

HOUSE BILL NO. 1512

Introduced by

Representatives Haas, Herbel

1 A BILL for an Act to create and enact a new subsection to section 57-38-30.3, a new subsection
2 to section 57-39.2-02.1, and a new subsection to section 57-40.2-02.1 of the North Dakota
3 Century Code, relating to sales and use taxes and income taxes; to amend and reenact
4 sections 15.1-09-47, 15.1-27-04, 15.1-27-06, 15.1-27-07, 15.1-27-10, 57-15-01.1, 57-15-14,
5 57-38-29, 57-38-30, 57-38-55, 57-39.2-26, 57-39.5-02, 57-39.6-02, and 57-40.3-02 of the North
6 Dakota Century Code, relating to the distribution of per student payments, school district
7 property tax levies, individual income taxes, and sales, use and motor vehicle excise taxes; to
8 repeal sections 15.1-12-11.1, 15.1-12-12, 15.1-27-05, and 15.1-27-11 of the North Dakota
9 Century Code, relating to reorganization bonuses, the school district equalization factor, and
10 supplemental payments; and to provide an effective date.

11 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

12 **SECTION 1. AMENDMENT.** Section 15.1-09-47 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15.1-09-47. Board of education of city of Fargo - Taxing authority.**

- 15 1. The board of education of the city of Fargo may levy taxes, as necessary for any of
16 the following purposes:
- 17 a. To purchase, exchange, lease, or improve sites for schools.
 - 18 b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their
19 appurtenances.
 - 20 c. To procure, exchange, improve, and repair school apparatus, books, furniture,
21 and appendages, but not the furnishing of textbooks to any student whose
22 parent is unable to furnish the same.
 - 23 d. To provide fuel.

e. To defray the contingent expenses of the board, including the compensation of employees.

f. To pay teacher salaries after the application of public moneys, which may by law be appropriated and provided for that purpose.

2. ~~The question of authorizing or discontinuing the unlimited taxing authority of the board of education of the city of Fargo must be submitted to the qualified electors of the Fargo school district at the next regular election upon resolution of the board of education or upon filing with the board a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the individuals enumerated in the most recent school district census. However, if the electors approve a discontinuation of the unlimited taxing authority, their approval of the discontinuation may not affect the tax levy effective for the calendar year in which the election is held. In addition, the minimum levy may not be less than the levy that was in force at the time of the election. The board may increase~~ determine its levy limitations for general fund purposes in accordance with section ~~57-15-01~~. ~~If the district experiences growing enrollment, the board may increase the levy by an amount equal to the amount levied the preceding year per student times the number of additional students enrolled during the new year~~ 57-15-14.

SECTION 2. AMENDMENT. Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04. Per student payment. The per student payment to which each school district is entitled for the first year of the biennium is ~~two~~ five thousand ~~five~~ nine hundred ~~nine~~ dollars. The per student payment to which each school district is entitled for the second year of the biennium is ~~two~~ six thousand ~~six~~ hundred twenty three dollars. The per student amount is the basis for calculating state payments to school districts, as provided in sections 15.1-27-06 and 15.1-27-07.

SECTION 3. AMENDMENT. Section 15.1-27-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-06. Per student payments - Weighting factors - High school students.
The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating a high school and to each school district contracting to

educate high school students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. Each district having under ~~seventy-five~~ one hundred twenty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.625 adjusted by eighty-five percent of the difference between 1.625 and the factor~~ representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~
2. Each district having at least ~~seventy-five~~ one hundred twenty but fewer than ~~one~~ three hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.335 adjusted by eighty-five percent of the difference between 1.335 and the factor~~ representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction.~~
3. Each district having at least ~~one~~ three hundred fifty but fewer than ~~five hundred fifty~~ students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor ~~1.24 adjusted by eighty-five percent of the difference between 1.24 and the factor~~ representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is~~

that which represents the five year average cost of education per student in this category, as determined by the superintendent of public instruction.

