

SENATE BILL NO. 2101

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subdivisions a and b of subsection 11 of
2 section 57-38-30.3 of the North Dakota Century Code, relating to income averaging for farmers
3 for income tax purposes.

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

5 **SECTION 1. AMENDMENT.** Subdivisions a and b of subsection 11 of section
6 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

7 11. a. ~~At the election of~~ If an individual taxpayer engaged in a farming business;
8 elects to average farm income under section 1301 of the Internal Revenue
9 Code [26 U.S.C. 1301], the taxpayer may elect to compute tax under this
10 subsection. If an election to compute tax under this subsection is made, the
11 tax imposed by subsection 1 for the taxable year must be equal to the sum of
12 the following:

- 13 (1) The tax computed under subsection 1 on North Dakota taxable income
14 reduced by elected farm income.
- 15 (2) The increase in tax imposed by subsection 1 which would result if North
16 Dakota taxable income for each of the three prior taxable years were
17 increased by an amount equal to one-third of the elected farm income.
18 However, if other provisions of this chapter other than this section were
19 used to compute the tax for any of the three prior years, the same
20 provisions in effect for that prior tax year must be used to compute the
21 increase in tax under this paragraph. For purposes of applying this
22 paragraph to taxable years beginning before January 1, 2001, the
23 increase in tax must be determined by recomputing the tax in the
24 manner prescribed by the tax commissioner.

- 1 b. For purposes of this subsection, "elected farm income" means that portion of
2 North Dakota taxable income for the taxable year which is elected farm
3 income as defined in section 1301 of the Internal Revenue Code of 1986
4 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion
5 claimed under subdivision d of subsection 2 that is attributable to a net
6 long-term capital gain included in elected farm income.