

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1512

Introduced by

Representatives Haas, Herbel

1 A BILL for an Act to create and enact section 15.1-27-04.1, a new subsection to section
2 57-38-30.3, a new subsection to section 57-39.2-02.1, and a new subsection to section
3 57-40.2-02.1 of the North Dakota Century Code, relating to school district cost factors, sales
4 and use taxes and income taxes; to amend and reenact sections 15.1-09-47, 15.1-23-19,
5 15.1-27-08, 15.1-27-09, 15.1-27-18, 15.1-27-20, 15.1-29-12, 15.1-31-03, 15.1-31-07,
6 15.1-32-14, 57-15-01.1, 57-15-14, 57-35.3-03, 57-38-29, 57-38-30, and 57-38-55, subsection 3
7 of section 57-38.4-02, and sections 57-39.2-26, 57-39.5-02, 57-39.6-02, and 57-40.3-02 of the
8 North Dakota Century Code, relating to the distribution of per student payments, school district
9 property tax levies, financial institutions taxes, corporate and individual income taxes, and
10 sales, use, and motor vehicle excise taxes; to provide hold harmless payments; to repeal
11 sections 15.1-07-28, 15.1-12-11.1, 15.1-12-11.2, 15.1-27-04, 15.1-27-05, 15.1-27-06,
12 15.1-27-07, 15.1-27-10, 15.1-27-11, 15.1-27-12, 15.1-27-14, 15.1-27-15, 15.1-27-16,
13 15.1-27-17, 15.1-27-19, 15.1-27-21, 15.1-27-32, 15.1-27-33, 15.1-27-36, 15.1-27-37,
14 15.1-27-38, 15.1-27-40, and 15.1-28-03 of the North Dakota Century Code, relating to state aid
15 payments to school districts, reorganization bonuses, joint powers association payments, the
16 school district equalization factor, and supplemental payments; and to provide an effective
17 date.

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

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

21 **15.1-09-47. Board of education of city of Fargo - Taxing authority.**

22 1. The board of education of the city of Fargo may levy taxes, as necessary for any of
23 the following purposes:

24 a. To purchase, exchange, lease, or improve sites for schools.

- b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their appurtenances.
- c. To procure, exchange, improve, and repair school apparatus, books, furniture, and appendages, but not the furnishing of textbooks to any student whose parent is unable to furnish the same.
- 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 15.1-23-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-19. Home education - State aid to school districts. For purposes of allocating state aid to school districts, a child receiving home education is deemed enrolled in the child's school district of residence if the child is monitored by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed by the public school district in which the child

resides. A school district is entitled to fifty percent of the per student payment provided in section 15.1-27-04 times the appropriate cost factor ~~in section 15.1-27-06 or 15.1-27-07~~ for each child receiving home education. If a child receiving home education is enrolled in public school classes, proportionate payments must be made. The total amount may not exceed the equivalent of one full per student base payment times the appropriate ~~weighting~~ cost factor.

SECTION 3. Section 15.1-27-04.1 of the North Dakota Century Code is created and enacted as follows:

15.1-27-04.1. School district categories - Cost factors - Payment.

1. In order to determine state aid to education, the superintendent of public instruction shall recognize the following categories of school districts:
 - a. Category 1 school districts are elementary districts having fewer than one hundred students in average daily membership;
 - b. Category 2 school districts are elementary districts having at least one hundred students in average daily membership;
 - c. Category 3 school districts are high school districts having fewer than one hundred fifty students in average daily membership;
 - d. Category 4 school districts are high school districts having one hundred fifty to two hundred seventy-five students in average daily membership;
 - e. Category 5 school districts are high school districts having two hundred seventy-six to two thousand eight hundred students in average daily membership; and
 - f. Category 6 school districts are high school districts having more than two thousand eight hundred students in average daily membership.