4. ~~Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by eighty five percent of the difference between 1.14 and the factor representing the five year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five year average cost of education per student in this category, as determined by the superintendent of public instruction.~~

5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:
- a. Subsection 1 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if fewer than ~~seventy five~~ one hundred twenty students in average daily membership are enrolled in the alternative education program.
 - b. Subsection 2 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least ~~seventy five~~ one hundred twenty but fewer than ~~one three~~ three hundred fifty students in average daily membership are enrolled in the alternative education program.
 - c. Subsection 3 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least ~~one~~ three hundred ~~fifty~~ but fewer than ~~five hundred fifty~~ students in average daily membership are enrolled in the alternative education program.
 - d. ~~Subsection 4 by the number of students registered in the alternative education program, times the per student payment provided for in section 15.1-27-04, if at least five hundred fifty students in average daily membership are enrolled in the alternative education program.~~

6- 5. In order to be eligible for enumeration under this section, a student:

- a. Must have completed the work of the eighth grade;
- b. Must not have completed the work of the twelfth grade; and
- c. Must be a resident of this state or a nonresident attending a school in this state under the auspices of a foreign student exchange program.

6. In calculating payments under this section and subsections 1 through 4 of section 15.1-27-07, the superintendent of public instruction shall use 1.0 as the factor that represents the lowest five-year average cost of education among all elementary and high school weighting categories other than kindergarten and shall use proportionately increased factors to represent the five-year average cost of education in all remaining weighting categories except kindergarten.

SECTION 4. AMENDMENT. Section 15.1-27-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-07. Per student payments - Weighting factors - Elementary school students. The superintendent of public instruction shall make payments each year, as provided for in this section, to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, subject to adjustment as provided in section 15.1-27-21.

1. ~~a. Each district having only a one-room rural school is entitled to receive the amount of money that results from multiplying the factor 1.28 adjusted by eighty-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment level provided for in this subdivision is applicable only to the first sixteen students.~~
- b. ~~If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is~~

located is ~~entitled to receive ninety percent of the per student payment~~
provided for in ~~section 15.1-27-04~~ for each additional student. The district is
not ~~entitled to any payment for more than twenty students in average daily~~
membership.

e. ~~If a one-room rural school is located in a district having another elementary~~
school, the weighting factor for the students in grades one through six must
be ~~based on the average daily membership in the district in grades one~~
through six, as ~~provided in this section.~~

d. ~~If a one-room rural school is located in a school district with another school~~
that has students in grade seven or eight, the weighting factor for the students
in grade seven or eight must be the same as that provided for in subsection 5.

2. ~~Except as provided in subsection 1, each~~ Each school district having fewer than
one hundred students in average daily membership in grades one through six is
entitled to receive the amount of money that results from multiplying the factor 4.09
~~adjusted by eighty five percent of the difference between 1.09 and the factor~~
representing the five-year average cost of education per student for this category,
as determined by the superintendent of public instruction, by the number of
students in average daily membership in grades one through six in the district,
times the per student payment provided for in section 15.1-27-04. ~~Beginning~~
~~July 1, 2004, the factor is that which represents the five-year average cost of~~
~~education per student in this category, as determined by the superintendent of~~
~~public instruction. The payment provided for in this subsection is applicable only to~~
~~the first twenty five students in average daily membership per classroom or per~~
teacher.

3. ~~2.~~ 2. Each school district having at least one hundred students ~~but fewer than one~~
~~thousand students~~ in average daily membership in grades one through six is
entitled to receive the amount of money that results from multiplying the factor .905
~~adjusted by eighty five percent of the difference between .905 and the factor~~
representing the five-year average cost of education per student for this category,
as determined by the superintendent of public instruction, by the number of
students in average daily membership in grades one through six in the district,

times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.~~

4. ~~Each school district having at least one thousand students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor .95 adjusted by eighty five percent of the difference between .95 and the factor representing the five year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. Beginning July 1, 2004, the factor is that which represents the five-year average cost of the education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher.~~

5. 3. Each school district having students in grades seven and eight is entitled to receive the amount of money that results from multiplying the factor ~~1.01 adjusted by~~ eighty five percent of the difference between 1.01 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades seven and eight in the district, times the per student payment provided for in section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which represents the five-year average cost of education per student in this category, as determined by the superintendent of public instruction. The payment provided for in this subsection is applicable only to the first thirty students in average daily membership per classroom or per teacher. The payments provided for in this subsection are not available for students who attend a one-room rural school if that school is the only one in the district that offers educational services to students in grades seven and eight.~~

