

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 levy limitations; to amend and reenact
4 sections 57-15-01.1 and 57-15-31 of the North Dakota Century Code, relating to school district
5 levy limitations; and to provide an effective date.

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

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

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

16 **57-01-20. School district property tax relief allocation.** The state tax commissioner
17 shall allocate funds appropriated by the legislative assembly for school district property tax relief
18 as provided in this section.

19 1. The state tax commissioner shall determine an adjusted combined education mill
20 rate for each school district using the school district's combined education mill rate
21 for the previous year and subtracting one hundred ten mills. The adjusted
22 combined education mill rate for a school district may not exceed seventy-five mills
23 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 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 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. The state tax commissioner shall transfer the adjusted school district property tax relief allocation determined under this section to each school district no later than April fifteenth of the budget year.

6. 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. (Effective through December 31, 2009) 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;
- 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 up to 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.
 - d. Reduced by the amount in dollars levied by a county in the base year for administration of the child support enforcement program by the county social service board and increased by section 17 of 2007 Session Laws chapter 417.
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.

(Effective after December 31, 2009) 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;

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 up to 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 irrevocable 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 4. Section 57-15-01.2 is created:

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

1. No school district may levy more taxes expressed in dollars than the amounts allowed by this section.
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.

- 1 c. Reduced to reflect expired temporary mill levy increases authorized by the
2 electors of the school district.
- 3 d. Adjusted by the difference between the school district property tax relief
4 allocation for the school district for the budget year as certified by the state tax
5 commissioner under section 57-01-20 and the amount of the school district
6 property tax relief allocation for the school district for the base year. If the
7 amount certified for the budget year is more than the amount received in the
8 base year, the amount levied in the base year must be decreased by the
9 difference. If the amount received in the base year is more than the amount
10 certified for the budget year, the amount levied in the base year must be
11 increased by the difference.
- 12 4. In addition to any other levy limitation factor under this section, a school district
13 may increase its levy in dollars to reflect new or increased mill levies authorized by
14 the legislative assembly or authorized by the electors of the school district.
- 15 5. Under this section a school district may supersede any applicable mill levy
16 limitations otherwise provided by law, or a school district may levy up to the mill
17 levy limitations otherwise provided by law without reference to this section, but the
18 provisions of this section do not apply to any irrepealable tax to pay bonded
19 indebtedness levied, pursuant to section 16 of article X of the Constitution of North
20 Dakota.
- 21 6. A school district choosing to determine its levy authority under this section may
22 apply subsection 3 only to the amount in dollars levied for general fund purposes
23 under section 57-15-14 or, if the levy in the base year included separate general
24 fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school
25 district may apply subsection 3 to the total amount levied in dollars in the base year
26 for both the general fund and special fund accounts. School district levies under
27 any section other than section 57-15-14 may be made within applicable limitations
28 but those levies are not subject to subsection 3.

29 **SECTION 5. AMENDMENT.** Section 57-15-31 is amended:

30 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
31 township, school district, park district, or other municipality authorized to levy taxes shall be

1 computed by deducting from the amount of estimated expenditures for the current fiscal year as
2 finally determined, plus the required reserve fund determined upon by the governing board from
3 the past experience of the taxing district, the total of the following items:

- 4 1. The available surplus consisting of the free and unencumbered cash balance.
- 5 2. Estimated revenues from sources other than direct property taxes.
- 6 3. The total estimated collections from tax levies for previous years.
- 7 4. Such expenditures as are to be made from bond sources.
- 8 5. The amount of distributions received from an economic growth increment pool
9 under section 57-15-61.
- 10 6. The estimated amount to be received from payments in lieu of taxes on a project
11 under section 40-57.1-03.
- 12 7. The amount certified to a school district by the state tax commissioner as the
13 school district's property tax relief allocation for the budget year under section
14 57-01-20.

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

17 **SECTION 6. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
18 December 31, 2008.