

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

1 A BILL for an Act to create and enact chapter 57-64 North Dakota Century Code, relating to
2 allocation of state funds to school districts for property tax relief purposes; to amend and
3 reenact sections 57-15-01.1, 57-15-31, 57-20-21.1 of the North Dakota Century Code, relating
4 to property tax levies of school districts; to provide a continuing appropriation; and to provide an
5 effective date.

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

7 **SECTION 1. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-15-01.1. (Effective through December 31, 2009) Protection of taxpayers and**
10 **taxing districts.** Each taxing district may levy the lesser of the amount in dollars as certified in
11 the budget of the governing body, or the amount in dollars as allowed in this section, subject to
12 the following:

- 13 1. No taxing district may levy more taxes expressed in dollars than the amounts
14 allowed by this section.
- 15 2. For purposes of this section:
 - 16 a. "Base year," for a taxing district other than a school district, means the taxing
17 district's taxable year with the highest amount levied in dollars in property
18 taxes of the three taxable years immediately preceding the budget year. For
19 a school district, "base year" means the taxable year immediately preceding
20 the budget year. For a park district general fund, the "amount levied in dollars
21 in property taxes" is the sum of amounts levied in dollars in property taxes for
22 the general fund under section 57-15-12 including any additional levy
23 approved by the electors, the insurance reserve fund under section
24 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

- 1 discretion or charitable status which was not included in the taxing district for
2 the base year but which is included in the taxing district for the budget year.
- 3 c. Reduced to reflect expired temporary mill levy increases authorized by the
4 electors of the taxing district.
- 5 d. Reduced by the amount in dollars levied by a county in the base year for
6 administration of the child support enforcement program by the county social
7 service board and increased by section 17 of 2007 Session Laws
8 chapter 417.
- 9 e. Increased, for a school district determining its levy limitation under this
10 section, by the amount the school district's property tax relief allocation under
11 section 57-64-02 for the base year exceeds the amount of the school district's
12 property tax relief allocation under section 57-64-02 for the budget year.
- 13 f. Reduced for a school district determining its levy limitation under this section,
14 by the amount the school district's property tax relief allocation under section
15 57-64-02 for the budget year exceeds the amount of the school district's
16 property tax relief allocation under section 57-64-02 for the base year.
- 17 4. In addition to any other levy limitation factor under this section, a taxing district may
18 increase its levy in dollars to reflect new or increased mill levies authorized by the
19 legislative assembly or authorized by the electors of the taxing district.
- 20 5. Under this section a taxing district may supersede any applicable mill levy
21 limitations otherwise provided by law, or a taxing district may levy up to the mill
22 levy limitations otherwise provided by law without reference to this section, but the
23 provisions of this section do not apply to the following:
- 24 a. Any irrevocable tax to pay bonded indebtedness levied pursuant to
25 section 16 of article X of the Constitution of North Dakota.
- 26 b. The one-mill levy for the state medical center authorized by section 10 of
27 article X of the Constitution of North Dakota.
- 28 6. A school district choosing to determine its levy authority under this section may
29 apply subsection 3 only to the amount in dollars levied for general fund purposes
30 under section 57-15-14 or, if the levy in the base year included separate general
31 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.

(Effective after December 31, 2009) 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," for a taxing district other than a school district, 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 school district, "base year" means the taxable year 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

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

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

- 13 a. Reduced by an amount equal to the sum determined by application of the
14 base year's calculated mill rate for that taxing district to the final base year
15 taxable valuation of any taxable property and property exempt by local
16 discretion or charitable status which is not included in the taxing district for the
17 budget year but was included in the taxing district for the base year.
- 18 b. Increased by an amount equal to the sum determined by the application of the
19 base year's calculated mill rate for that taxing district to the final budget year
20 taxable valuation of any taxable property or property exempt by local
21 discretion or charitable status which was not included in the taxing district for
22 the base year but which is included in the taxing district for the budget year.
- 23 c. Reduced to reflect expired temporary mill levy increases authorized by the
24 electors of the taxing district.
- 25 d. Increased, for a school district determining its levy limitation under this
26 section, by the amount the school district's property tax relief allocation under
27 section 57-64-02 for the base year exceeds the amount of the school district's
28 property tax relief allocation under section 57-64-02 for the budget year.
- 29 e. Reduced for a school district determining its levy limitation under this section,
30 by the amount the school district's property tax relief allocation under section

57-64-02 for the budget year exceeds the amount of the school district's
property tax relief allocation under section 57-64-02 for the base year.

