapter 57-38 and two new	
2	subdivis	sions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating	
3	to incom	ne tax credits for purchases of manufacturing machinery and equipment for the purpose	
4	of auton	nating manufacturing processes and for qualified expenditures for lean manufacturing;	
5	and to p	provide an effective date.	
6	BE IT E	NACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:	
7	SEC	CTION 1. Two new subdivisions to subsection 7 of section 57-38-30.3 of the North	
8	Dakota	Century Code are created and enacted as follows:	
9		Automating manufacturing processes tax credit under section 2 of this Act.	
10		Lean manufacturing tax credit under section 3 of this Act.	
11	SEC	CTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created	
12	and enacted as follows:		
13	Inco	ome tax credit for purchases of manufacturing machinery and equipment for the	
14	purpos	e of automating manufacturing processes.	
15	<u>1.</u>	A taxpayer that is a primary sector business is allowed a nonrefundable credit against	
16		the tax imposed under section 57-38-29, 57-38-30, or 57-38-30.3 for purchases of	
17		manufacturing machinery and equipment for the purpose of automating manufacturing	
18	1	processes in this state. The amount of the credit under this section is twenty percent of	
19		expenses for purchases of the costs incurred in the taxable year to purchase	
20	ı	manufacturing machinery and equipment for the purpose of automating manufacturing	
21		processes. Qualified expenditures under this section may not be used in the	
22		calculation of any other income tax deduction or credit allowed by law.	

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1 "Manufacturing machinery and equipment for the purpose of automating 2 manufacturing processes" means new or used automation and robotic 3 equipment. 4 "Primary sector business" means a business certified by the department of b. 5 commerce which, through the employment of knowledge or labor, adds value to a 6 product, process, or service that results in the creation of new wealth. 7 3. The taxpayer shall claim the total credit amount for the taxable year in which the 8 manufacturing machinery and equipment are purchased. The credit under this section 9 may not exceed the taxpayer's liability as determined under this chapter for any 10 taxable year. 11 4. If the amount of the credit determined under this section for any taxable year exceeds 12 the limitation under subsection 3, the unused creditliability for tax under this chapter, 13 the excess may be used as an automation credit carryover carried forward to each of 14 the next five succeeding taxable years. The entire amount of the unused credit for the 15 taxable year must be carried first to the earliest of the taxable years to which the credit 16 may be carried and then to each successive year to which the credit may be carried. 17 <u>5.</u> The total aggregate amount of credits allowed under this section may not exceed two 18 million dollars in any taxable calendar year. Credits subject to this limitation must be 19 determined based upon the date of the qualified purchase. 20 6. In the case of a taxpayer that is a partner in a partnership or a member in a limited 21 liability company, the credit allowed for the taxable year may not exceed an amount 22 separately computed with respect to the taxpayer's interest in the trade, business, or 23 entity equal to the amount of tax attributable to that portion of the taxpayer's taxable 24 income which is allocable or apportionable to the taxpayer's interest in the trade, 25 business, or entity. 26 7.6. 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 A partnership, subchapter S corporation, limited partnership, limited liability company, 8.7.

or any other passthrough entity entitled to the credit under this section must be

I		considered to be the taxpayer for purposes of calculating the credit. The amount of the
2		allowable credit must be determined at the passthrough entity level. The total credit
3		determined at the entity level must be passed through to the partners, shareholders, or
4		members in proportion to their respective interests in the passthrough entity. An
5		individual taxpayer may take the credit passed through under this subsection against
6		the individual's state income tax liability under section 57-38-29 or 57-38-30.3.
7	8	The department of commerce shall provide the tax commissioner the name, address,
8		and federal identification number or social security number of the taxpayer approved
9		as qualifying for the credit under this section, and a list of those items that were
10		approved as a qualified expenditure by the department. The taxpayer claiming the
11		credit shall file with the taxpayer's return, on forms prescribed by the tax
12		commissioner, the following information:
13		a. The name, address, and federal identification number or social security number
14		of the taxpayer who made the purchase; and
15		b. An itemization of:
16		(1) Each item of machinery or equipment purchased for automation;
17		(2) The amount paid for each item of machinery or equipment if the amount
18		paid for the machinery or equipment is being used as a basis for calculating
19		the credit; and
20		(3) The date on which payment for the purchase was made.
21	9.	Notwithstanding the time limitations contained in section 57-38-38, this section does
22		not prohibit the tax commissioner from conducting an examination of the credit
23		claimed and assessing additional tax due under section 57-38-38.
24	SEC	CTION 3. A new section to chapter 57-38 of the North Dakota Century Code is created
25	and ena	cted as follows:
26	Inco	ome tax credit for qualified expenditures necessary for implementing lean
27	<u>manufa</u>	cturing.
28	<u>1.</u>	A taxpayer that is a primary sector business is allowed a nonrefundable credit against
29		the tax imposed under section 57-38-29, 57-38-30, or 57-38-30.3 for qualified
30		expenditures necessary for implementing lean manufacturing in this state. The amount
31		of the credit under this section is twenty percent of expanses the costs incurred in the

