

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Klein

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 income tax deductions for certain retirement benefits; and to provide
3 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 of the excess of the taxpayer's net long-term capital
23 gain for the taxable year over the net short-term capital loss for that year, as
24 computed for purposes of the Internal Revenue Code of 1986, as amended.

1 The adjustment provided by this subdivision is allowed only to the extent the
2 net long-term capital gain is allocated to this state.

- 3 e. Increased by the amount of a lump sum distribution for which income
4 averaging was elected under section 402 of the Internal Revenue Code of
5 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the
6 taxpayer received the lump sum distribution while a nonresident of this state
7 and the distribution is exempt from taxation by this state under federal law.
- 8 f. Increased by an amount equal to the losses that are passed through to a
9 taxpayer in connection with an allocation and apportionment to North Dakota
10 under chapter 57-35.3.
- 11 g. Reduced by the amount received by the taxpayer as payment for services
12 performed when mobilized under title 10 United States Code federal service
13 as a member of the national guard or reserve member of the armed forces of
14 the United States. This subdivision does not apply to federal service while
15 attending annual training, basic military training, or professional military
16 education.
- 17 h. Reduced by income from a new and expanding business exempt from state
18 income tax under section 40-57.1-04.
- 19 i. Reduced by interest and income from bonds issued under chapter 11-37.
- 20 j. Reduced by up to ten thousand dollars of qualified expenses that are related
21 to a donation by a taxpayer or a taxpayer's dependent, while living, of one or
22 more human organs to another human being for human organ transplantation.
23 A taxpayer may claim the reduction in this subdivision only once for each
24 instance of organ donation during the taxable year in which the human organ
25 donation and the human organ transplantation occurs but if qualified
26 expenses are incurred in more than one taxable year, the reduction for those
27 expenses must be claimed in the year in which the expenses are incurred.
- 28 For purposes of this subdivision:
- 29 (1) "Human organ transplantation" means the medical procedure by which
30 transfer of a human organ is made from the body of one person to the
31 body of another person.

(2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.

(3) "Qualified expenses" means lost wages not compensated by sick pay and unreimbursed medical expenses as defined for federal income tax purposes, to the extent not deducted in computing federal taxable income, whether or not the taxpayer itemizes federal income tax deductions.

k. Increased by the amount of the contribution upon which the credit under section 57-38-01.21 is computed, but only to the extent that the contribution reduced federal taxable income.

l. Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 37-28-03 or 37-28-04.

m. Reduced by the amount received by a taxpayer that was paid by an employer under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the extent the amount received by the taxpayer is included in federal taxable income. The reduction applies only if the employer is entitled to the credit under section 57-38-01.25. The taxpayer must attach a statement from the employer in which the employer certifies that the employer is entitled to the credit under section 57-38-01.25 and which specifically identified the type of payment and the amount of the exemption under this section.

n. Reduced by the amount up to a maximum of five thousand dollars, or ten thousand dollars if a joint return is filed, for contributions made under a higher education savings plan administered by the Bank of North Dakota, pursuant to section 6-09-38.

o. Reduced by the amount of income of a taxpayer, who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe, from activities or sources within the boundaries of any reservation in this state.

p. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the firefighter's relief association authorized by chapter 18-10 and

1 18-11, policemen's pension funds authorized by chapter 40-45, or the
2 highway patrolmen's retirement system authorized by chapter 39-03.1.

3 q. Reduced by any amount, up to a maximum of five thousand dollars, received
4 by any person fifty years of age or older as retired military personal pay for
5 service in the United States army, navy, airforce, coast guard, or marine corp,
6 or reserved components thereof.

7 r. Reduced by any amount, up to a maximum of five thousand dollars, received
8 as retirement benefits paid by the United States, a territory or possession or
9 political subdivision thereof, the government of the District of Columbia, or an
10 agency or instrumentality of one or more of the foregoing, other than retired
11 military personnel pay, as exempted in subdivision q.

12 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
13 December 31, 2008.