

Fifty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2251**

Introduced by

Senators Kelsh, Heitkamp, Yockim

Representatives Aarsvold, Brandenburg, Gulleason

1 A BILL for an Act to amend and reenact sections 57-15-14, 57-38-29, 57-38-30, and 57-38-30.3  
2 of the North Dakota Century Code, relating to school district property tax levies and individual  
3 and corporate income tax rates; to provide an appropriation; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-15-14 of the 1995 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **57-15-14. Tax levy limitations in school districts.** ~~The Notwithstanding section~~  
8 ~~57-15-01.1 or any other provision of law, the aggregate amount levied each year for the general~~  
9 ~~fund purposes listed in under section 57-15-14.2 by any school district, except the Fargo school~~  
10 ~~district, may not exceed the amount in dollars which the school district levied for the prior school~~  
11 ~~year plus eighteen two percent up to a general fund levy of one hundred eighty five mills on the~~  
12 ~~dollar of the taxable valuation of the district, except that:~~

13 1. For purposes of determining the general fund levy limitation for taxable year 1998,  
14 the dollar amount levied for general fund purposes for taxable year 1997 must be  
15 adjusted by subtracting the amount to be allocated to the school district under  
16 section 5 of this Act in the first fiscal year of the 1997-99 biennium. For each  
17 taxable year, the prior year's levy must be adjusted as provided in subdivisions a  
18 through c of subsection 3 of section 57-15-01.1. After the adjustments under this  
19 subsection are made, the two percent increase may be applied to the resulting  
20 amount.

21 2. In any school district having a total population in excess of four thousand according  
22 to the last federal decennial census:

23 a. There may be levied any specific number of mills that upon resolution of the  
24 school board has been submitted to and approved by a majority of the

qualified electors voting upon the question at any regular or special school district election.

b. There is no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.

~~2.~~ 3. In any school district having a total population of less than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.

~~3.~~ 4. In any school district in which the total assessed valuation of property has increased twenty percent or more over the prior year and in which as a result of that increase the school district is entitled to less in state foundation aid payments provided in sections 15-40.1-06 through 15-40.1-08 because of the deduction required in subsection 3 of section 15-40.1-06, ~~there~~ an additional amount may be levied ~~any specific number of mills more~~ in dollars ~~than~~ in addition to the amount that was levied in the prior year up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable valuation of the school district which equals the difference in foundation aid payments between the prior year and the current year. The additional levy authorized by this subsection may be levied for not more than two years because of any twenty percent or greater annual increase in assessed valuation. The total amount of revenue generated in excess of the ~~eighteen percent~~ increase which is otherwise permitted by this section may not exceed the amount of state aid payments lost as a result of applying the deduction provided in subsection 3 of section 15-40.1-06 to the increased assessed valuation of the school district in a one-year period.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most

1 recent year such census was taken, unless such census is greater than four thousand in which  
2 case only fifteen percent of the number of persons enumerated in the school census is  
3 required. However, not fewer than twenty-five signatures are required unless the district has  
4 fewer than twenty-five qualified electors, in which case the petition must be signed by not less  
5 than twenty-five percent of the qualified electors of the district. In those districts with fewer than  
6 twenty-five qualified electors, the number of qualified electors in the district must be determined  
7 by the county superintendent for such county in which such school is located. However, the  
8 approval of discontinuing either such authority does not affect the tax levy in the calendar year  
9 in which the election is held. The election must be held in the same manner and subject to the  
10 same conditions as provided in this section for the first election upon the question of authorizing  
11 the mill levy.

