

HOUSE BILL NO. 1513

Introduced by

Representatives Metcalf, Aarsvold, Mueller

1 A BILL for an Act to amend and reenact sections 57-15-31, 57-38-29, and 57-38-30,
2 subsection 1 of section 57-38-30.3, and section 57-38-55 of the North Dakota Century Code,
3 relating to individual and corporate income tax increases to provide school district property tax
4 relief; to provide a continuing appropriation; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-15-31 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
9 township, school district, park district, or other municipality authorized to levy taxes shall be
10 computed by deducting from the amount of estimated expenditures for the current fiscal year as
11 finally determined, plus the required reserve fund determined upon by the governing board from
12 the past experience of the taxing district, the total of the following items:

- 13 1. The available surplus consisting of the free and unencumbered cash balance.
- 14 2. Estimated revenues from sources other than direct property taxes.
- 15 3. The total estimated collections from tax levies for previous years.
- 16 4. Such expenditures as are to be made from bond sources.
- 17 5. The amount of distributions received from an economic growth increment pool
18 under section 57-15-61.
- 19 6. The estimated amount to be received from payments in lieu of taxes on a project
20 under section 40-57.1-03.
- 21 7. For school districts, the amount of estimated revenue to be received by the school
22 district under section 57-38-55. However, the deduction under this subsection
23 applies proportionately to only the school district's estimated expenditures for the

general fund, transportation for high school students, and tuition for high school students.

Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

SECTION 2. 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. 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, to be levied, collected, and paid annually with respect to the taxable income of such individual 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~~ three and ~~sixty-seven~~ thirty-four hundredths percent.
2. On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of ~~four~~ five percent.
3. On taxable income in excess of five thousand dollars and not in excess of eight thousand dollars, a tax of ~~five~~ six and ~~thirty-three~~ sixty-six hundredths percent.
4. On taxable income in excess of eight thousand dollars and not in excess of fifteen thousand dollars, a tax of ~~six~~ eight and ~~sixty-seven~~ thirty-four 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~~ ten 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~~ eleven and ~~thirty-three~~ sixty-six 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~~ thirteen and ~~sixty-seven~~ thirty-four hundredths percent.
8. On taxable income in excess of fifty thousand dollars, a tax of ~~twelve~~ fifteen percent.

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

1 **57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon
2 the taxable income of every domestic and foreign corporation which must be levied, collected,
3 and paid annually as in this chapter provided:

- 4 1. a. For the first three thousand dollars of taxable income, at the rate of ~~two~~ three
5 and ~~six-tenths~~ twenty-five hundredths percent.
6 b. On all taxable income above three thousand dollars and not in excess of eight
7 thousand dollars, at the rate of ~~four~~ five and ~~one-tenth~~ thirteen hundredths
8 percent.
9 c. On all taxable income above eight thousand dollars and not in excess of
10 twenty thousand dollars, at the rate of ~~five and six tenths~~ seven percent.
11 d. On all taxable income above twenty thousand dollars, and not in excess of
12 thirty thousand dollars, at the rate of ~~six and four tenths~~ eight percent.
13 e. On all taxable income above thirty thousand dollars, at the rate of ~~seven~~ eight
14 and seventy-five hundredths percent.
15 2. A corporation that has paid North Dakota alternative minimum tax in years
16 beginning before January 1, 1991, may carry over any alternative minimum tax
17 credit remaining to the extent of the regular income tax liability of the corporation
18 for a period not to exceed four taxable years.

19 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 1. A tax is hereby imposed for each taxable year upon income earned or received in
22 that taxable year by every resident and nonresident individual, estate, and trust. A
23 taxpayer computing the tax under this section is only eligible for those adjustments
24 or credits that are specifically provided for in this section. Provided, that for
25 purposes of this section, any person required to file a state income tax return under
26 this chapter, but who has not computed a federal taxable income figure, shall
27 compute a federal taxable income figure using a pro forma return in order to
28 determine a federal taxable income figure to be used as a starting point in
29 computing state income tax under this section. The tax for individuals is equal to
30 North Dakota taxable income multiplied by the rates in the applicable rate schedule
31 in subdivisions a through d corresponding to an individual's filing status used for

federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection. For a nonresident individual, estate, or trust, the tax is equal to the tax determined in accordance with the applicable schedule in subdivisions a through e multiplied by the fraction under subdivision f.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$27,050	2.10%
Over \$27,050 but not over \$65,550	\$568.05 plus 3.92% of amount over \$27,050
Over \$65,550 but not over \$136,750	\$2,077.25 plus 4.34% of amount over \$65,550
Over \$136,750 but not over \$297,350	\$5,167.33 plus 5.04% of amount over \$136,750
Over \$297,350	\$13,261.57 plus 5.54% of amount over \$297,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$45,200	2.10%
Over \$45,200 but not over \$109,250	\$949.20 plus 3.92% of amount over \$45,200
Over \$109,250 but not over \$166,500	\$3,459.96 plus 4.34% of amount over \$109,250
Over \$166,500 but not over \$297,350	\$5,944.61 plus 5.04% of amount over \$166,500
Over \$297,350	\$12,539.45 plus 5.54% of amount over \$297,350

