

Sixty-sixth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1040**

Introduced by

Legislative Management

(Taxation Committee)

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to  
2 subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the provision  
3 of an income tax credit for purchases of manufacturing machinery and equipment to automate  
4 manufacturing processes; and to provide an effective date.

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

6 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Twenty-first century manufacturing workforce incentive.**

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

17 2. For purposes of this section:

18 a. "Improved job quality" means a five percent increase in average wages or a five  
19 percent improvement in workplace safety as documented through participation in  
20 workforce safety and insurance safety incentive programs.

21 b. "Increased productivity" means no less than a five percent increase in output or a  
22 five percent increase in the number of units produced per time period.

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

1           used to upgrade or advance a manufacturing process. The term does not include  
2           replacement automation and robotic equipment that does not upgrade or  
3           advance a manufacturing process.

4           d. "Primary sector business" has the meaning provided in section 1-01-49.

5           e. "Purchase" includes manufacturing machinery and equipment acquired under a  
6           capital lease only for the taxable year in which the lease is executed. A capital  
7           lease is a lease which meets generally accepted accounting principles. The  
8           qualifying costs of the equipment acquired under a capital lease is the fair market  
9           value of the equipment at the inception of the lease.

10          3. The taxpayer shall claim the total credit amount for the taxable year in which the  
11          manufacturing machinery and equipment are purchased. The credit under this section  
12          may not exceed the taxpayer's liability as determined under this chapter for any  
13          taxable year.

14          4. If the amount of the credit determined under this section exceeds the liability for tax  
15          under this chapter, the excess may be carried forward to each of the next five  
16          succeeding taxable years.

17          5. The aggregate amount of credits allowed each calendar year under this section may  
18          not exceed two million dollars. However, if the maximum amount of allowed credits are  
19          not claimed in any calendar year, any remaining unclaimed credits may be carried  
20          forward and made available in the next succeeding calendar year. If the aggregate  
21          amount of credits claimed under this section exceeds the amount available in a  
22          calendar year, the tax commissioner shall prorate the credits among the claimants.

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

27          7. A passthrough entity entitled to the credit under this section must be considered to be  
28          the taxpayer for purposes of calculating the credit. The amount of the allowable credit  
29          must be determined at the passthrough entity level. The total credit determined at the  
30          entity level must be passed through to the partners, shareholders, or members in  
31          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 approved as a  
6           qualified expenditure by the department. The taxpayer claiming the credit shall file with  
7           the taxpayer's return, on forms prescribed by the tax commissioner, the following  
8           information:

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

11          b.   An itemization of:

12           (1)   Each item of machinery or equipment purchased for automation, including a  
13                description of the equipment or system being upgraded or advanced, and  
14                an explanation of how the upgrade or advancement will improve job quality  
15                or increase productivity;

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.   Within one year after claiming a tax credit under this section, a taxpayer shall file with  
21           the tax commissioner a report that documents the improved job quality or increased  
22           productivity required under this section and any other information the tax  
23           commissioner determines is necessary for administration of this section. Failure to  
24           document the improved job quality or increased productivity requirements is cause to  
25           disallow the credit attributable to the noncompliance. The tax commissioner shall  
26           provide notice of the disallowed credit to the taxpayer. Within ninety days after the  
27           date of the notice, the taxpayer shall file an amended return for each taxable year in  
28           which the disallowed credit reduced the taxpayer's tax liability and pay the amount  
29           due. If an amended return is not filed timely, the tax commissioner shall disallow the  
30           credit and assess any tax due. An assessment of tax made under this subsection is  
31           final and irrevocably fixed.

1        10. Notwithstanding the time limitations contained in section 57-38-38, this section does  
2                not prohibit the tax commissioner from conducting an examination of the credit  
3                claimed and assessing additional tax due under section 57-38-38.

4        **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota  
5 Century Code is created and enacted as follows:

6                Twenty-first century manufacturing workforce incentive under section 1 of this  
7                Act.

8        **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
9 December 31, 2018.