12 **SECTION 2. AMENDMENT.** Section 57-38-29 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **57-38-29. Rate of tax on individuals.** A tax is hereby imposed upon every individual,  
15 to be levied, collected, and paid annually with respect to the taxable income of such individual  
16 as defined in this chapter, computed at the following rates:

- 17 1. On taxable income not in excess of three thousand dollars, a tax of ~~two~~ three and  
18 ~~sixty-seven~~ eighty-nine hundredths percent.
- 19 2. On taxable income in excess of three thousand dollars and not in excess of five  
20 thousand dollars, a tax of ~~four~~ five and eighty-three hundredths percent.
- 21 3. On taxable income in excess of five thousand dollars and not in excess of eight  
22 thousand dollars, a tax of ~~five~~ seven and ~~thirty-three~~ seventy-seven hundredths  
23 percent.
- 24 4. On taxable income in excess of eight thousand dollars and not in excess of fifteen  
25 thousand dollars, a tax of ~~six~~ nine and ~~sixty-seven~~ seventy-two hundredths  
26 percent.
- 27 5. On taxable income in excess of fifteen thousand dollars and not in excess of  
28 twenty-five thousand dollars, a tax of ~~eight~~ eleven and sixty-six hundredths  
29 percent.

6. On taxable income in excess of twenty-five thousand dollars and not in excess of thirty-five thousand dollars, a tax of ~~nine~~ thirteen and ~~thirty-three~~ sixty hundredths percent.

7. On taxable income in excess of thirty-five thousand dollars and not in excess of fifty thousand dollars, a tax of ~~ten~~ fifteen and ~~sixty-seven~~ fifty-five hundredths percent.

8. On taxable income in excess of fifty thousand dollars, a tax of ~~twelve~~ seventeen and forty-nine hundredths percent.

**SECTION 3. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in sections 57-38-12, 57-38-13, and 57-38-14, which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first three thousand dollars of taxable income, at the rate of three percent.
- b. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of four and one-half percent.
- c. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of six percent.
- d. On all taxable income above twenty thousand dollars, and not in excess of thirty thousand dollars, at the rate of seven and one-half percent.
- e. On all taxable income above thirty thousand dollars, and not in excess of fifty thousand dollars, at the rate of nine percent.
- f. On all taxable income above fifty thousand dollars, at the rate of ~~ten and one-half~~ fourteen percent.

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

1           **SECTION 4. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **57-38-30.3. Simplified optional method of computing tax.**

- 4           1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust  
5 may elect to determine state income tax liability ~~by applying the provisions of~~ under  
6 this section. Any taxpayer electing to determine his income tax liability ~~pursuant to~~  
7 under this section is only eligible for those adjustments or credits ~~which~~ that are  
8 specifically provided ~~for~~ in this section. ~~Provided, that for purposes of this section,~~  
9 ~~any~~ Any person required to file a state income tax return ~~pursuant to the provisions~~  
10 ~~of~~ under this chapter, but who has not computed a federal taxable income ~~or~~  
11 ~~federal income tax liability~~ figure, shall compute ~~such~~ a federal taxable income  
12 figure using a pro forma return ~~pursuant to the provisions of this section in order to~~  
13 ~~determine a federal income tax liability figure to be used as a starting point in~~  
14 computing state income tax.
- 15          2. A tax is hereby imposed for each taxable year upon income earned or received in  
16 that taxable year by every resident and nonresident individual, estate, and trust.  
17 This tax ~~is fourteen percent of the individual's, estate's, or trust's adjusted federal~~  
18 ~~income tax liability for the taxable year~~ applies to adjusted federal taxable income  
19 and must be determined as provided in this subsection:
- 20          a. Tax tables prescribed for the taxable year by the secretary of the treasury  
21 under section 1(f) of the Internal Revenue Code [26 U.S.C. 1(f)] must be used  
22 as the basis to determine state tax rates and income brackets for married  
23 individuals filing joint returns and surviving spouses, heads of households,  
24 unmarried individuals, married individuals filing separate returns, and estates  
25 and trusts.
- 26          b. The tax tables described in subdivision a must be adjusted by multiplying  
27 each rate in the tables by twenty and four-tenths percent and the resulting  
28 rates and income brackets constitute the tax tables that apply to the  
29 taxpayer's adjusted federal taxable income to determine tax liability under this  
30 section.

c. The commissioner shall publish the tax tables determined under subdivision b in the instructions accompanying return forms.

