

**SENATE BILL NO. 2178**

Introduced by

Senators Wardner, Taylor

Representatives Kreidt, Onstad

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to  
2 section 57-38-30.3 of the North Dakota Century Code, relating to an individual and corporate  
3 income tax credit for certain investments in a dairy farm milking operation; and to provide an  
4 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  
7 created and enacted as follows:

8 **Dairy farm milking operation investment tax credit.** A taxpayer who makes a  
9 qualified investment in a dairy farm milking operation is entitled to a credit against state income  
10 tax liability as determined under section 57-38-29, 57-38-30, or 57-38-30.3. The amount of the  
11 credit to which a taxpayer is entitled is thirty percent of the amount invested by the taxpayer in  
12 the dairy farm milking operation during the taxable year, subject to the following:

- 13 1. The aggregate annual investment for which a taxpayer may obtain a tax credit  
14 under this section is not more than fifty thousand dollars. This subsection may not  
15 be interpreted to limit additional investment by a taxpayer for which that taxpayer is  
16 not applying for a credit.
- 17 2. In any taxable year, a taxpayer may claim no more than fifty percent of the credit  
18 under this section which is attributable to qualified investments in a single taxable  
19 year. The amount of the credit allowed under this section for any taxable year may  
20 not exceed fifty percent of the taxpayer's tax liability as otherwise determined  
21 under this chapter.
- 22 3. Any amount of credit under this section not allowed because of the limitations in  
23 this section may be carried forward for up to fifteen taxable years after the taxable  
24 year in which the investment was made.

- 1           4. A partnership that invests in a dairy farm milking operation must be considered to  
2           be the taxpayer for purposes of the investment limitations in this section and the  
3           amount of the credit allowed with respect to a partnership's investment in a  
4           qualified business must be determined at the partnership level. The amount of the  
5           total credit determined at the partnership level must be allowed to the partners in  
6           proportion to their respective interests in the partnership.
- 7           5. The investment must be at risk in the business. An investment for which a credit is  
8           received under this section must remain in the dairy farm milking operation for at  
9           least three years.
- 10          6. The entire amount of an investment for which a credit is claimed under this section  
11          must be expended by the taxpayer for machinery, equipment, and structural  
12          materials used directly and exclusively in the dairy farm milking operation.  
13          Purchase of replacement machinery, equipment, or construction materials is  
14          eligible for the credit if it otherwise qualifies under this section.
- 15          7. The tax credit under this section accrues to the taxpayer for the taxable year in  
16          which full consideration for the eligible machinery, equipment, and structural  
17          materials was paid by the taxpayer.
- 18          8. For purposes of this section:
  - 19           a. "Equipment" means any tangible personal property, other than machinery,  
20           used directly and exclusively in milk collection, handling, and storage; heating  
21           or cooling of the structure in which the milking operation is conducted; or  
22           tangible personal property, other than machinery, used directly and  
23           exclusively for waste handling and disposal directly related to the milking  
24           operation, and which tangible personal property is not commonly usable in  
25           other agricultural operations.
  - 26           b. "Machinery" means mechanical devices used directly and exclusively in milk  
27           collection, handling, and storage; heating or cooling of the structure in which  
28           the milking operation is conducted; or mechanical devices used directly and  
29           exclusively for waste handling and disposal directly related to the milking  
30           operation. The term includes electrical, mechanical, and electronic  
31           components that are part of machinery and necessary for a machine to

1 produce its effect or result and environmental control equipment required to  
2 maintain certain levels of humidity or temperature. The term includes  
3 computer equipment that controls or monitors the functions of machinery used  
4 directly in the milking operation.

5 c. "Machinery" and "equipment" do not include handtools or transportation  
6 equipment commonly usable in other agricultural operations or machines and  
7 equipment used primarily in administrative, accounting, sales, or other  
8 segments of the dairy farm operation besides milk production, handling, and  
9 storage.

10 d. "Structural materials" means materials incorporated in the structure in which  
11 the milking operation is conducted or incorporated in the waste handling and  
12 disposal system associated with that structure.

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

15 A taxpayer filing a return under this section is entitled to the credit provided under  
16 section 1 of this Act.

17 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
18 December 31, 2004.