1 6- 4. Each school district having a special education program approved by the director
2 of special education is entitled to receive, for each student who is enrolled in the
3 program and who is at least three years of age but less than the compulsory age
4 for school attendance, the amount of money that results from multiplying the factor
5 ~~1.01 adjusted by eighty five percent of the difference between 1.01 and the factor~~
6 representing the five-year average cost of education per student for this category,
7 as determined by the superintendent of public instruction, by the number of special
8 education students in average daily membership in the program who are at least
9 three years of age but less than the compulsory age for school attendance, times
10 the per student payment provided for in section 15.1-27-04. ~~Beginning July 1,~~
11 ~~2004, the factor is that which represents the five year average cost of education~~
12 ~~per student in this category, as determined by the superintendent of public~~
13 ~~instruction.~~

- 14 7- 5. a. Each school district operating a kindergarten as provided for in section
15 15.1-22-02 is entitled to receive the amount of money that results from
16 multiplying the factor ~~.50 adjusted by eighty five percent of the difference~~
17 ~~between .50 and the factor~~ representing the five-year average cost of
18 education per student for this category, as determined by the superintendent
19 of public instruction, by the number of kindergarten students in average daily
20 membership in the district, times the per student payment provided for in
21 section 15.1-27-04. ~~Beginning July 1, 2004, the factor is that which~~
22 ~~represents the five year average cost of education per student in this~~
23 ~~category, as determined by the superintendent of public instruction.~~ The
24 payment provided for in this subsection is applicable only to the first
25 twenty-five students in average daily membership per classroom or per
26 teacher.
- 27 b. In order to receive the full per student payment available under this section, a
28 district must operate a kindergarten program that provides the equivalent of
29 ninety full days of classroom instruction during a twelve-month period. A
30 district is entitled to a prorated payment under this section if it operates a
31 kindergarten program of shorter duration.

1 ~~8-~~ 6. Each school district that educates students who are also enrolled in nonpublic
2 schools is entitled to receive proportionate payments under this section.

3 ~~9-~~ 7. Each school district is entitled to receive as much in total payments for elementary
4 students as it would have received if it had the highest number of students in the
5 next lower category.

6 ~~10-~~ 8. A school district is not entitled to any payments provided for by this chapter unless
7 each teacher employed by the district:

8 a. Holds a teaching license issued by the education standards and practices
9 board; or

10 b. Has been approved to teach by the education standards and practices board.

11 9. In calculating payments under subsections 1 through 4 and under section
12 15.1-27-06, the superintendent of public instruction shall use 1.0 as the factor that
13 represents the lowest five-year average cost of education among all elementary
14 and high school weighting categories other than kindergarten and shall use
15 proportionately increased factors to represent the five-year average cost of
16 education in all remaining weighting categories except kindergarten.

17 **SECTION 5. AMENDMENT.** Section 15.1-27-10 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **15.1-27-10. Per student payments - Special education.**

20 1. Except as provided in subsection 2, each biennium the superintendent of public
21 instruction shall distribute moneys appropriated by the legislative assembly for per
22 student special education payments to each school district in the state on the basis
23 of students in average daily membership. The superintendent of public instruction
24 shall forward the payments, ~~as calculated under section 15.1-27-05,~~ to eligible
25 school districts in the same manner and at the same time that the superintendent
26 distributes state aid payments. For purposes of this section, "special education"
27 means the provision of special services to students who have special needs,
28 including students who are gifted and talented. Expenditures under this section
29 may not conflict with nonsupplanting and maintenance of effort provisions under
30 the Individuals With Disabilities Education Act, 20 United States Code 1400 et seq.

2. Upon the written request of a school district, the superintendent of public instruction may forward all or a portion of the moneys to which the school district is entitled under this section directly to the special education unit of which the school district is a member.