2. In order to determine per student payments, the superintendent of public instruction shall assign base cost factors as follows:

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| a. <u>Category 1 school districts:</u> | <u>1.93</u> |
| b. <u>Category 2 school districts:</u> | <u>1.29</u> |
| c. <u>Category 3 school districts:</u> | <u>1.65</u> |
| d. <u>Category 4 school districts:</u> | <u>1.08</u> |
| e. <u>Category 5 school districts:</u> | <u>1.00</u> |
| f. <u>Category 6 school districts:</u> | <u>1.11</u> |

3. In order to determine additional payments for students who are mildly disabled, the superintendent of public instruction shall assign cost factors as follows:

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| a. <u>Category 1 school districts:</u> | <u>0.52</u> |
| b. <u>Category 2 school districts:</u> | <u>0.82</u> |
| c. <u>Category 3 school districts:</u> | <u>0.65</u> |
| d. <u>Category 4 school districts:</u> | <u>0.91</u> |
| e. <u>Category 5 school districts:</u> | <u>1.08</u> |
| f. <u>Category 6 school districts:</u> | <u>0.71</u> |

4. In order to determine additional payments for students who are moderately disabled, the superintendent of public instruction shall assign cost factors as follows:

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| a. <u>Category 1 school districts:</u> | <u>0.49</u> |
| b. <u>Category 2 school districts:</u> | <u>0.79</u> |
| c. <u>Category 3 school districts:</u> | <u>0.62</u> |
| d. <u>Category 4 school districts:</u> | <u>0.93</u> |
| e. <u>Category 5 school districts:</u> | <u>3.08</u> |
| f. <u>Category 6 school districts:</u> | <u>2.12</u> |

5. In order to determine additional payments for students who are severely disabled, the superintendent of public instruction shall assign cost factors as follows:

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| a. <u>Category 1 school districts:</u> | <u>0.98</u> |
| b. <u>Category 2 school districts:</u> | <u>1.70</u> |
| c. <u>Category 3 school districts:</u> | <u>1.30</u> |
| d. <u>Category 4 school districts:</u> | <u>2.02</u> |
| e. <u>Category 5 school districts:</u> | <u>6.00</u> |
| f. <u>Category 6 school districts:</u> | <u>4.99</u> |

6. In order to determine additional payments for students who are at-risk, the superintendent of public instruction shall assign cost factors as follows:

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| a. <u>Category 1 school districts:</u> | <u>0.18</u> |
| b. <u>Category 2 school districts:</u> | <u>0.30</u> |
| c. <u>Category 3 school districts:</u> | <u>0.25</u> |
| d. <u>Category 4 school districts:</u> | <u>0.31</u> |

1 e. Category 5 school districts: 0.37

2 f. Category 6 school districts: 0.41

3 7. In order to determine additional payments for students who are English language
4 learners, the superintendent of public instruction shall assign cost factors as
5 follows:

6 a. Category 1 school districts: 0.40

7 b. Category 2 school districts: 0.40

8 c. Category 3 school districts: 0.40

9 d. Category 4 school districts: 0.41

10 e. Category 5 school districts: 0.76

11 f. Category 6 school districts: 0.91

12 **SECTION 4. AMENDMENT.** Section 15.1-27-08 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15.1-27-08. Per student payments - Unaccredited high schools.**

15 1. If a school district operates an unaccredited high school ~~becomes unaccredited,~~
16 the per student payment to which the school district is entitled ~~during the first year~~
17 ~~in which the high school is unaccredited~~ is the amount established determined by
18 using the base cost factor in section 15.1-27-04 subsection 2 of section
19 15.1-27-04.1. The school district is not entitled to the amount that results from
20 applying the ~~weighting~~ cost factors provided in subsections 3 through 7 of section
21 ~~15.1-27-06~~ 15.1-27-04.1.

22 2. In each successive year, the ~~per student~~ payment to which the school district is
23 entitled for each student in the unaccredited high school must be reduced by an
24 additional two hundred dollars. If a school regains its accreditation, the school
25 district is entitled to the per student payments provided for accredited schools for
26 the entire school year in which the school becomes accredited.

