Sixty-second Legislative Assembly of North Dakota

SENATE BILL NO. 2055

Introduced by

Legislative Management

(Workforce Committee)

1 A BILL for an Act to create and enact two new sections to chapter 57-38 and two new

2 subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating

3 to income tax credits for purchases of manufacturing machinery and equipment for the purpose

4 of automating manufacturing processes and for qualified expenditures for lean manufacturing;

5 and to provide an effective date.

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

- 7 SECTION 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 <u>Automating manufacturing processes tax credit under section 2 of this Act.</u>
- 10 Lean manufacturing tax credit under section 3 of this Act.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created
and enacted as follows:

Income tax credit for purchases of manufacturing machinery and equipment for the
purpose of automating manufacturing processes.

15 <u>1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against</u>
16 <u>the tax imposed under section 57-38-29, 57-38-30, or 57-38-30.3 for purchases of</u>

- 17 manufacturing machinery and equipment for the purpose of automating manufacturing
- 18 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 manufacturing machinery and equipment for the purpose of automating manufacturing
- 21 processes. Qualified expenditures under this section may not be used in the
- 22 <u>calculation of any other income tax deduction or credit allowed by law.</u>
- 23 <u>2.</u> For purposes of this section:

1		<u>a.</u>	"Manufacturing machinery and equipment for the purpose of automating
2			manufacturing processes" means new or used automation and robotic
3			equipment.
4		<u>b.</u>	"Primary sector business" means a business certified by the department of
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	<u>3.</u>	<u>The t</u>	taxpayer shall claim the total credit amount for the taxable year in which the
8		manu	ufacturing 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		<u>taxat</u>	<u>ble year.</u>
11	<u>4.</u>	<u>If the</u>	amount of the credit determined under this section for any taxable year exceeds
12		<u>the lii</u>	mitation under subsection 3, the unused creditliability for tax under this chapter,
13		<u>the e</u>	excess may be used as an automation credit carryovercarried forward to each of
14		<u>the n</u>	ext five succeeding taxable years. The entire amount of the unused credit for the
15		taxat	ble year must be carried first to the earliest of the taxable years to which the credit
16		<u>may</u>	be carried and then to each successive year to which the credit may be carried.
17	<u>5.</u>	<u>The </u> t	totalaggregate amount of credits allowed under this section may not exceed two
18		<u>millio</u>	on dollars in any taxable calendar year. Credits subject to this limitation must be
19		<u>deter</u>	mined based upon the date of the qualified purchase.
20	<u>6.</u>	<u>In the</u>	e case of a taxpayer that is a partner in a partnership or a member in a limited
21		<u>liabili</u>	ity company, the credit allowed for the taxable year may not exceed an amount
22		<u>sepa</u>	rately 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		<u>incon</u>	ne which is allocable or apportionable to the taxpayer's interest in the trade,
25		<u>busir</u>	n ess, or entity.
26	<u>7.6.</u>	<u>lf a ta</u>	axpayer entitled to the credit provided by this section is a member of a group of
27		<u>corpo</u>	prations filing a North Dakota consolidated tax return using the combined
28		<u>repor</u>	rting method, the credit may be claimed against the aggregate North Dakota tax
29		<u>liabili</u>	ity of all the corporations included in the North Dakota consolidated return.
30	<u>8.7.</u>	<u>A par</u>	rtnership, subchapter S corporation, limited partnership, limited liability company,
31		<u>or an</u>	y other passthrough entity entitled to the credit under this section must be

1		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	1	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	SECTION 3. A new section to chapter 57-38 of the North Dakota Century Code is created		
25	and enacted as follows:		
26	Inco	ome tax credit for qualified expenditures necessary for implementing lean	
27	manufacturing.		
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 expenses 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	1	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	1	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 carryover carried 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		carried.		
26	<u>5.</u>	The total aggregate 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	1	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		

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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	<u>7.6.</u>	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.				

1 SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after

2 December 31, 2010.