3. The superintendent of public instruction may withhold state special education funds due a school district if, in response to a complaint, the superintendent finds that the district is not providing a free appropriate public education to a student as required by law. Any withholding under this subsection may not exceed an amount equal to the cost of meeting the affected student's needs.

SECTION 6. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.

2. For purposes of this section:

a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

b. "Budget year" means the taxing district's year for which the levy is being determined under this section;

- 1 c. "Calculated mill rate" means the mill rate that results from dividing the base
2 year taxes levied by the sum of the taxable value of the taxable property in the
3 base year plus the taxable value of the property exempt by local discretion or
4 charitable status, calculated in the same manner as the taxable property; and
5 d. "Property exempt by local discretion or charitable status" means property
6 exempted from taxation as new or expanding businesses under
7 chapter 40-57.1; improvements to property under chapter 57-02.2; or
8 buildings belonging to institutions of public charity, new single-family
9 residential or townhouse or condominium property, property used for early
10 childhood services, or pollution abatement improvements under section
11 57-02-08.

- 12 3. A taxing district may elect to levy the amount levied in dollars in the base year.
13 Any levy under this section must be specifically approved by a resolution approved
14 by the governing body of the taxing district. Before determining the levy limitation
15 under this section, the dollar amount levied in the base year must be:
16 a. Reduced by an amount equal to the sum determined by application of the
17 base year's calculated mill rate for that taxing district to the final base year
18 taxable valuation of any taxable property and property exempt by local
19 discretion or charitable status which is not included in the taxing district for the
20 budget year but was included in the taxing district for the base year.
21 b. Increased by an amount equal to the sum determined by the application of the
22 base year's calculated mill rate for that taxing district to the final budget year
23 taxable valuation of any taxable property or property exempt by local
24 discretion or charitable status which was not included in the taxing district for
25 the base year but which is included in the taxing district for the budget year.
26 c. Reduced to reflect expired temporary mill levy increases authorized by the
27 electors of the taxing district.
- 28 4. In addition to any other levy limitation factor under this section, a taxing district may
29 increase its levy in dollars to reflect new or increased mill levies authorized by the
30 legislative assembly or authorized by the electors of the taxing district.

1 5. Under this section a taxing district may supersede any applicable mill levy
2 limitations otherwise provided by law, or a taxing district may levy up to the mill
3 levy limitations otherwise provided by law without reference to this section, but the
4 provisions of this section do not apply to the following:

- 5 a. Any irrepealable tax to pay bonded indebtedness levied pursuant to
6 section 16 of article X of the Constitution of North Dakota.
7 b. The one-mill levy for the state medical center authorized by section 10 of
8 article X of the Constitution of North Dakota.
9 c. School districts.

10 6. ~~A school district choosing to determine its levy authority under this section may~~
11 ~~apply subsection 3 only to the amount in dollars levied for general fund purposes~~
12 ~~under section 57-15-14 or, if the levy in the base year included separate general~~
13 ~~fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school~~
14 ~~district may apply subsection 3 to the total amount levied in dollars in the base year~~
15 ~~for both the general fund and special fund accounts. School district levies under~~
16 ~~any section other than section 57-15-14 may be made within applicable limitations~~
17 ~~but those levies are not subject to subsection 3.~~

18 7. Optional levies under this section may be used by any city or county that has
19 adopted a home rule charter unless the provisions of the charter supersede state
20 laws related to property tax levy limitations.

21 **SECTION 7. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied
24 each year for the purposes listed in section 57-15-14.2 by any school district, ~~except the Fargo~~
25 ~~school district,~~ may not exceed the amount in dollars which the school district levied for the
26 prior school year plus eighteen percent up to a general fund levy of one hundred eighty five
27 produced by a levy of eighty mills on the dollar of the taxable valuation of the district, ~~except~~
28 that:

29 4. ~~In any school district having a total population in excess of four thousand according~~
30 ~~to the last federal decennial census:~~

1 a. ~~There may be levied any specific number of mills that.~~ A levy under this
2 section may not be imposed unless upon resolution of the school board the
3 levy has been submitted to and approved by ~~a majority~~ two-thirds of the
4 qualified electors voting upon the question at any regular or special school
5 district election. Approval by electors of a levy under this section is valid for
6 no more than five taxable years and the question of extending levy authority
7 beyond that time must be resubmitted to the electors of the district.