27 **SECTION 5. AMENDMENT.** Section 15.1-27-09 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **15.1-27-09. Per student payments - Unaccredited elementary schools.**

30 1. If a school district operates an unaccredited elementary school, the per student
31 payment to which the school district is entitled ~~during the first year in which the~~

~~elementary school is unaccredited is the amount established in section 15.1-27-04~~
~~determined by using the base cost factor in subsection 2 of section 15.1-27-04.1.~~

The school district is not entitled to the amount that results from applying the
~~weighting cost~~ factors provided in subsections 3 through 7 of section 15.1-27-07
15.1-27-04.1.

2. In each successive year, the ~~per student~~ payment to which the school district is
entitled for each student in the unaccredited elementary school must be reduced
by an additional two hundred dollars. If a school regains its accreditation, the
school district is entitled to the per student payments provided for accredited
schools for the entire school year in which the school becomes accredited.

SECTION 6. AMENDMENT. Section 15.1-27-18 of the North Dakota Century Code is
amended and reenacted as follows:

15.1-27-18. Per student payments - Eligibility - Minimum amounts.

1. In order to be counted for the purpose of calculating per student payments, as
provided for by this chapter, a high school student must be enrolled in at least four
high school units. The units may include career and technical education courses
offered in accordance with chapter 15-20.1 and courses that are approved by the
superintendent of public instruction and offered by another high school district.
2. If a student is enrolled for graduation in a nonpublic school or if a student is taking
fewer than four high school units and is enrolled in an approved alternative high
school education program, the school district in which the student is enrolled is
entitled to receive proportionate payments.
- ~~3. Each high school district must receive at least as much in total per student
payments as it would have received if it had the highest number of students in the
next lower weighting category.~~

SECTION 7. AMENDMENT. Section 15.1-27-20 of the North Dakota Century Code is
amended and reenacted as follows:

15.1-27-20. Per student payments - Claim by school district - Appeal.

1. Upon the completion of student registration and in no event later than September
tenth of each year, the business manager of a school district claiming payments
from state funds under the provisions of this chapter shall file a claim in the form

and manner prescribed by the superintendent of public instruction. The business manager must provide the number of registered high school and elementary school students for whom payments are claimed and any other information requested by the superintendent of public instruction.

2. The superintendent of public instruction shall compute the per student payments on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever provides the greater total payment. The superintendent shall make adjustments in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's per student aid payments.

- ~~3. School districts educating children of agricultural migratory workers and school districts offering approved summer courses during the months of June, July, and August are not restricted to payments for a one hundred eighty day school term.~~

- ~~4.~~ Upon termination of the school year, the business manager of each school district that has received payments from state funds under the provisions of this chapter shall file with the school board a verified statement of the name, residence, and membership of each student and the units of high school work taken by each enrolled student.

- ~~5.~~ 4. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction, in the form and manner prescribed by the superintendent, the students in average daily membership for the recently completed school year. The superintendent shall notify the school district of any student average daily membership that is disallowed.

- ~~6.~~ 5. A district may appeal the determination of the superintendent by submitting a written appeal to the superintendent of public instruction on or before September fifteenth of the year in which the determination is made. The superintendent of

public instruction may modify the determination if the evidence submitted by the district justifies a modification. Upon appeal, or in a case when no timely appeal is made, the determination of the superintendent of public instruction is final.

SECTION 8. AMENDMENT. Section 15.1-29-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-12. Tuition payments - Determination.

