

HOUSE BILL NO. 1521

Introduced by

Representatives Monson, Nelson, Weisz, Zaiser

Senators Tallackson, Thane

1 A BILL for an Act to create and enact a new subsection to section 57-38-30.3 of the North
2 Dakota Century Code, relating to individual income tax rates; to amend and reenact sections
3 15.1-09-47, 57-15-01.1, 57-15-14, and 57-38-29 of the North Dakota Century Code, relating to
4 school district tax levy limitations and individual income tax rates; to provide an appropriation;
5 and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 15.1-09-47 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-09-47. Board of education of city of Fargo - Taxing authority.**

- 10 1. The board of education of the city of Fargo may levy taxes, as necessary for any of
11 the following purposes:
- 12 a. To purchase, exchange, lease, or improve sites for schools.
 - 13 b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their
14 appurtenances.
 - 15 c. To procure, exchange, improve, and repair school apparatus, books, furniture,
16 and appendages, but not the furnishing of textbooks to any student whose
17 parent is unable to furnish the same.
 - 18 d. To provide fuel.
 - 19 e. To defray the contingent expenses of the board, including the compensation
20 of employees.
 - 21 f. To pay teacher salaries after the application of public moneys, which may by
22 law be appropriated and provided for that purpose.
- 23 2. ~~The question of authorizing or discontinuing the unlimited taxing authority of the~~
24 ~~board of education of the city of Fargo must be submitted to the qualified electors~~

1 ~~of the Fargo school district at the next regular election upon resolution of the board~~
2 ~~of education or upon filing with the board a petition containing the signatures of~~
3 ~~qualified electors of the district equal in number to twenty percent of the individuals~~
4 ~~enumerated in the most recent school district census. However, if the electors~~
5 ~~approve a discontinuation of the unlimited taxing authority, their approval of the~~
6 ~~discontinuation may not affect the tax levy effective for the calendar year in which~~
7 ~~the election is held. In addition, the minimum levy may not be less than the levy~~
8 ~~that was in force at the time of the election. The board may increase determine its~~
9 ~~levy limitations for general fund purposes in accordance with section ~~57-15-01.~~ If~~
10 ~~the district experiences growing enrollment, the board may increase the levy by an~~
11 ~~amount equal to the amount levied the preceding year per student times the~~
12 ~~number of additional students enrolled during the new year 57-15-01.1 or~~
13 ~~57-15-14.~~

14 **SECTION 2. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **57-15-01.1. Protection of taxpayers and taxing districts.** Each taxing district may
17 levy the lesser of the amount in dollars as certified in the budget of the governing body, or the
18 amount in dollars as allowed in this section, subject to the following:

- 19 1. No taxing district may levy more taxes expressed in dollars than the amounts
20 allowed by this section.
- 21 2. For purposes of this section:
 - 22 a. "Base year" means the taxing district's taxable year with the highest amount
23 levied in dollars in property taxes of the three taxable years immediately
24 preceding the budget year. For a park district general fund the "amount levied
25 in dollars in property taxes" is the sum of amounts levied in dollars in property
26 taxes for the general fund under section 57-15-12 including any additional
27 levy approved by the electors, the insurance reserve fund under section
28 32-12.1-08, the employee health care program under section 40-49-12, the
29 public recreation system under section 40-55-09 including any additional levy
30 approved by the electors, forestry purposes under section 57-15-12.1 except
31 any additional levy approved by the electors, pest control under section

- 1 4-33-11, and handicapped person programs and activities under section
2 57-15-60;
- 3 b. "Budget year" means the taxing district's year for which the levy is being
4 determined under this section;
- 5 c. "Calculated mill rate" means the mill rate that results from dividing the base
6 year taxes levied by the sum of the taxable value of the taxable property in the
7 base year plus the taxable value of the property exempt by local discretion or
8 charitable status, calculated in the same manner as the taxable property; and
- 9 d. "Property exempt by local discretion or charitable status" means property
10 exempted from taxation as new or expanding businesses under
11 chapter 40-57.1; improvements to property under chapter 57-02.2; or
12 buildings belonging to institutions of public charity, new single-family
13 residential or townhouse or condominium property, property used for early
14 childhood services, or pollution abatement improvements under section
15 57-02-08.
- 16 3. A taxing district may elect to levy the amount levied in dollars in the base year.
17 Any levy under this section must be specifically approved by a resolution approved
18 by the governing body of the taxing district. Before determining the levy limitation
19 under this section, the dollar amount levied in the base year must be:
- 20 a. Reduced by an amount equal to the sum determined by application of the
21 base year's calculated mill rate for that taxing district to the final base year
22 taxable valuation of any taxable property and property exempt by local
23 discretion or charitable status which is not included in the taxing district for the
24 budget year but was included in the taxing district for the base year.
- 25 b. Increased by an amount equal to the sum determined by the application of the
26 base year's calculated mill rate for that taxing district to the final budget year
27 taxable valuation of any taxable property or property exempt by local
28 discretion or charitable status which was not included in the taxing district for
29 the base year but which is included in the taxing district for the budget year.
- 30 c. Reduced to reflect expired temporary mill levy increases authorized by the
31 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 c. School districts.
- 13 6. A school district choosing to determine its levy authority under this section may
14 apply subsection 3 only to the amount in dollars levied for general fund purposes
15 under section 57-15-14 or, if the levy in the base year included separate general
16 fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school
17 district may apply subsection 3 to the total amount levied in dollars in the base year
18 for both the general fund and special fund accounts. School district levies under
19 any section other than section 57-15-14 may be made within applicable limitations
20 but those levies are not subject to subsection 3. A school district choosing to
21 determine its levy under this section must reduce the dollar amount levied in the
22 base year by an amount equal to the sum determined by application of thirty-five
23 mills to the final base year taxable valuation of property in the district.
- 24 7. Optional levies under this section may be used by any city or county that has
25 adopted a home rule charter unless the provisions of the charter supersede state
26 laws related to property tax levy limitations.

