

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Nelson

1 A BILL for an Act to create and enact chapter 57-65 of the North Dakota Century Code, relating  
2 to refund of rent constituting property taxes for eligible individuals; to provide an appropriation;  
3 and to provide an effective date.

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

5 **SECTION 1.** Chapter 57-65 of the North Dakota Century Code is created and enacted  
6 as follows:

7 **57-65-01. Definitions.** As used in this chapter:

8 .1. "Commissioner" means the tax commissioner.

9 2. "Income" means the sum of the following:

10 a. Federaal adjusted gross income as defined in the Internal Revenue Code;

11 and

12 b. The sum of the following amounts to the extent not included in subdivision a:

13 (1) All nontaxable income;

14 (2) The amount of a passive activity loss that is not disallowed as a result  
15 of section 469, paragraph (i) and (m) of the Internal Revenue Code and  
16 the amount of passive activity loss carryover allowed under section  
17 469(b) of the Internal Revenue Code;

18 (3) An amount equal to the total of any discharge of qualified farm  
19 indebtedenss of a solvent individual excluded from gross income under  
20 section 108(g) of the Internal Revenue Code;

21 (4) Cash public assistance and relief;

22 (5) Any pension or annuity including railroad retirement benefits, all payment  
23 received under the federal Social Security Act, Supplemental Security  
24 Income, and veterans benefits, which was not excluseivly funded by the

- 1 claimant or spouse, or which was funded exclusively by the claimant or  
2 spouse and which funding payments were excluded from federal  
3 adjusted gross income in the years when the payments were made;  
4 (6) Interest received from the federal or a state government or any  
5 instrumentality or political subdivision thereof;  
6 (7) Workforce safety and insurance compensation;  
7 (8) Nontaxable strike benefits;  
8 (9) The gross amounts of payments received in the nature of disability  
9 income or sick pay as a result of accident, sickness, or other disability,  
10 whether funded through insurance or otherwise;  
11 (10) A lump-sum distribution under section 402-(e)(3) of the Internal  
12 Revenue Code of 1986, as amended through December 31, 1995;  
13 (11) Contributions made by the claimant to an individual retirement account,  
14 including a qualified voluntary employee contributin; simplified  
15 employee pension plan; self-employed retirement plan; caash or  
16 deferred arrangement plan under section 401(k) of the Internal  
17 Revenue Code; or deferred compensation plan under section 457 of the  
18 Internal Revenue Code;  
19 (12) Nontaxable scholarship or fellowship grant;  
20 (13) The amount of deduction allowed under section 199 of the Internal  
21 Revenue Code; and  
22 (14) The amount of deduction allowed under section 220 or 223 of the  
23 Internal Revenue Code.
- 24 3. "Income" does not include:  
25 a. Amounts excluded pursuant to the Internal Revenue Code, sections 101(a)  
26 and 102;  
27 b. Amounts of any pension or annuity which was exclusivly funded by the  
28 claimant or spouse and which funding payments were not excluded from  
29 federal adjusted gross income in the years when the payments were made;  
30 c. Surplus food or other relief in kind supplied by a governmental agency;  
31 d. Relief granted under this chapter;

- 1           e. Child support payments received under a temporary or final decree of  
2           dissolution or legal separation; or
- 3           f. Restitution payments received by eligible individuals and excludable interest  
4           as defined in section 803 of the Economic Growth and Tax Relief  
5           Reconciliation Act of 2001, Public Law 107-16.
- 6       4. "Household means" a claimant and an individual related to the claimant as  
7       husband or wife who are domiciled in the same homestead.
- 8       5. "Household income" means all income received by all persons of a household in a  
9       calendar year while members of the household, other than income of a dependent.
- 10      6. "Homestead" means the dwelling occupied as claimants principal.
- 11      7. "Dependent" means any person who is considered a dependent under sections  
12      151 and 152 of the Internal Revenue Code.
- 13      8. a. "Claimant" means a person, other than a dependent, as defined under  
14      sections 151 and 152 of the Internal Revenue Code disregarding section  
15      152(b)(3) of the Internal Revenue Code, who filed a claim authorized by this  
16      chapter and who was a resident of this state during the calendar year for  
17      which the claim for relief was filed.
- 18      b. The claimant must have resided in a rented or leased unit on which ad  
19      valorem taxes or payments made in lieu of ad valorem taxes, including  
20      payments of special assessments imposed in lieu of ad valorem taxes, are  
21      payable at some time during the calendar year covered by the claim.
- 22      c. "Claimant" does not include a resident of a nursing home, intermediate care  
23      facility, long-term residential facility, or a facility that accepts group residential  
24      housing payments whose rent constituting property taxes is paid pursuant to  
25      the supplemental security income program under title XVI of the Social  
26      Security Act, the medical assistance program pursuant to title XIX of the  
27      Social Security Act or any other state or federal assistance program.
- 28 If only a portion of the rent constituting property taxes is paid by these programs, the resident  
29 shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section  
30 57-65-02 shall be multiplied by a fraction, the numerator of which is income, reduced by the  
31 total amount of income from the above sources other than vendor payments under the medical

assistance program or the general assistance medical care program and the denominator of which is income plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter.

d. Notwithstanding subdivision c, if the claimant was a resident of the nursing home, intermediate care facility, long-term residential facility, or facility for which the rent was paid for the claimant by the group residential housing program for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home or facility and use only that amount of rent constituting property taxes or property taxes from the nursing home or facility and use only that amount of rent constituting property taxes or property taxes payable relating to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

e. In the case of a claim for rent constituting property taxes of a part-year resident, the income and rental reflected in this computation shall be for the period of residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final.

f. If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be renter's household income for purposes of computing the amount of credit to be allowed.

