

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED 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 in this state that is owned by the taxpayer
10 is entitled to a credit against state income tax liability as determined under section 57-38-29,
11 57-38-30, or 57-38-30.3. The amount of the credit to which a taxpayer is entitled is thirty
12 percent of the amount invested by the taxpayer in the dairy farm milking operation during the
13 taxable year, subject to the following:

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

- 1 3. Any amount of credit under this section not allowed because of the limitations in
2 this section may be carried forward for up to fifteen taxable years after the taxable
3 year in which the investment was made.
- 4 4. If the taxpayer is a passthrough entity consisting of a partnership, S corporation, or
5 a limited liability company treated like a partnership for purposes of this chapter,
6 the total amount of the credit must be determined at the passthrough entity level.
7 The total amount of the credit must be allowed to the passthrough entity's owners
8 in proportion to their respective interests in the passthrough entity. For this
9 purpose, subsections 1, 2, and 3 do not apply to the passthrough entity but do
10 apply to any passthrough entity owner that is not a passthrough entity.
- 11 5. The investment must be at risk in the business. An investment for which a credit is
12 received under this section must remain in the dairy farm milking operation for at
13 least three years.
- 14 6. The first taxable year in which the credit is allowed is the taxable year in which the
15 taxpayer purchased the eligible machinery, equipment, and structural materials.
- 16 7. For purposes of this section:
 - 17 a. "Equipment" means any tangible personal property, other than machinery,
18 used directly and exclusively in milk collection, handling, and storage; heating
19 or cooling of the structure in which the milking operation is conducted; or
20 tangible personal property, other than machinery, used directly and
21 exclusively for waste handling and disposal directly related to the milking
22 operation, and which tangible personal property is not commonly usable in
23 other agricultural operations.
 - 24 b. "Machinery" means mechanical devices used directly and exclusively in milk
25 collection, handling, and storage; heating or cooling of the structure in which
26 the milking operation is conducted; or mechanical devices used directly and
27 exclusively for waste handling and disposal directly related to the milking
28 operation. The term includes electrical, mechanical, and electronic
29 components that are part of machinery and necessary for a machine to
30 produce its effect or result and environmental control equipment required to
31 maintain certain levels of humidity or temperature. The term includes

- 1 computer equipment that controls or monitors the functions of machinery
2 used directly in the milking operation.
- 3 c. "Machinery" and "equipment" do not include handtools or transportation
4 equipment commonly usable in other agricultural operations or machines and
5 equipment used primarily in administrative, accounting, sales, or other
6 segments of the dairy farm operation besides milk production, handling, and
7 storage.
- 8 d. "Qualified investment" or "investment" means the purchase of machinery,
9 equipment, and structural materials used directly and exclusively in a dairy
10 farm milking operation. It includes the purchase of replacement machinery,
11 equipment, and construction materials used for the same purpose.
- 12 e. "Structural materials" means materials incorporated in the structure in which
13 the milking operation is conducted or incorporated in the waste handling and
14 disposal system associated with that structure.

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

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

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