

Introduced by

Senators Dotzenrod, Bakke, Luick

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of  
2 the North Dakota Century Code, relating to an income tax exclusion for social security benefits;  
3 to amend and reenact subsection 5 of section 57-02-08.1 and section 57-38-01.28 of the North  
4 Dakota Century Code, relating to the homestead tax credit and the marriage penalty credit; and  
5 to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 5 of section 57-02-08.1 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 5. For the purposes of this section:

- 10 a. "Dependent" has the same meaning it has for federal income tax purposes.
- 11 b. "Homestead" has the same meaning as provided in section 47-18-01.
- 12 c. "Income" means income for the most recent complete taxable year from all  
13 sources, including the income of any dependent of the applicant, and including  
14 any county, state, or federal public assistance benefits, social security, or other  
15 retirement benefits, but excluding any federal rent subsidy, any amount excluded  
16 from income by federal or state law with the exception of income from social  
17 security benefits, and medical expenses paid during the year by the applicant or  
18 the applicant's dependent which is not compensated by insurance or other  
19 means.
- 20 d. "Medical expenses" has the same meaning as it has for state income tax  
21 purposes, except that for transportation for medical care the person may use the  
22 standard mileage rate allowed for state officer and employee use of a motor  
23 vehicle under section 54-06-09.

- 1 e. "Permanently and totally disabled" means the inability to engage in any  
2 substantial gainful activity by reason of any medically determinable physical or  
3 mental impairment which can be expected to result in death or has lasted or can  
4 be expected to last for a continuous period of not less than twelve months as  
5 established by a certificate from a licensed physician or a written determination of  
6 disability from the social security administration or any federal or state agency  
7 that has authority to certify an individual's disability.

8 **SECTION 2. AMENDMENT.** Section 57-38-01.28 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **57-38-01.28. Marriage penalty credit.**

- 11 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not  
12 to exceed three hundred dollars per couple as determined under this section. The tax  
13 commissioner shall adjust the maximum amount of the credit under this subsection  
14 each taxable year at the time and rate adjustments are made to rate schedules under  
15 subdivision g of subsection 1 of section 57-38-30.3.
- 16 2. The credit under this section is the difference between the tax on the couple's joint  
17 North Dakota taxable income under the rates and income levels in subdivision b of  
18 subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income  
19 levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of  
20 the lesser-earning spouse, and the tax under the rates and income levels of  
21 subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota  
22 taxable income, minus the qualified income of the lesser-earning spouse.
- 23 3. For a nonresident or part-year resident, the credit under this section must be adjusted  
24 based on the percentage calculated under subdivision f of subsection 1 of section  
25 57-38-30.3.
- 26 4. For purposes of this section:
- 27 a. "Qualifying income" means the sum of the following, to the extent included in  
28 North Dakota taxable income:
- 29 (1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code;  
30 and

1                   (2) Income received from a retirement pension, profit-sharing, stock bonus, or  
2                   annuity plan; and

3                   ~~(3) Social security benefits as defined in section 86(d)(1) of the Internal-~~  
4                   ~~Revenue Code.~~

5           b. "Qualifying income of the lesser-earning spouse" means the qualifying income of  
6           the spouse with the lesser amount of qualifying income for the taxable year  
7           minus the sum of:

8                   (1) The amount for one exemption under section 151(d) of the Internal Revenue  
9                   Code; and

10                   (2) One-half of the amount of the standard deduction under section 63(c)(2)(A)  
11                   (4) of the Internal Revenue Code.

12           **SECTION 3.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota  
13 Century Code is created and enacted as follows:

14                   Reduced by the amount of social security benefits included in a taxpayer's gross  
15                   income for federal income tax purposes under section 86 of the Internal Revenue  
16                   Code.

17           **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
18 December 31, 2018.