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over \$22,600	2.10%
Over \$22,600 but not over \$54,625	\$474.60 plus 3.92% of amount over \$22,600
Over \$54,625 but not over \$83,250	\$1,729.98 plus 4.34% of amount over \$54,625
Over \$83,250 but not over \$148,675	\$2,972.31 plus 5.04% of amount over \$83,250
Over \$148,675	\$6,269.73 plus 5.54% of amount over \$148,675

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over \$36,250	2.10%
Over \$36,250 but not over \$93,650	\$761.25 plus 3.92% of amount over \$36,250
Over \$93,650 but not over \$151,650	\$3,011.33 plus 4.34% of amount over \$93,650

1	Over \$151,650 but not over \$297,350	\$5,528.53 plus 5.04% of amount over \$151,650
2	Over \$297,350	\$12,871.81 plus 5.54% of amount over \$297,350
3	e. Estates and trusts.	
4	If North Dakota taxable income is:	The tax is equal to:
5	Not over \$1,800	2.10%
6	Over \$1,800 but not over \$4,250	\$37.80 plus 3.92% of amount over \$1,800
7	Over \$4,250 but not over \$6,500	\$133.84 plus 4.34% of amount over \$4,250
8	Over \$6,500 but not over \$8,900	\$231.49 plus 5.04% of amount over \$6,500
9	Over \$8,900	\$352.45 plus 5.54% of amount over \$8,900

- 10 f. For a nonresident individual, estate, or trust, the tax determined under the
11 applicable schedule in subdivisions a through e must be multiplied by a
12 fraction in which:
- 13 (1) The numerator is the individual's federal adjusted gross income derived
14 from North Dakota sources; and
- 15 (2) The denominator is the individual's federal adjusted gross income from
16 all sources reduced by the net income from the amounts specified in
17 subdivisions a and b of subsection 3.
- 18 g. If married individuals who file a joint federal income tax return are required to
19 file separate state income tax returns under any provision of this chapter, the
20 tax under this subsection for each spouse must be determined by applying the
21 rates under subdivision b to the spouses' joint North Dakota taxable income
22 and prorating the result between the spouses based on their separate North
23 Dakota taxable incomes.
- 24 h. For taxable years beginning after December 31, 2001, the tax commissioner
25 shall prescribe new rate schedules that apply in lieu of the schedules set forth
26 in subdivisions a through e. The new schedules must be determined by
27 increasing the minimum and maximum dollar amounts for each income
28 bracket for which a tax is imposed by the cost-of-living adjustment for the
29 taxable year as determined by the secretary of the United States treasury for
30 purposes of section 1(f) of the United States Internal Revenue Code of 1954,
31 as amended. For this purpose, the rate applicable to each income bracket

may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

- i. The tax determined under this subsection for every individual, estate, and trust must be increased by twenty-five percent.

SECTION 5. AMENDMENT. Section 57-38-55 of the North Dakota Century Code is amended and reenacted as follows:

57-38-55. Disposition of revenues - School district property tax relief fund - Continuing appropriation. As soon as practicable, after receipt thereof, the tax commissioner shall turn over to the state treasurer all income taxes collected by the tax commissioner. The state treasurer shall issue a receipt for such collections, which must be made a permanent record in the office of the tax commissioner. Such moneys must be deposited by the state treasurer to the credit of the general fund for the purpose of defraying the general expenses of the state government, except twenty percent of net income tax collections under this chapter for taxable years beginning after December 31, 2004, which must be deposited in the school district property tax relief fund. Moneys in the school district property tax relief fund are provided as a continuing appropriation for distribution to school districts on the first day of each calendar quarter by the state treasurer as follows:

1. Property taxes levied in dollars by a school district in the most recent taxable year must be adjusted by being multiplied by a factor that is the quotient of the statewide taxable valuation per student divided by the school district's taxable valuation per student.
2. Each school district is entitled to a percentage of each distribution under this section equal to the percentage that its adjusted property tax levy in dollars under subsection 1 is of all school districts' adjusted property tax levy in dollars under subsection 1.

By November first of each year, the tax commissioner shall certify to the auditor of each county the tax commissioner's estimate of revenue under this section that will be received by each school district in that county during the following calendar year.

SECTION 6. EFFECTIVE DATE. Sections 2, 3, and 4 of this Act are effective for taxable years beginning after December 31, 2004. Section 1 of this Act is effective for taxable

- 1 years beginning after December 31, 2005. Section 7 of this Act becomes effective July 1,
- 2 2005.