

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Metcalf

1 A BILL for an Act to provide an appropriation for school district property tax relief; to create and
2 enact sections 57-01-20 and 57-15-01.2 of the North Dakota Century Code, relating to
3 allocation of school district property tax relief funds and general fund levy limitations of school
4 districts; to amend and reenact sections 57-15-01.1, 57-15-14, and 57-15-31 of the North
5 Dakota Century Code, relating to school district general fund levy limitations; and to provide an
6 effective date.

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

8 **SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the
9 general fund in the state treasury, not otherwise appropriated, the sum of \$200,000,000, or so
10 much of the sum as may be necessary, to the state tax commissioner for the purpose of
11 allocation of school district property tax relief as provided in section 2 of this Act, for the
12 biennium beginning July 1, 2009, and ending June 30, 2011. The state tax commissioner shall
13 allocate \$96,950,000 of this appropriation among school districts in the first year of the 2009-11
14 biennium and \$103,050,000 of this appropriation among school districts in the second year of
15 the 2009-11 biennium.

16 **SECTION 2.** Section 57-01-20 is created:

17 **57-01-20. School district property tax relief allocation.** The state tax commissioner
18 shall allocate funds appropriated by the legislative assembly for school district property tax relief
19 as provided in this section.

20 1. The state tax commissioner shall determine an adjusted combined education mill
21 rate for each school district using the school district's combined education mill rate
22 for the previous year and subtracting one hundred ten mills. The adjusted
23 combined education mill rate for a school district may not exceed seventy-five mills
24 and may not be reduced to less than zero mills. A school district that has an

adjusted combined education mill rate of zero mills under this subsection is not eligible for an allocation under this section.

2. The state tax commissioner shall determine an adjusted combined education levy in dollars for each school district by applying the adjusted combined education mill rate for the school district to the final equalized taxable valuation of property in the school district for the previous year.
3. The state tax commissioner shall total the adjusted combined education levies in dollars for all school districts eligible for an allocation under this section and divide that total into the total amount available for allocation for the budget year to determine the school district property tax relief percentage for the budget year.
4. The state tax commissioner shall multiply the adjusted combined education levy in dollars for each school district times the school district property tax relief percentage for the budget year to determine the school district property tax relief allocation for the school district.
5. The school district property tax relief allocation for each school district must be adjusted by multiplying it times a factor determined by dividing the average taxable valuation per student for all school districts eligible for an allocation under this section by the average taxable valuation per student for the school district. The adjustment factor for a school district under this subsection may not be more than one and twenty-five hundredths or less than seventy-five hundredths. If after applying the adjustment factor the amount to be allocated does not equal the amount available for allocation, the tax commissioner shall further adjust allocations to provide each school district its pro rata share of the amount available for allocation. The state tax commissioner shall transfer the adjusted school district property tax relief allocation determined under this subsection to each school district no later than April fifteenth of the budget year.
6. The state tax commissioner shall certify to each school district by August first of each year the amount of the school district property tax relief allocation for that school district for the next budget year as calculated under this section. The state tax commissioner shall certify the same information to each county auditor for each school district in the auditor's county.

7. For purposes of this section:

- a. "Budget year" means the taxable year in which the adjusted school district property tax relief allocation under this section is to be transferred to school districts.
- b. "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. The combined education mill rate for a school district may not exceed one hundred eighty-five mills.
- c. "Previous year" means the taxable year immediately preceding the year in which the budget year allocations are determined under this section.

SECTION 3. AMENDMENT. Section 57-15-01.1 is amended:

57-15-01.1. Protection of taxpayers and taxing districts. Each taxing district, excluding a school 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;

- 1 b. "Budget year" means the taxing district's year for which the levy is being
2 determined under this section;
- 3 c. "Calculated mill rate" means the mill rate that results from dividing the base
4 year taxes levied by the sum of the taxable value of the taxable property in the
5 base year plus the taxable value of the property exempt by local discretion or
6 charitable status, calculated in the same manner as the taxable property; and
- 7 d. "Property exempt by local discretion or charitable status" means property
8 exempted from taxation as new or expanding businesses under
9 chapter 40-57.1; improvements to property under chapter 57-02.2; or
10 buildings belonging to institutions of public charity, new single-family
11 residential or townhouse or condominium property, property used for early
12 childhood services, or pollution abatement improvements under section
13 57-02-08.

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

- 1 4. In addition to any other levy limitation factor under this section, a taxing district may
2 increase its levy in dollars to reflect new or increased mill levies authorized by the
3 legislative assembly or authorized by the electors of the taxing district.
- 4 5. Under this section a taxing district may supersede any applicable mill levy
5 limitations otherwise provided by law, or a taxing district may levy up to the mill
6 levy limitations otherwise provided by law without reference to this section, but the
7 provisions of this section do not apply to the following:
- 8 a. Any irrevocable tax to pay bonded indebtedness levied pursuant to
9 section 16 of article X of the Constitution of North Dakota.
- 10 b. The one-mill levy for the state medical center authorized by section 10 of
11 article X of the Constitution of North Dakota.
- 12 6. ~~A school district choosing to determine its levy authority under this section may~~
13 ~~apply subsection 3 only to the amount in dollars levied for general fund purposes~~
14 ~~under section 57-15-14 or, if the levy in the base year included separate general~~
15 ~~fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school~~
16 ~~district may apply subsection 3 to the total amount levied in dollars in the base year~~
17 ~~for both the general fund and special fund accounts. School district levies under~~
18 ~~any section other than section 57-15-14 may be made within applicable limitations~~
19 ~~but those levies are not subject to subsection 3.~~
- 20 7. Optional levies under this section may be used by any city or county that has
21 adopted a home rule charter unless the provisions of the charter supersede state
22 laws related to property tax levy limitations.