27 **SECTION 3. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied
30 each year for the purposes listed in section 57-15-14.2 by any school district, ~~except the Fargo~~
31 ~~school district,~~ may not exceed the amount in dollars which the school district levied for the prior

1 school year plus eighteen percent up to a general fund levy of one hundred ~~eighty-five~~ fifty mills
2 on the dollar of the taxable valuation of the district, except that:

3 1. In any school district having a total population in excess of four thousand according
4 to the last federal decennial census:

5 a. ~~There~~ there may be levied any specific number of mills that upon resolution of
6 the school board has been submitted to and approved by a majority of the
7 qualified electors voting upon the question at any regular or special school
8 district election.

9 b. ~~There is no limitation upon the taxes which may be levied if upon resolution of~~
10 ~~the school board of any such district the removal of the mill levy limitation has~~
11 ~~been submitted to and approved by a majority of the qualified electors voting~~
12 ~~at any regular or special election upon such question.~~

13 2. In any school district having a total population of less than four thousand, there
14 may be levied any specific number of mills that upon resolution of the school board
15 has been approved by fifty-five percent of the qualified electors voting upon the
16 question at any regular or special school election.

17 3. In any school district in which the total assessed valuation of property has
18 increased twenty percent or more over the prior year and in which as a result of
19 that increase the school district is entitled to less in state aid payments provided in
20 chapter 15.1-27 because of the deduction required in section 15.1-27-05, there
21 may be levied any specific number of mills more in dollars than was levied in the
22 prior year up to a general fund levy of one hundred ~~eighty-five~~ fifty mills on the
23 dollar of the taxable valuation of the school district. The additional levy authorized
24 by this subsection may be levied for not more than two years because of any
25 twenty percent or greater annual increase in assessed valuation. The total amount
26 of revenue generated in excess of the eighteen percent increase which is
27 otherwise permitted by this section may not exceed the amount of state aid
28 payments lost as a result of applying the deduction provided in section 15.1-27-05
29 to the increased assessed valuation of the school district in a one-year period.

30 The question of authorizing or discontinuing such specific number of mills authority ~~or unlimited~~
31 ~~taxing authority~~ in any school district must be submitted to the qualified electors at the next

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

15 **SECTION 4. AMENDMENT.** Section 57-38-29 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-38-29. Optional method of computing tax.** Notwithstanding the other provisions
18 of this chapter, an individual, estate, or trust may elect to determine state income tax liability by
19 applying the provisions of this section. A tax is hereby imposed upon every individual, to be
20 levied, collected, and paid annually with respect to the taxable income of such individual as
21 defined in this chapter, computed at the following rates:

- 22 1. On taxable income not in excess of three thousand dollars, a tax of two and
23 sixty-seven hundredths percent.
- 24 2. On taxable income in excess of three thousand dollars and not in excess of five
25 thousand dollars, a tax of four percent.
- 26 3. On taxable income in excess of five thousand dollars and not in excess of eight
27 thousand dollars, a tax of five and thirty-three hundredths percent.
- 28 4. On taxable income in excess of eight thousand dollars and not in excess of fifteen
29 thousand dollars, a tax of six and sixty-seven hundredths percent.
- 30 5. On taxable income in excess of fifteen thousand dollars and not in excess of
31 twenty-five thousand dollars, a tax of eight percent.

1 6. On taxable income in excess of twenty-five thousand dollars and not in excess of
2 thirty-five thousand dollars, a tax of nine and thirty-three hundredths percent.

3 7. On taxable income in excess of thirty-five thousand dollars and not in excess of
4 fifty thousand dollars, a tax of ten and sixty-seven hundredths percent.

5 8. On taxable income in excess of fifty thousand dollars, a tax of twelve percent.

6 In addition to the tax otherwise imposed under this section, there is imposed a surtax of
7 twenty-two percent of the amount of tax otherwise determined.

8 **SECTION 5. AMENDMENT.** A new subsection to section 57-38-30.3 of the North
9 Dakota Century Code is created and enacted as follows:

10 In addition to the tax otherwise imposed under this section, there is imposed a
11 surtax of twenty-two percent of the amount of tax otherwise determined.

12 **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the
13 general fund in the state treasury, not otherwise appropriated, the sum of \$102,822,000, or so
14 much of the sum as may be necessary, to the superintendent of public instruction for the
15 purpose of additional foundation aid payments to school districts in proportional amounts based
16 on the payments otherwise provided by law, for the biennium beginning July 1, 2005, and
17 ending June 30, 2007.

18 **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
19 December 31, 2004.