9. "Disabled claimant" means any claimant who has a disability.

10. "Disability means:

a. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected

1 to result in death or has lasted or can be expected to last for a continuous  
2 period of not less than twelve months, or

3 b. Blindness; and the term "blindness" means central acuity of 20/200 or less in  
4 the better eye with the use of a corecting lens. An ey which is accompanied  
5 by a limitation in the fields of vision such taht the widest diameter of the visula  
6 field subtendds and angle no greater than 20 degrees shall be considered as  
7 having a central visual acuity of 20/200 or less.

8 c. An individual shall be determined to be under a disability only if the physical or  
9 mental impairment or impairments are of such severity that the indiviudal is  
10 not only unable to do previous wokr cannot, considering age, education, and  
11 work experience, engage in any other kind of substantial gainful work which  
12 exists in the state economy, regardless of whether the work exists in the  
13 immediate area of residence, or whether a specific job vacancy exists for the  
14 indiuidal, or whether the individual would be hired on applying for work. For  
15 purposes of the proceding sentence, "work whihc exists in the state economy"  
16 means work which exists in significante numbers either in the area where the  
17 individual lives or in several areas of the state.

18 d. A "physical or mental impairment" is an impariment that results from  
19 anatomical, physiological, or psychological abnormalities which are  
20 demonstrable by medically accepted clinical and laboratory diagnostic  
21 techniques.

22 11. "Rent constituting property taxes" means nineteen percent of the gross rent  
23 actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property  
24 taxes, in any calendar year by a claimant for the right of occupancy of the  
25 claimant's homestead in this state in the calendar year, and which rent constitutes  
26 the basis, in the succeeding calendar year of a claim for relief under this chapter by  
27 the claimant.

28 12. a. "Gross rent" means rental paid for the right of occupancy, at arm's length, of a  
29 homestead, exclusive of charges for any medical services furnished by the  
30 landlord as a part of the rental agreement, whether expressly set out in the  
31 rental agreement or not.

1           b. The gross rent of a residnet of a nursing home or internmediate care facility is  
2           three hundred fifty dollars per month. The gross rent of a residnet of an adult  
3           foster care home is five hundred fifty dollars per month. Beginning for rent  
4           paid in 2002, the commissioner shall annually adjust for inflation the gross  
5           rent amounts states in this paragraph. The adjusted must be made in  
6           accordance with section 1(f) of the Internal Revenue COde, except that for  
7           purposes of this paragraph the percentalge increase shall be determined from  
8           the year ending June 30, 2001, to the year ending on June 30 of hte year in  
9           whihc the rent is paid. The commissioner shall round the gross rents to the  
10          nearest ten dollar amount. If the amount ends in five dollars, the  
11          commissioner shall round it up to the next ten dollar amount. The  
12          determination of the commissioner under this paragraph is not a rule under  
13          teh Administrative Procedure Act.

14          c. If the landloard and tenant have not dealth with each other at arms's length  
15          and the commissioner determines that the gross rent charged was excessive,  
16          the commissioner may adjust the gross rent to a reasonable amount for  
17          purposes of this chapter.

18          d. Any amount paid by a claimant residing in property assessed pursuant to  
19          section 273-124, subdivision 3, 4, 5, or 6 for occupancy in that property shall  
20          be excluded from gross rent for purposes of this chapter. However, property  
21          taxes imputed to the homestead of the claimant or the dwelling unit occupoied  
22          by the claimant tht qualifies for homestead treatment pursuant to section  
23          273-124, subdivision 3, 4, 5, or 6 shall be included within the term "property  
24          taxes payable" as defined in subdivision 13, notwithstanding the fact that  
25          ownership is not in the name of the claimant.

26          12. "Property taxes payable" means the property tax exclusive of special assessments,  
27          penalties, and interest payable on the a claimant's homestead after deductions  
28          made under sections \_\_\_\_\_ and any other state paid property tax redits in  
29          any calendar year, and after any refund claimed and allowable under section  
30          290A.04, subdivision 2h, that is first payble in the year that the property tax is  
31          payable. In this case of a claimant who makes groud lease payments, "property

taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

Houshold	Percent of	Percent Paid by	Maximum State
Income	Income	Claimant	Refund
\$0 to 3,589	1.0 percent	5 percent	\$1,190