

January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2261

Introduced by

Senators Klein, Barta, Kessel

Representatives Nelson, Schauer

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 a prison
3 industries workforce development income tax credit; to provide for a legislative management
4 study; 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 **Prison industries workforce development credit.**

- 9 1. A taxpayer that is a primary sector business, as defined in section 1-01-49, is allowed
10 a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3
11 for the ~~purchase of~~ cost of purchased components of final manufactured products ~~for~~
12 ~~which the taxpayer subcontracted to use~~ or labor from prison industries ~~for the purpose~~
13 ~~of workforce development of inmates.~~ The amount of the credit under this section is
14 ten percent of the cost ~~incurred~~ of components and labor from prison industries
15 purchased by the taxpayer in the ~~taxable~~ calendar year ~~for which the credit is claimed~~
16 ~~to purchase the components.~~ The credit must be claimed for the taxable year in which
17 the components ~~or~~ labor are purchased.
- 18 2. The credit under this section may not exceed the taxpayer's liability as determined
19 under this chapter for any taxable year. If the amount of the credit determined under

1 this section exceeds the ~~limitation~~ **liability for tax** under this ~~subsection~~ **chapter**, the
2 excess may be carried forward to each of the next five succeeding taxable years.

3 3. The aggregate amount of credits allowed each calendar year under this section may
4 not exceed forty-five thousand dollars. If the aggregate amount of credits claimed
5 under this section:

6 a. Is less than the limit under this subsection, any remaining unclaimed credits may
7 be carried forward and made available in the succeeding calendar year.

8 b. Exceeds the limit under this subsection, the tax commissioner shall prorate the
9 credits among the claimants.

10 4. If a taxpayer entitled to the credit provided by this section is a member of a group of
11 corporations filing a North Dakota consolidated tax return using the combined
12 reporting method, the credit may be claimed against the aggregate North Dakota tax
13 liability of all of the corporations included in the North Dakota consolidated return.

14 5. A passthrough entity entitled to the credit under this section must be considered to be
15 the taxpayer for purposes of this section and the amount of the credit allowed must be
16 determined at the passthrough entity level. The amount of the total credit determined
17 at the passthrough entity level must be allowed to the partners, shareholders, or
18 members in proportion to their respective interests in the passthrough entity. An
19 individual taxpayer may claim the credit passed through under this section against the
20 individual's state income tax liability under section 57-38-30.3.

21 6. ~~The taxpayer claiming the credit shall file with the taxpayer's return, on forms~~
22 ~~prescribed by the tax commissioner~~ **A taxpayer applying for a tax credit under this**
23 **section for purchases in the preceding calendar year shall provide the following**
24 **information to the tax commissioner by January thirty-first of each calendar year:**

25 a. The name, address, and federal identification number or social security number
26 of the taxpayer that made the purchase.

27 b. ~~Verification~~ **Substantiation** of primary sector designation from the department of
28 commerce division of economic development and finance **as of the date of the**
29 **purchase or payment.**

1 c. ~~A copy of the paid invoice from the appropriate prison industries organization and~~
2 ~~the date on which payment for the purchase was made~~that identifies the
3 components or labor purchased.

4 d. A description of the components or labor purchased.

5 7. After January thirty-first, the tax commissioner shall notify each applicant of the
6 amount of tax credit earned or allocated to the tax payer under subdivision b of
7 subsection 3. Purchases resulting in tax credits under this section may not be used in
8 the calculation of any other income tax deduction or credit allowed under this chapter.

9 8. The tax commissioner shall proscribe forms for the administration of this section.

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

12 Prison industries workforce development credit under section 1 of this Act.

13 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PRISON INDUSTRIES**

14 **WORKFORCE DEVELOPMENT.** During the 2025-26 interim, the legislative management shall
15 consider studying prison industries and workforce development programs for incarcerated
16 individuals in the state, including how prison industries can work in alignment with the
17 manufacturing industry and other private sector industries to further the mission of workforce
18 development for incarcerated individuals and to encourage positive outcomes for individuals
19 exiting the criminal justice system. The legislative management shall report its findings and
20 recommendations, together with any legislation required to implement the recommendations, to
21 the seventieth legislative assembly.

22 **SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable years
23 beginning after December 31, 2024.