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

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

16 3. ~~In any school district in which the total assessed valuation of property has~~
17 ~~increased twenty percent or more over the prior year and in which as a result of~~
18 ~~that increase the school district is entitled to less in state aid payments provided in~~
19 ~~chapter 15.1-27 because of the deduction required in section 15.1-27-05, there~~
20 ~~may be levied any specific number of mills more in dollars than was levied in the~~
21 ~~prior year up to a general fund levy of one hundred eighty five mills on the dollar of~~
22 ~~the taxable valuation of the school district. The additional levy authorized by this~~
23 ~~subsection may be levied for not more than two years because of any twenty~~
24 ~~percent or greater annual increase in assessed valuation. The total amount of~~
25 ~~revenue generated in excess of the eighteen percent increase which is otherwise~~
26 ~~permitted by this section may not exceed the amount of state aid payments lost as~~
27 ~~a result of applying the deduction provided in section 15.1-27-05 to the increased~~
28 ~~assessed valuation of the school district in a one year period.~~

29 The question of authorizing or discontinuing ~~such specific number of mills authority or unlimited~~
30 taxing authority ~~in any school district~~ under this section must be submitted to the qualified
31 electors of the school district at the next regular or special 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 recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census is required. However, not fewer than twenty-five signatures are required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 8. AMENDMENT. Section 57-38-29 of the North Dakota Century Code is amended and reenacted as follows:

57-38-29. Optional method of computing tax - Surtax. Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. A tax is hereby imposed upon every individual, estate, or trust to be levied, collected, and paid annually with respect to the taxable income of such individual, estate, or trust as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of three thousand dollars, a tax of two and sixty-seven hundredths percent.
2. On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of four percent.
3. On taxable income in excess of five thousand dollars and not in excess of eight thousand dollars, a tax of five and thirty-three hundredths percent.
4. On taxable income in excess of eight thousand dollars and not in excess of fifteen thousand dollars, a tax of six and sixty-seven hundredths percent.
5. On taxable income in excess of fifteen thousand dollars and not in excess of twenty-five thousand dollars, a tax of eight 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 and thirty-three 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 and sixty-seven hundredths percent.

8. On taxable income in excess of fifty thousand dollars, a tax of twelve percent.

In addition to the tax otherwise determined under this section, an individual, estate, or trust is subject to a surtax of thirty-three percent of the amount otherwise determined under this section.

SECTION 9. 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 - Surtax. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation 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 two and six-tenths 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-tenth percent.

c. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of five and six-tenths percent.

d. On all taxable income above twenty thousand dollars, and not in excess of thirty thousand dollars, at the rate of six and four-tenths percent.

e. On all taxable income above thirty thousand dollars, at the rate of seven 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.

3. In addition to the tax otherwise determined under this section, a corporation is subject to a surtax of thirty-three percent of the amount otherwise determined under this section.

1 **SECTION 10.** A new subsection to section 57-38-30.3 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 In addition to the tax otherwise determined under this section, an individual, estate,
4 or trust is subject to a surtax of thirty-three percent of the amount otherwise
5 determined under this section.

6 **SECTION 11. AMENDMENT.** Section 57-38-55 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-38-55. Disposition of revenues.** As soon as practicable, after receipt thereof, the
9 tax commissioner shall turn over to the state treasurer all income taxes collected by the tax
10 commissioner. The state treasurer shall issue a receipt for such collections, which must be
11 made a permanent record in the office of the tax commissioner. Such moneys must be
12 deposited by the state treasurer to the credit of the general fund for the purpose of defraying the
13 general expenses of the state government except all revenue from the surtax imposed under
14 sections 57-38-29, 57-38-30, and 57-38-30.3 must be deposited in the education tax equity
15 fund.

16 **SECTION 12.** A new subsection to section 57-39.2-02.1 of the North Dakota Century
17 Code is created and enacted as follows:

18 There is imposed on the gross receipts from all sales at retail otherwise taxable
19 under this chapter a separate and additional tax of two percent.