1. Except as provided in section 15.1-29-13, a school district sending a student to another district for purposes of education shall pay the full cost of education incurred by the admitting district.
2.
 - a. The admitting district shall determine the cost of education per student for its kindergarten, elementary, and high school students on the basis of its average daily membership and those expenditures permitted in determining the cost of education per student in section 15.1-27-03.
 - b. To the cost of education per student, the admitting district shall add the state average capital outlay per student. The state average capital outlay per student is determined by dividing the total of all school districts' annual expenditures for sinking and interest funds, tax receipts to the building funds, and general fund expenditures for capital outlay by the average daily membership of the state.
 - c. The admitting district shall subtract the following from the amount arrived at under subdivision b:
 - (1) The ~~weighted~~ per student base payment received by the admitting district, ~~less the average amount per North Dakota resident student enrolled in the school district realized from the deductions applied under section 15.1-27-06;~~ and
 - (2) Any credit for taxes paid to the admitting district by the student's parent.
 - d. The amount remaining is the full cost of education incurred by the admitting district and the tuition amount payable for the individual student.
3. If the student's school district of residence and the student's parent are both paying tuition, the credit allowed under subdivision c of subsection 2 for taxes paid to the

admitting district by the student's parent must be proportionately credited to the student's district of residence and the student's parent.

4. This chapter does not affect the right of a school board to charge and collect tuition from students who are not residents of this state, in accordance with section 15.1-29-02.

SECTION 9. AMENDMENT. Section 15.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-03. Open enrollment - Per student aid - Tuition apportionment.

1. Once a student is enrolled in an admitting district, the student must remain enrolled in the admitting district until:
 - a. The student graduates;
 - b. The student relocates to another district;
 - c. The student's parent applies for enrollment in another school district; or
 - d. The student's parent notifies the student's school district of residence that the student will attend school in the school district of residence the following year.
2. Payment for per student aid must be made to the admitting district in accordance with chapter 15.1-27.
3. ~~For purposes of tuition apportionment payments, a student whose application is approved under this section is considered a resident of the admitting district.~~
4. Except as specifically provided in this chapter, chapter 15.1-29 does not apply to students involved in open enrollment.

SECTION 10. AMENDMENT. Section 15.1-31-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-07. Students not subject to this chapter. If a student, as a result of a school district dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, the student is not subject to this chapter and may attend school in the chosen school district. ~~Notwithstanding section 15.1-28-03, the superintendent of public instruction shall forward payments from the state tuition fund made on behalf of the student to the student's chosen school district.~~ The student may not be considered a student in average daily membership in the student's school district of residence for purposes of section 15.1-31-02.

SECTION 11. AMENDMENT. Section 15.1-32-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-14. Special education per student payments.

1. A student with disabilities who receives special education services is deemed to be enrolled in the student's school district of residence for purposes of calculating per student payments.

~~2. An additional prorated per student payment may be made if a student with disabilities attends a special education summer program approved by the superintendent of public instruction, provided the student's individualized education program or services plan requires that the student attend a special education summer program.~~

~~3.~~ If a student who is enrolled in a nonpublic school receives special education services in a public school, the superintendent of public instruction shall forward a proportionate per student payment to the school district in which the student receives the services.

- ~~4.~~ 3. a. If in the opinion of an individualized education program team or a services plan team a student is unable to attend a public school in the special education unit to which the student's school district of residence belongs, the student's school district of residence shall contract with another public school that:
- (1) Does not belong to the same special education unit;
 - (2) Is located in this state;
 - (3) Is willing to admit the student; and
 - (4) Is able to provide appropriate services to the student.
- b. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting school.
- c. The contract must provide that the student's school district of residence agrees to pay to the district in which the admitting school is located, as part of the cost of educating the student for the school year, an amount equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment, plus twenty percent of

all remaining costs. The amount paid may not exceed the actual per student cost incurred by the admitting school.

- d. The liability of the student's school district of residence must be reduced proportionately if the student attends the admitting school for less than an entire school year.
- e. Upon being notified by the admitting district that tuition payments provided for by this section are due and unpaid, the superintendent of public instruction, after verification, shall withhold all state aid payments to which the student's school district of residence is entitled until the tuition due has been paid.
- f. The superintendent of public instruction shall provide to the school district, within the limits of legislative appropriations, an amount equal to eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits.

SECTION 12. 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;

c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and

d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:

a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.

b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.

4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.

