

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

Fifty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1340**

Introduced by

Representatives Sandvig, Koppelman, Boehm

Senators Christmann, Kelsh, Wanzek

1 A BILL for an Act to amend and reenact paragraph 5 of subdivision d of subsection 1 of section  
2 57-38-01.2 and subsection 5 of section 57-38-30.3 of the North Dakota Century Code, relating  
3 to income tax deductions or credits for adoption expenses; to provide for a transfer and an  
4 appropriation; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Paragraph 5 of subdivision d of subsection 1 of section  
7 57-38-01.2 of the 1995 Supplement to the North Dakota Century Code is amended and  
8 reenacted as follows:

9 (5) Reduced by ~~one~~ five thousand dollars for each child under the age of  
10 twenty-one years adopted by the taxpayer. The reduction under this  
11 paragraph may be claimed only by an adoptive parent of an adopted  
12 child and the child must qualify as a dependent of the adoptive parent  
13 for federal income tax purposes. The reduction may be claimed by only  
14 one spouse, for spouses filing separately under this chapter. The  
15 reduction provided by this paragraph may be claimed ~~only~~ for the  
16 taxable year in which the adoption becomes final and ~~the~~ any unused  
17 portion of the reduction may be carried forward by the taxpayer for up  
18 to five taxable years. The reduction does not apply to the adoption of  
19 children of the taxpayer's spouse.

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

22 5. For the purposes of this section, the term "federal income tax liability" means the  
23 individual's, estate's, or trust's federal income tax liability as computed for federal  
24 income tax purposes using tax tables, tax rate schedules, or form 8615, plus

1 additional taxes due on federal income tax schedules or forms 4970, 4972, section  
2 72(m)(5) penalty tax, 5329, 6251, and 8656, less any credit for prior year minimum  
3 tax (form 8801), less any credit for qualified adoption expenses, and before credit  
4 for the elderly or the disabled (schedule R), credit for child and dependent care  
5 expenses (form 2441), investment credit (form 3468), foreign tax credit (form  
6 1116), general business credit (form 3800), jobs credit (form 5884), credit for  
7 alcohol used as fuel (form 6478), credit for increasing research activities (form  
8 6765), low-income housing credit (form 8586) and nonconventional fuel credit, and  
9 before reduction for federal income tax withheld, estimated payments, earned  
10 income credit, amount paid with form 4868, excess social security tax, and the  
11 federal Railroad Retirement Tax Act, tax withheld, credit for federal tax on gasoline  
12 and special fuels (form 4136), and regulated investment company credits (form  
13 2439). The term does not include amounts due for self-employment tax or social  
14 security tax and railroad retirement tax on tips. For purposes of this subsection,  
15 additional taxes due on federal income tax form 6251 or form 8656 must be  
16 reduced, but not below zero, by the amount of any investment credit used to  
17 reduce the federal tax liability before calculation of the additional tax due on form  
18 6251 or form 8656.

19 **SECTION 3. TRANSFER - APPROPRIATION.** On or before July 1, 1998, the  
20 children's services coordinating committee shall transfer the sum of \$154,000 from its operating  
21 fund to the state treasurer for deposit in the state general fund to offset the state general fund  
22 revenue loss from adoption expense income tax deductions or credits provided by this Act for  
23 the biennium beginning July 1, 1997, and ending June 30, 1999. Before July 1, 1999, the tax  
24 commissioner shall certify to the state treasurer any amount by which the amount transferred  
25 under this section exceeds the amount of individual income tax liability reductions resulting  
26 from the deductions and credits for qualified adoption expenses under this Act for the first two  
27 taxable years beginning after December 31, 1996. Notwithstanding section 54-44.1-11, thirty  
28 days after the close of the 1997-99 biennium the state treasurer shall transfer from the state  
29 general fund to the children's services coordinating committee for deposit in its operating fund  
30 the amount certified by the tax commissioner under this section. The amount to be transferred

1 to the children's services coordinating committee under this section is hereby appropriated from  
2 the state general fund, but not in an amount exceeding \$154,000.

3 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
4 December 31, 1996.