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1		taxable year for qualified expenditures necessary for implementing lean
2		manufacturing. Qualified expenditures under this section may not be used in the
3		calculation of any other income tax deduction or credit allowed by law.
4	<u>2.</u>	For purposes of this section:
5		a. "Lean manufacturing" means a manufacturing improvement approach based on
6		using the minimum amount of manpower, materials, money, machines, and
7		space.
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. "Qualified expenditures" means expenditures for training programs, materials,
12	1	tools, technology, software, or consultant services used to implement lean
13		manufacturing which have been qualified by the department of commerce, or an
14		entity designated by the department of commerce, as necessary for
15	ı	implementing lean manufacturing.
16	<u>3.</u>	The taxpayer shall claim the total credit amount for in the taxable year in which the
17		qualified expenditures were incurred made. The credit under this section may not
18	ı	exceed the taxpayer's liability as determined under this chapter for any taxable year.
19	<u>4.</u>	If the amount of the credit determined under this section for any taxable year exceeds
20		the limitation under subsection 3, the unused creditliability for tax under this chapter,
21		the excess may be used as a lean manufacturing credit carryovercarried forward to
22		each of the next five succeeding taxable years. The entire amount of the unused credit
23		for the taxable year must be carried first to the earliest of the taxable years to which
24		the credit may be carried and then to each successive year to which the credit may be
25		<u>carried.</u>
26	<u>5.</u>	The totalaggregate amount of credits allowed under this section may not exceed two
27		million dollars in any taxablecalendar year. Credits subject to this limitation must be
28	I	determined based upon the date of the qualified expenditure.
29	<u>6.</u>	In the case of a taxpayer that is a partner in a partnership or a member in a limited
30		liability company, the credit allowed for the taxable year may not exceed an amount
31		separately computed with respect to the taxpayer's interest in the trade, business, or

1		entity equal to the amount of tax attributable to that portion of the taxpayer's taxable
2		income which is allocable or apportionable to the taxpayer's interest in the trade,
3		business, or entity.
4	7. 6.	If a taxpayer entitled to the credit provided by this section is a member of a group of
5		corporations filing a North Dakota consolidated tax return using the combined
6		reporting method, the credit may be claimed against the aggregate North Dakota tax
7		liability of all the corporations included in the North Dakota consolidated return.
8	<u>8.7.</u>	A partnership, subchapter S corporation, limited partnership, limited liability company,
9		or any other passthrough entity entitled to the credit under this section must be
10		considered to be the taxpayer for purposes of calculating the credit. The amount of the
11		allowable credit must be determined at the passthrough entity level. The total credit
12		determined at the entity level must be passed through to the partners, shareholders, or
13		members in proportion to their respective interests in the passthrough entity. An
14		individual taxpayer may take the credit passed through under this subsection against
15		the individual's state income tax liability under section 57-38-29 or 57-38-30.3.
16	8.	The department of commerce shall provide the tax commissioner the name, address,
17		and federal identification number or social security number of the taxpayer approved
18		as qualifying for the credit under this section, and a list of those items that were
19		approved as a qualified expenditure by the department. The taxpayer claiming the
20		credit shall file with the taxpayer's return, on forms prescribed by the tax
21		commissioner, the following information:
22		a. The name, address, and federal identification number or social security number
23		of the taxpayer who made the purchase; and
24		b. An itemization of:
25		(1) Each qualified expenditure;
26		(2) The amount paid for each qualified expenditure if the amount paid for the
27		qualified expenditure is being used as a basis for calculating the credit; and
28		(3) The date on which payment for the qualified expenditure was made.
29	9.	Notwithstanding the time limitations contained in section 57-38-38, this section does
30		not prohibit the tax commissioner from conducting an examination of the credit
31		claimed and assessing additional tax due under section 57-38-38.

Sixty-second Legislative Assembly

- 1 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
- 2 December 31, 2010.