20 **SECTION 13. AMENDMENT.** Section 57-39.2-26 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-39.2-26. Allocation of revenue.** ~~All~~ Except as otherwise provided in this section
23 and section 57-39.2-26.1, all moneys collected and received under this chapter must be paid
24 into the state treasury and must be credited by the state treasurer to the general fund. Moneys
25 deposited with the commissioner as security for the payment of tax, penalties, or costs due
26 must be deposited and accounted for as provided in subsection 3 of section 57-39.2-12. All
27 revenue from separate and additional taxes imposed under section 12 of this Act, sections
28 57-39.5-02, 57-39.6-02, section 16 of this Act, and section 57-40.3-02 must deposited in the
29 education tax equity fund and must not be considered as net sales, use, and motor vehicle
30 excise tax collections under section 57-39.2-26.1.

1 **SECTION 14. AMENDMENT.** Section 57-39.5-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-39.5-02. (Effective after December 31, 2005) Imposition - Exemptions.** There is
4 imposed a tax of three percent upon the gross receipts of retailers from all sales at retail,
5 including the leasing or renting, of farm machinery or irrigation equipment used exclusively for
6 agricultural purposes. Gross receipts from sales at retail of farm machinery or irrigation
7 equipment are exempted from the tax imposed by this chapter when the sale, lease, or rental is
8 made to a purchaser or lessor who is entitled to a sales and use tax exemption under
9 subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are
10 specifically exempted from the tax imposed by this chapter the gross receipts from the sale or
11 lease of used farm machinery, farm machinery repair parts, or used irrigation equipment used
12 exclusively for agricultural purposes. For purposes of this section, "used" means:

- 13 1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous
14 sale;
- 15 2. Originally purchased outside this state and previously owned by a farmer; or
- 16 3. Has been under lease or rental for three years or more.

17 There is imposed on the gross receipts from all sales at retail otherwise taxable under this
18 chapter a separate and additional tax of two percent.

19 **SECTION 15. AMENDMENT.** Section 57-39.6-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **57-39.6-02. (Effective after December 31, 2005) Gross receipts tax on alcoholic**
22 **beverages - Exemption.** There is imposed a tax of seven percent on the gross receipts of
23 retailers from all sales at retail of alcoholic beverages. Gross receipts from sales at retail of
24 alcoholic beverages are exempted from the tax imposed by this chapter when the sale is made
25 to a purchaser who is entitled to a sales and use tax exemption under subsection 6 or 12 of
26 section 57-39.2-04 on otherwise taxable sales. There is imposed on the gross receipts from all
27 sales at retail otherwise taxable under this chapter a separate and additional tax of two percent.

28 **SECTION 16.** A new subsection to section 57-40.2-02.1 of the North Dakota Century
29 Code is created and enacted as follows:

30 There is imposed a separate and additional tax of two percent of the purchase
31 price or fair market value of property otherwise subject to taxes under this chapter.

1 **SECTION 17. AMENDMENT.** Section 57-40.3-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-40.3-02. Tax imposed.** There is hereby imposed an excise tax at the rate of five
4 percent on the purchase price of any motor vehicle purchased or acquired either in or outside of
5 the state of North Dakota for use on the streets and highways of this state and required to be
6 registered under the laws of this state. There is imposed on the gross receipts from all sales at
7 retail otherwise taxable under this chapter a separate and additional tax of two percent.

8 **SECTION 18. REPEAL.** Sections 15.1-12-11.1, 15.1-12-12, 15.1-27-05, and
9 15.1-27-11 of the North Dakota Century Code are repealed.

10 **SECTION 19. EFFECTIVE DATE.** Sections 1, 6, and 7 of this Act are effective for
11 taxable years beginning after December 31, 2005. Sections 8, 9, 10, and 11 of this Act are
12 effective for taxable years beginning after December 31, 2004. Sections 12, 13, 16, and 17 of
13 this Act are effective for taxable events occurring after June 30, 2005. Sections 14 and 15 of
14 this Act are effective for taxable events occurring after December 31, 2005.