

Fifty-seventh  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2252

Introduced by

Senators Krauter, T. Mathern, Kringstad

Representatives Thorpe, Nottestad, Gulleon

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; and to provide an effective date.

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

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

7 (5) Reduced by ~~one~~ up to two thousand five hundred dollars of expenses  
8 incurred by the taxpayer which are not reimbursed by any federal,  
9 state, or political subdivision source, for each special needs child under  
10 the age of ~~twenty-one~~ eighteen years adopted by the taxpayer. For  
11 purposes of this paragraph, a "special needs child" is a child who has  
12 any of the special needs described in section 50-09-02.2. The  
13 reduction under this paragraph may be claimed only by an adoptive  
14 parent of an adopted special needs child and the child must qualify as  
15 a dependent of the adoptive parent for federal income tax purposes.  
16 The reduction may be claimed by only one spouse, for spouses filing  
17 separately under this chapter. The reduction provided by this  
18 paragraph may be claimed ~~only~~ for the taxable year in which the  
19 adoption becomes final and ~~the~~ any unused portion of the reduction  
20 may be carried forward by the taxpayer for up to five taxable years.  
21 The reduction does not apply to the adoption of children of the  
22 taxpayer's spouse.

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

- 1           5. For purposes of this section, "federal income tax liability" means the individual's,  
2           estate's, or trust's federal income tax computed for the taxable year under Internal  
3           Revenue Code sections 1 and 3, relating to the computation of the regular federal  
4           income tax before credits, including calculation and tax rate modifications  
5           prescribed under other provisions of the Internal Revenue Code, adjusted as  
6           follows:
- 7           a. Add the alternative minimum tax computed under Internal Revenue Code  
8           section 55;
  - 9           b. Add the tax on a lump sum distribution computed under Internal Revenue  
10           Code section 402; however, this adjustment does not apply if the lump sum  
11           distribution is received while a nonresident of this state and is exempt from  
12           taxation by this state under federal law;
  - 13           c. Add the tax on an accumulation distribution of a trust computed under Internal  
14           Revenue Code section 667;
  - 15           d. Add the tax computed under Internal Revenue Code section 72(m)(5) on  
16           excess benefits received from a qualified plan under Internal Revenue Code  
17           section 401(a) or a qualified annuity under Internal Revenue Code section  
18           403(a);
  - 19           e. Add the tax computed under Internal Revenue Code section 72(q)(1) on an  
20           early distribution from an annuity contract;
  - 21           f. Add the tax computed under Internal Revenue Code section 72(t)(1) on an  
22           early distribution from a qualified retirement plan;
  - 23           g. Add the tax computed under Internal Revenue Code section 4973(a) on  
24           excess contributions to an individual retirement account, medical savings  
25           account, and certain Internal Revenue Code section 403(b) and annuity  
26           contracts; however, this adjustment does not apply if the individual, estate, or  
27           trust is a nonresident of this state;
  - 28           h. Add the tax computed under Internal Revenue Code section 4974(a) on  
29           excess accumulations in a qualified retirement plan; however, this adjustment  
30           does not apply if the individual, estate, or trust is a nonresident of this state;

- 1           i.    Add the tax computed under Internal Revenue Code section 4980A on  
2                excess distributions from a qualified retirement plan; ~~and~~  
3           j.    Subtract the credit for prior year minimum tax computed under Internal  
4                Revenue Code section 53; and  
5           k.    Subtract the credit for qualified adoption expenses computed under Internal  
6                Revenue Code section 23, but not in an amount exceeding two thousand five  
7                hundred dollars.

8            Unless specifically provided for in this subsection, no federal income tax credit may  
9                be subtracted in determining the federal income tax liability for purposes of this  
10           section.

11           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
12   December 31, 2000.