3. The adjusted federal taxable income ~~tax liability~~ for a resident individual, estate, and trust must be determined by multiplying the federal taxable income ~~tax liability~~ by a fraction, the numerator of which is the adjusted gross income taxable to this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be excluded from the numerator:

a. Interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.

b. The portion of a distribution from a qualified investment fund described in subsection 4.2 of section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.

4. The adjusted federal taxable income ~~tax liability~~ of a nonresident individual, estate, and trust must be determined by multiplying the federal taxable income ~~tax liability~~ by a fraction, the numerator of which is the adjusted gross income derived from sources within this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be excluded from the numerator:

a. Interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.

b. The portion of a distribution from a qualified investment fund described in subsection 4.2 of section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of

North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.

5. ~~For the purposes of this section, the term "federal income tax liability" means the individual's, estate's, or trust's federal income tax liability as computed for federal income tax purposes using tax tables, tax rate schedules, or form 8615, plus additional taxes due on federal income tax schedules or forms 4970, 4972, section 72(m)(5) penalty tax, 5329, 6251, and 8656, less any credit for prior year minimum tax (form 8801), and before credit for the elderly or the disabled (schedule R), credit for child and dependent care expenses (form 2441), investment credit (form 3468), foreign tax credit (form 1116), general business credit (form 3800), jobs credit (form 5884), credit for alcohol used as fuel (form 6478), credit for increasing research activities (form 6765), low income housing credit (form 8586) and nonconventional fuel credit, and before reduction for federal income tax withheld, estimated payments, earned income credit, amount paid with form 4868, excess social security tax, and the federal Railroad Retirement Tax Act, tax withheld, credit for federal tax on gasoline and special fuels (form 4136), and regulated investment company credits (form 2439). The term does not include amounts due for self-employment tax or social security tax and railroad retirement tax on tips. For purposes of this subsection, additional taxes due on federal income tax form 6251 or form 8656 must be reduced, but not below zero, by the amount of any investment credit used to reduce the federal tax liability before calculation of the additional tax due on form 6251 or form 8656.~~

6. The same filing status used by the taxpayer to file the federal income tax return must be used when filing the return under this chapter. A husband and wife filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

~~7.~~ 6. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed

on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.

- b. The credit provided under this subsection may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's entire adjusted gross income as reported on the taxpayer's federal income tax return.

~~8. 7. a. Individuals, estates, or trusts receiving a refund of~~ An individual, estate, or trust that has filed an amended federal income tax return for a year for which an election to file a state income tax ~~returns has been~~ return was made under this section shall file an amended state income tax returns reducing the return for that year if federal taxable income tax liability for the that year for which the federal income tax refund is granted and may not report the federal income tax refund in the year received was changed by the amended return.

- ~~b. Individuals, estates, or trusts assessed additional federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns increasing the federal income tax liability for the year for which the additional federal income tax is assessed and may not report increased federal income tax liability in the year in which the additional federal income tax is paid.~~

~~9. 8. The tax commissioner may prescribe procedures and guidelines~~ adopt rules to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may ~~prescribe procedures and guidelines~~ adopt rules to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.

**SECTION 5. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of foundation aid grants, for the biennium beginning July 1, 1997, and ending June 30,



1 1999. Not more than one-half of the amount appropriated in this section may be expended in  
2 the first fiscal year of the 1997-99 biennium. The superintendent of public instruction shall  
3 certify by July 31, 1997, to each school district and the county auditor of the county in which the  
4 school district is located the amount to be allocated to the school district in the first fiscal year of  
5 the 1997-99 biennium under this section.

6 **SECTION 6. EFFECTIVE DATE.** Sections 1 through 4 of this Act are effective for  
7 taxable years beginning after December 31, 1996.