23 **SECTION 4.** Section 57-15-01.2 is created:

24 **57-15-01.2. School district optional levy limitation.** Each school district may levy
25 the lesser of the amount in dollars as certified in the budget of the school board, or the amount
26 in dollars as allowed in this section, subject to the following:

- 27 1. No school district may levy more taxes expressed in dollars than the amounts
28 allowed by this section.
- 29 2. For purposes of this section:

1 a. "Base year" means the school district's taxable year with the highest amount
2 levied in dollars in property taxes of the three taxable years immediately
3 preceding the budget year;

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

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

10 d. "Property exempt by local discretion or charitable status" means property
11 exempted from taxation as new or expanding businesses under
12 chapter 40-57.1; improvements to property under chapter 57-02.2; or
13 buildings belonging to institutions of public charity, new single-family
14 residential or townhouse or condominium property, property used for early
15 childhood services, or pollution abatement improvements under section
16 57-02-08.

17 3. A school district may elect to levy up to the amount levied in dollars in the base
18 year. Any levy under this section must be specifically approved by a resolution
19 approved by the school board. Before determining the levy limitation under this
20 section, the dollar amount levied in the base year must be:

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

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

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

d. Reduced by the amount determined by subtracting from the school district property tax relief allocation for the school district for the budget year as certified by the state tax commissioner under section 57-01-20 the amount of the school district property tax relief allocation for the school district for the base year.

4. In addition to any other levy limitation factor under this section, a school 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 school district.

5. Under this section a school district may supersede any applicable mill levy limitations otherwise provided by law, or a school 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 any irrepealable tax to pay bonded indebtedness levied, pursuant to section 16 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.

SECTION 5. AMENDMENT. Section 57-15-14 is amended:

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~~ two percentage points more than the percentage increase in the consumer price index, midwest region, for urban consumers, as computed by the United States department of labor, bureau of labor statistics, for the most recent full calendar year, up

to a general fund levy of one hundred ~~eighty-five~~ sixty-five 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~~ there may be levied any specific number of mills ~~that, not exceeding~~ five percent more than the maximum number of mills the school district may levy under this section or section 57-15-01.2, which upon resolution 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, not exceeding~~ five percent more than the maximum number of mills the school district may levy under this section or section 57-15-01.2, which 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~~ sixty-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 of two percentage points more than the percentage increase in the consumer price index,

1 midwest region, for urban consumers, as computed by the United States
2 department of labor, bureau of labor statistics, for the most recent full calendar
3 year which is otherwise permitted by this section may not exceed the amount of
4 state aid payments lost as a result of applying the deduction provided in section
5 15.1-27-05 to the increased assessed valuation of the school district in a one-year
6 period.

7 4. The question of authorizing or discontinuing such specific number of mills authority
8 or unlimited taxing authority in any school district must be submitted to the qualified
9 electors at the next regular election upon resolution of the school board or upon the
10 filing with the school board of a petition containing the signatures of qualified
11 electors of the district equal in number to twenty percent of the number of persons
12 enumerated in the school census for that district for the most recent year such
13 census was taken, unless such census is greater than four thousand in which case
14 only fifteen percent of the number of persons enumerated in the school census is
15 required. However, not fewer than twenty-five signatures are required unless the
16 district has fewer than twenty-five qualified electors, in which case the petition must
17 be signed by not less than twenty-five percent of the qualified electors of the
18 district. In those districts with fewer than twenty-five qualified electors, the number
19 of qualified electors in the district must be determined by the county superintendent
20 for such county in which such school is located. However, the approval of
21 discontinuing either such authority does not affect the tax levy in the calendar year
22 in which the election is held. The election must be held in the same manner and
23 subject to the same conditions as provided in this section for the first election upon
24 the question of authorizing the mill levy.

25 **SECTION 6. AMENDMENT.** Section 57-15-31:

26 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
27 township, school district, park district, or other municipality authorized to levy taxes shall be
28 computed by deducting from the amount of estimated expenditures for the current fiscal year as
29 finally determined, plus the required reserve fund determined upon by the governing board from
30 the past experience of the taxing district, the total of the following items:

- 31 1. The available surplus consisting of the free and unencumbered cash balance.

- 1 2. Estimated revenues from sources other than direct property taxes.
- 2 3. The total estimated collections from tax levies for previous years.
- 3 4. Such expenditures as are to be made from bond sources.
- 4 5. The amount of distributions received from an economic growth increment pool
- 5 under section 57-15-61.
- 6 6. The estimated amount to be received from payments in lieu of taxes on a project
- 7 under section 40-57.1-03.
- 8 7. The amount certified to a school district by the state tax commissioner as the
- 9 school district's property tax relief allocation for the budget year under section
- 10 57-01-20.
- 11 Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five
- 12 percent of the amount of the levy.
- 13 **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
- 14 December 31, 2008