

**FIRST ENGROSSMENT**

**ENGROSSED 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 cost of purchased components of final manufactured products or labor from  
12 prison industries. The amount of the credit under this section is ten percent of the cost  
13 of components and labor from prison industries purchased by the taxpayer in the  
14 calendar year. The credit must be claimed for the taxable year in which the  
15 components or labor are purchased.
- 16 2. The credit under this section may not exceed the taxpayer's liability as determined  
17 under this chapter for any taxable year. If the amount of the credit determined under  
18 this section exceeds the liability for tax under this chapter, the excess may be carried  
19 forward to each of the next five succeeding taxable years.
- 20 3. The aggregate amount of credits allowed each calendar year under this section may  
21 not exceed forty-five thousand dollars. If the aggregate amount of credits claimed  
22 under this section:

- 1           a. Is less than the limit under this subsection, any remaining unclaimed credits may  
2           be carried forward and made available in the succeeding calendar year.
- 3           b. Exceeds the limit under this subsection, the tax commissioner shall prorate the  
4           credits among the claimants.
- 5       4. If a taxpayer entitled to the credit provided by this section is a member of a group of  
6       corporations filing a North Dakota consolidated tax return using the combined  
7       reporting method, the credit may be claimed against the aggregate North Dakota tax  
8       liability of all of the corporations included in the North Dakota consolidated return.
- 9       5. A passthrough entity entitled to the credit under this section must be considered to be  
10      the taxpayer for purposes of this section and the amount of the credit allowed must be  
11      determined at the passthrough entity level. The amount of the total credit determined  
12      at the passthrough entity level must be allowed to the partners, shareholders, or  
13      members in proportion to their respective interests in the passthrough entity. An  
14      individual taxpayer may claim the credit passed through under this section against the  
15      individual's state income tax liability under section 57-38-30.3.
- 16      6. A taxpayer applying for a tax credit under this section for purchases in the preceding  
17      calendar year shall provide the following information to the tax commissioner by  
18      January thirty-first of each calendar year:
  - 19           a. The name, address, and federal identification number or social security number  
20           of the taxpayer that made the purchase.
  - 21           b. Substantiation of primary sector designation from the department of commerce  
22           division of economic development and finance as of the date of the purchase or  
23           payment.
  - 24           c. A copy of the paid invoice that identifies the components or labor purchased.
  - 25           d. A description of the components or labor purchased.
- 26      7. After January thirty-first, the tax commissioner shall notify each applicant of the  
27      amount of tax credit earned or allocated to the tax payer under subdivision b of  
28      subsection 3. Purchases resulting in tax credits under this section may not be used in  
29      the calculation of any other income tax deduction or credit allowed under this chapter.
- 30      8. The tax commissioner shall proscribe forms for the administration of this section.

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

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

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

5       **WORKFORCE DEVELOPMENT.** During the 2025-26 interim, the legislative management shall  
6 consider studying prison industries and workforce development programs for incarcerated  
7 individuals in the state, including how prison industries can work in alignment with the  
8 manufacturing industry and other private sector industries to further the mission of workforce  
9 development for incarcerated individuals and to encourage positive outcomes for individuals  
10 exiting the criminal justice system. The legislative management shall report its findings and  
11 recommendations, together with any legislation required to implement the recommendations, to  
12 the seventieth legislative assembly.

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