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

a. Any irrepealable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.

b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.

c. School districts.

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

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

SECTION 13. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, ~~except the Fargo school district,~~ may not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of one hundred eighty five

~~produced by a levy of eighty mills on the dollar of the taxable valuation of the district, except~~
~~that:~~

~~1. In any school district having a total population in excess of four thousand~~
~~according to the last federal decennial census:~~

~~a. There may be levied any specific number of mills that. A levy under this~~
~~section may not be imposed except upon resolution adopted by a two-thirds~~
~~vote of the 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. 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. 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 aid payments provided in~~
~~chapter 15.1 27 because of the deduction required in section 15.1 27 05, there~~
~~may be levied any specific number of mills more in dollars than 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. 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 section 15.1 27 05 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 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 14. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax - Surtax. An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is seven percent of taxable income, but the amount of tax may not be less than fifty dollars. In addition to the tax otherwise determined under this section, a financial institution is subject to a surtax of thirty-three percent of the amount otherwise determined under this section. Notwithstanding the provisions of section 57-35.3-08, the entire proceeds of the surtax under this section must be deposited in the education tax adequacy and equity fund.

SECTION 15. 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 16. 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:

- 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.

- 1 c. On all taxable income above eight thousand dollars and not in excess of
2 twenty thousand dollars, at the rate of five and six-tenths percent.
3 d. On all taxable income above twenty thousand dollars, and not in excess of
4 thirty thousand dollars, at the rate of six and four-tenths percent.
5 e. On all taxable income above thirty thousand dollars, at the rate of seven
6 percent.

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

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

14 **SECTION 17.** A new subsection to section 57-38-30.3 of the North Dakota Century
15 Code is created and enacted as follows:

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

19 **SECTION 18. AMENDMENT.** Section 57-38-55 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **57-38-55. Disposition of revenues.** As soon as practicable, after receipt thereof, the
22 tax commissioner shall turn over to the state treasurer all income taxes collected by the tax
23 commissioner. The state treasurer shall issue a receipt for such collections, which must be
24 made a permanent record in the office of the tax commissioner. Such moneys must be
25 deposited by the state treasurer to the credit of the general fund for the purpose of defraying
26 the general expenses of the state government except all revenue from the surtax imposed
27 under sections 57-38-29, 57-38-30, and 57-38-30.3 must be deposited in the education tax
28 adequacy and equity fund.

29 **SECTION 19. AMENDMENT.** Subsection 3 of section 57-38.4-02 of the North Dakota
30 Century Code is amended and reenacted as follows:

1 3. In addition to the tax imposed under ~~subsection~~ subsections 1 and 3 of section
2 57-38-30, there is imposed an additional tax of three and one-half percent of
3 taxable income which must be levied, collected, and paid annually in the same
4 manner as provided in chapter 57-38.

5 **SECTION 20.** A new subsection to section 57-39.2-02.1 of the North Dakota Century
6 Code is created and enacted as follows:

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

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

11 **57-39.2-26. Allocation of revenue.** ~~All~~ Except as otherwise provided in this section
12 and section 57-39.2-26.1, all moneys collected and received under this chapter must be paid
13 into the state treasury and must be credited by the state treasurer to the general fund. Moneys
14 deposited with the commissioner as security for the payment of tax, penalties, or costs due
15 must be deposited and accounted for as provided in subsection 3 of section 57-39.2-12. All
16 revenue from separate and additional taxes imposed under section 12 of this Act, sections
17 57-39.5-02, 57-39.6-02, section 16 of this Act, and section 57-40.3-02 must deposited in the
18 education tax adequacy and equity fund and must not be considered as net sales, use, and
19 motor vehicle excise tax collections under section 57-39.2-26.1.

