



March 21, 2025

The Honorable Michelle Strinden
President of the Senate
Senate Chamber
State Capitol
Bismarck, ND 58505

Dear President Strinden:

This is to inform you that on March 21, 2025, I vetoed SB 2261.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kelly Armstrong".

Kelly Armstrong
Governor

Received by: D. Paul Date: 3/21/25 Time: 3:49 PM



March 21, 2025

The Honorable Michelle Strinden
President of the Senate
North Dakota Senate Chambers
State Capitol
Bismarck, ND

Re: Senate Bill 2261

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2261 and return it to the Senate.

Section 1 of Senate Bill 2261 establishes a new prison industries workforce development tax credit. Under the section, primary sector businesses are allowed a non-refundable tax credit equal to 10% of the cost of purchased components of final manufactured products or labor from prison industries. Rough Rider Industries is a self-sustaining state agency which would qualify as a prison industry providing final manufactured products.

Establishing a tax credit for the purchase of components made at Rough Rider Industries would discourage purchases from out-of-state manufacturers in a discriminatory manner. This potentially violates the Dormant Commerce Clause of the U.S. Constitution, which prohibits states from enacting laws that discriminate against or unduly burden interstate commerce.

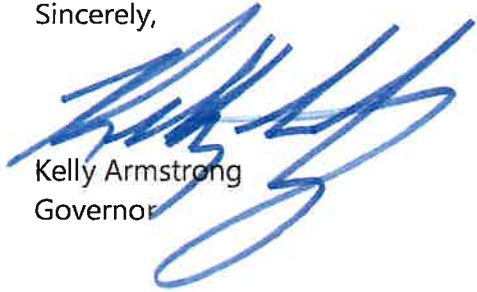
This bill creates an uneven playing field by giving Rough Rider Industries an unfair competitive advantage over out-of-state manufacturers. By carving out a special market incentive in the form of a tax credit, the state is disrupting the longstanding principle of fair and equal market access for all participants.

The efforts of the prime sponsor to promote and advance the important work of Rough Rider Industries are laudable and deserve recognition. Rough Rider Industries provides necessary job skills training and opportunity for incarcerated individuals to assist in their successful reentry. However, the tax credit in Senate Bill 2261 will not help Rough Rider Industries in that mission in any meaningful way. In fact, it will only benefit businesses already doing business with Rough Rider Industries.

Tax credits, when given to micro-segments of the economy, decrease state revenue and further saddle those still paying taxes with a higher percentage of the tax burden. While this bill does not involve a lot of money in our state budget, any tax policy that creates this type of carve-out must be tied to a significant outcome that benefits the state's economic interests. This bill does not do that. Combined with the aforementioned legal concerns, the juice in this case is quite simply not worth the squeeze.

For the reasons stated above, Senate Bill 2261 is vetoed.

Sincerely,



Kelly Armstrong
Governor

VETO

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

SENATE BILL NO. 2261
(Senators Klein, Barta, Kessel)
(Representatives Nelson, Schauer)

AN ACT to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a prison industries workforce development income tax credit; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Prison industries workforce development credit.

1. A taxpayer that is a primary sector business, as defined in section 1-01-49, is allowed a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3 for the cost of purchased components of final manufactured products or labor from prison industries. The amount of the credit under this section is ten percent of the cost of components and labor from prison industries purchased by the taxpayer in the calendar year. The credit must be claimed for the taxable year in which the components or labor are purchased.
2. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
3. The aggregate amount of credits allowed each calendar year under this section may not exceed forty-five thousand dollars. If the aggregate amount of credits claimed under this section:
 - a. Is less than the limit under this subsection, any remaining unclaimed credits may be carried forward and made available in the succeeding calendar year.
 - b. Exceeds the limit under this subsection, the tax commissioner shall prorate the credits among the claimants.
4. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all of the corporations included in the North Dakota consolidated return.
5. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may claim the credit passed through under this section against the individual's state income tax liability under section 57-38-30.3.
6. A taxpayer applying for a tax credit under this section for purchases in the preceding calendar year shall provide the following information to the tax commissioner by January thirty-first of each calendar year:

- a. The name, address, and federal identification number or social security number of the taxpayer that made the purchase.
 - b. Substantiation of primary sector designation from the department of commerce division of economic development and finance as of the date of the purchase or payment.
 - c. A copy of the paid invoice that identifies the components or labor purchased.
 - d. A description of the components or labor purchased.
7. After January thirty-first, the tax commissioner shall notify each applicant of the amount of tax credit earned or allocated to the tax payer under subdivision b of subsection 3. Purchases resulting in tax credits under this section may not be used in the calculation of any other income tax deduction or credit allowed under this chapter.
8. The tax commissioner shall proscribe forms for the administration of this section.

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


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


SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PRISON INDUSTRIES WORKFORCE DEVELOPMENT. During the 2025-26 interim, the legislative management shall consider studying prison industries and workforce development programs for incarcerated individuals in the state, including how prison industries can work in alignment with the manufacturing industry and other private sector industries to further the mission of workforce development for incarcerated individuals and to encourage positive outcomes for individuals exiting the criminal justice system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

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


President of the Senate


Speaker of the House



Secretary of the Senate


Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2261.

Senate Vote: Yeas 43 Nays 3 Absent 1

House Vote: Yeas 56 Nays 33 Absent 5


Secretary of the Senate

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor


Filed in this office this 8th day of April, 2025,
at 4:11 o'clock P M.

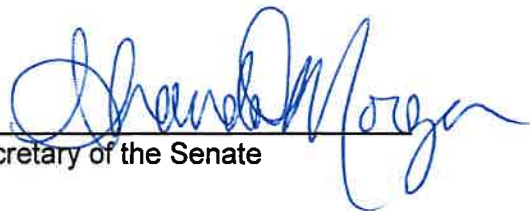

Secretary of State

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, Senate Bill No. 2261, together with the objections of Governor Armstrong, was returned to the Senate, being the body in which it originated, on March 24, 2025; that the objections of the Governor were entered upon the Journal on March 24, 2025, and read at length; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on March 27, 2025, at 2:01 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	45
	Nays	2
	Absent and not voting	0


President of the Senate


Secretary of the Senate

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, Senate Bill No. 2261, together with the objections of Governor Armstrong, was received from the Senate, being the body in which it originated, on March 27, 2025; that the objections of the Governor were read at length on April 2, 2025; that the Bill was taken up for reconsideration; that the motion for reconsideration failed on April 3, 2025, at 3:05 p.m.; and the roll was called and the Bill failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	15
	Nays	78
	Absent and not voting	1



Speaker of the House



Chief Clerk of the House