

**HOUSE BILL NO. 1052**

Introduced by

Representatives Maragos, Nicholas

Senator Wardner

1 A BILL for an Act to amend and reenact subsection 2 of section 57-38-30.3 of the North Dakota  
2 Century Code, relating to the exclusion for capital gains under the simplified method of  
3 computing individual income tax; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-38-30.3 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 2. For purposes of this section, "North Dakota taxable income" means the federal  
8 taxable income of an individual, estate, or trust as computed under the Internal  
9 Revenue Code of 1986, as amended, adjusted as follows:
- 10 a. Reduced by interest income from obligations of the United States and income  
11 exempt from state income tax under federal statute or United States or North  
12 Dakota constitutional provisions.
  - 13 b. Reduced by the portion of a distribution from a qualified investment fund  
14 described in section 57-38-01 which is attributable to investments by the  
15 qualified investment fund in obligations of the United States, obligations of  
16 North Dakota or its political subdivisions, and any other obligation the interest  
17 from which is exempt from state income tax under federal statute or United  
18 States or North Dakota constitutional provisions.
  - 19 c. Reduced by the amount equal to the earnings that are passed through to a  
20 taxpayer in connection with an allocation and apportionment to North Dakota  
21 under chapter 57-35.3.
  - 22 d. Reduced by ~~thirty percent~~ a percentage of the excess of the taxpayer's net  
23 long-term capital gain for the taxable year over the net short-term capital loss  
24 for that year, as computed for purposes of the Internal Revenue Code of

1986, as amended. The percentage to be used for the reduction under this subdivision is:

- (1) Thirty-five percent for the first taxable year beginning after December 31, 2004.
  - (2) Forty percent for the first taxable year beginning after December 31, 2005.
  - (3) Forty-five percent for the first taxable year beginning after December 31, 2006.
  - (4) Fifty percent for taxable years beginning after December 31, 2007.
- e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- g. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.
- h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.
- i. Reduced by interest and income from bonds issued under chapter 11-37.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after

December 31, 2004.