20 **SECTION 22. AMENDMENT.** Section 57-39.5-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-39.5-02. (Effective after December 31, 2005) Imposition - Exemptions.** There is
23 imposed a tax of three percent upon the gross receipts of retailers from all sales at retail,
24 including the leasing or renting, of farm machinery or irrigation equipment used exclusively for
25 agricultural purposes. Gross receipts from sales at retail of farm machinery or irrigation
26 equipment are exempted from the tax imposed by this chapter when the sale, lease, or rental is
27 made to a purchaser or lessor who is entitled to a sales and use tax exemption under
28 subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are
29 specifically exempted from the tax imposed by this chapter the gross receipts from the sale or
30 lease of used farm machinery, farm machinery repair parts, or used irrigation equipment used
31 exclusively for agricultural purposes. For purposes of this section, "used" means:

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

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

7 **SECTION 23. AMENDMENT.** Section 57-39.6-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-39.6-02. (Effective after December 31, 2005) Gross receipts tax on alcoholic**
10 **beverages - Exemption.** There is imposed a tax of seven percent on the gross receipts of
11 retailers from all sales at retail of alcoholic beverages. Gross receipts from sales at retail of
12 alcoholic beverages are exempted from the tax imposed by this chapter when the sale is made
13 to a purchaser who is entitled to a sales and use tax exemption under subsection 6 or 12 of
14 section 57-39.2-04 on otherwise taxable sales. There is imposed on the gross receipts from all
15 sales at retail otherwise taxable under this chapter a separate and additional tax of two percent.

16 **SECTION 24.** A new subsection to section 57-40.2-02.1 of the North Dakota Century
17 Code is created and enacted as follows:

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

20 **SECTION 25. AMENDMENT.** Section 57-40.3-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-40.3-02. Tax imposed.** There is hereby imposed an excise tax at the rate of five
23 percent on the purchase price of any motor vehicle purchased or acquired either in or outside
24 of the state of North Dakota for use on the streets and highways of this state and required to be
25 registered under the laws of this state. There is imposed on the gross receipts from all sales at
26 retail otherwise taxable under this chapter a separate and additional tax of two percent.

27 **SECTION 26. HOLD HARMLESS PAYMENTS.**

- 28 1. The superintendent of public instruction shall compare the payments to which each
- 29 school district is entitled from all state and local sources for the 2004-05 school
- 30 year against the payments to which each school district is entitled from all state
- 31 and local sources for the 2005-06 school year. If the amount to which a school

district is entitled during the 2005-06 school year is less than that to which it was entitled during the 2004-05 school year, the superintendent of public instruction shall forward the difference to the school district on or before June 30, 2006.

2. The superintendent of public instruction shall compare the payments to which each school district is entitled from all state and local sources for the 2004-05 school year against the payments to which each school district is entitled from all state and local sources for the 2006-07 school year. If the amount to which a school district is entitled during the 2006-07 school year is less than that to which it was entitled during the 2004-05 school year, the superintendent of public instruction shall forward the difference to the school district on or before June 30, 2007.

3. The superintendent of public instruction may make payments under this section only to those school districts that levy eighty mills as provided for in section 57-15-14.

SECTION 27. REPEAL. Sections 15.1-07-28, 15.1-12-11.1, 15.1-12-11.2, 15.1-27-04, 15.1-27-05, 15.1-27-06, 15.1-27-07, 15.1-27-10, 15.1-27-11, 15.1-27-12, 15.1-27-14, 15.1-27-15, 15.1-27-16, 15.1-27-17, 15.1-27-19, 15.1-27-21, 15.1-27-32, 15.1-27-33, 15.1-27-36, 15.1-27-37, 15.1-27-38, 15.1-27-40, and 15.1-28-03 of the North Dakota Century Code are repealed.

SECTION 28. EFFECTIVE DATE. Sections 1, 12, and 13 of this Act are effective for taxable years beginning after December 31, 2005. Sections 14, 15, 16, 17, 18, and 19 of this Act are effective for taxable years beginning after December 31, 2004. Sections 20, 21, 24, and 25 of this Act are effective for taxable events occurring after June 30, 2005. Sections 22 and 23 of this Act are effective for taxable events occurring after December 31, 2005.