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.
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 2. AMENDMENT. Section 57-15-31 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The available surplus consisting of the free and unencumbered cash balance.
2. Estimated revenues from sources other than direct property taxes.
3. The total estimated collections from tax levies for previous years.
4. Such expenditures as are to be made from bond sources.
5. The amount of distributions received from an economic growth increment pool under section 57-15-61.
6. The estimated amount to be received from payments in lieu of taxes on a project under section 40-57.1-03.
7. The amount reported to a school district by the superintendent of public instruction as the school district's property tax relief allocation for the year under section 57-64-02.

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 3. AMENDMENT. Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-21.1. Priority for delinquent taxes. When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit under section 57-64-02 must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent.

SECTION 4. Chapter 57-64 of the North Dakota Century Code is created and enacted as follows:

57-64-01. Definitions. For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a state-paid property tax relief allocation.

- 1 3. "Weighted student unit" means weighted student unit as determined for the school
2 district under chapter 15.1-27.

3 **57-64-02. State-paid property tax relief allocation.** Each qualifying school district in
4 the state is entitled to a state-paid property tax relief allocation as provided in this chapter,
5 subject to legislative appropriation to the superintendent of public instruction.

- 6 1. a. The property tax relief allocation rate for each qualifying school district is three
7 thousand six hundred dollars per weighted student unit for the first year of the
8 2009-11 biennium.

- 9 b. The property tax relief allocation rate for each qualifying school district is three
10 thousand six hundred dollars per weighted student unit for the second year of
11 the 2009-11 biennium.

- 12 2. The superintendent of public instruction shall pay each qualifying school district
13 twenty-five percent of its allocation under this chapter in each of four installments,
14 on or before December first, January first, February first, and March first of each
15 year of the biennium.

- 16 3. The superintendent of public instruction shall report to each qualifying school
17 district by July fifteenth of each year the amount of the allocation in dollars
18 available to that school district under this chapter for the upcoming school year.

- 19 4. The allocation to a qualifying school district may not exceed the smallest of:

- 20 a. The allocation determined under subsection 1;

- 21 b. The taxable valuation of property in the school district times the number of
22 mills determined by subtracting one hundred mills from the combined
23 education mill rate of the school district; or

- 24 c. The taxable valuation of property in the school district times seventy-five mills.

25 **57-64-03. School district levy compliance.** To be eligible for allocation of funds
26 under this chapter, a qualifying school district must establish a spending level that does not
27 result in a combined education mill rate exceeding one hundred ten mills. The certificate of levy
28 form filed with the county auditor by a qualifying school district must reflect the revenue to be
29 received by the school district under this chapter and that the combined education mill rate for
30 the school district will not exceed one hundred ten mills unless:

- 1 1. The district has received approval of a majority of the electors of the school district
- 2 for a higher levy;
- 3 2. The higher levy is the result of a school district reorganization; or
- 4 3. The higher levy was allowed under section 57-15-01.1 or its predecessor
- 5 provisions providing protection to taxpayers and taxing districts.

6 **57-64-04. Levy reduction priority.** In setting mill rates for qualified school districts,
7 the county auditor shall apply funds allocated to a school district under this chapter for mill levy
8 reduction first to reduce the number of mills levied for general fund purposes and, if allocation
9 funds remain after the general fund mill rate is reduced to zero, the balance must be applied to
10 reduce the tuition levy of the qualified school district.

11 **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective through
12 June 30, 2011, and is thereafter ineffective.