

**SECOND ENGROSSMENT
with House Amendments**

Sixty-first
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2199

Introduced by

Senators Wardner, Cook, O'Connell

Representatives Kaldor, Monson, Svedjan

1 A BILL for an Act to create a property tax relief sustainability fund; to create and enact two new
2 subdivisions to subsection 3 of section 57-15-01.1 and chapter 57-64 of the North Dakota
3 Century Code, relating to allocation of state funds to school districts for mill levy reduction
4 grants; to amend and reenact sections 57-15-14 and 57-15-31 of the North Dakota Century
5 Code, relating to property tax levies of school districts; to provide an appropriation; to provide
6 for transfers; and to provide an effective date.

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

8 **SECTION 1.** Two new subdivisions to subsection 3 of section 57-15-01.1 of the North
9 Dakota Century Code are created and enacted as follows:

10 Increased, for a school district determining its levy limitation under this
11 section, by the amount the school district's mill levy reduction grant under
12 section 57-64-02 for the base year exceeds the amount of the school district's
13 mill levy reduction grant under section 57-64-02 for the budget year.

14 Reduced for a school district determining its levy limitation under this section,
15 by the amount the school district's mill levy reduction grant under section
16 57-64-02 for the budget year exceeds the amount of the school district's mill
17 levy reduction grant under section 57-64-02 for the base year.

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

20 **57-15-14. General fund levy limitations in school districts.** The aggregate amount
21 levied each year for the purposes listed in section 57-15-14.2 by any school district, except the
22 Fargo school district, may not exceed the amount in dollars which the school district levied for

1 the prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five
2 mills 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
4 according 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~~ fewer than four thousand,
14 there may be levied any specific number of mills that upon resolution of the school
15 board has been approved by fifty-five percent of the qualified electors voting upon
16 the question at any regular or special school election.
- 17 3. After June 30, ~~2007~~ 2009, in any school district election for approval by electors of
18 ~~unlimited or~~ increased levy authority under subsection 1 or 2, the ballot must
19 specify the number of mills, ~~the percentage increase in dollars levied, or that~~
20 ~~unlimited levy authority~~ is proposed for approval, and the number of taxable years
21 for which that approval is to apply. After June 30, ~~2007~~ 2009, approval by electors
22 of ~~unlimited or~~ increased levy authority under subsection 1 or 2 may not be
23 effective for more than ten taxable years.
- 24 4. The authority for a levy of up to a specific number of mills under this section
25 approved by electors of a school district before July 1, 2009, is terminated effective
26 for taxable years after 2012. If the electors of a school district subject to this
27 subsection have not approved a levy for taxable years after 2012 of up to a
28 specific number of mills under this section by December 31, 2012, the school
29 district levy limitation for subsequent years is subject to the limitations under
30 section 57-15-01.1 or this section.

1 5. The authority for an unlimited levy approved by electors of a school district before
2 July 1, 2009, is terminated effective for taxable years after 2012. If the electors of
3 a school district subject to this subsection have not approved a levy of up to a
4 specific number of mills under this section by December 31, 2012, the school
5 district levy limitation for subsequent years is subject to the limitations under
6 section 57-15-01.1 or this section.

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

21 **SECTION 3. AMENDMENT.** Section 57-15-31 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
24 township, school district, park district, or other municipality authorized to levy taxes shall be
25 computed by deducting from the amount of estimated expenditures for the current fiscal year as
26 finally determined, plus the required reserve fund determined upon by the governing board from
27 the past experience of the taxing district, the total of the following items:

- 28 1. The available surplus consisting of the free and unencumbered cash balance.
- 29 2. Estimated revenues from sources other than direct property taxes.
- 30 3. The total estimated collections from tax levies for previous years.
- 31 4. Such expenditures as are to be made from bond sources.

- 1 5. The amount of distributions received from an economic growth increment pool
2 under section 57-15-61.
- 3 6. The estimated amount to be received from payments in lieu of taxes on a project
4 under section 40-57.1-03.
- 5 7. The amount reported to a school district by the superintendent of public instruction
6 as the school district's mill levy reduction grant for the year under section 57-64-02.
- 7 Allowance may be made for a permanent delinquency or loss in tax collection not to exceed
8 five percent of the amount of the levy.

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

11 **57-64-01. Definitions.** For purposes of this chapter:

- 12 1. "Combined education mill rate" means the combined number of mills levied by a
13 school district for the general fund, high school tuition, and high school
14 transportation.
- 15 2. "Qualifying school district" means a school district that meets the conditions and
16 requirements of this chapter to receive a mill levy reduction grant.
- 17 3. "Weighted student unit" means weighted student unit as determined for the school
18 district under chapter 15.1-27.

19 **57-64-02. Mill levy reduction allocation and grant.** Each qualifying school district in
20 the state is entitled to a mill levy reduction allocation and grant as provided in this chapter,
21 subject to legislative appropriation to the superintendent of public instruction.

- 22 1. The mill levy reduction allocation rate for each qualifying school district is equal to
23 the payments to the school district based on the per student payment rate as
24 determined for the school year under chapter 15.1-27.
- 25 2. The grant to a qualifying school district may not exceed the smallest of:
- 26 a. The allocation determined under subsection 1;
- 27 b. The taxable valuation of property in the school district in the previous taxable
28 year times the number of mills determined by subtracting one hundred mills
29 from the combined education mill rate of the school district for taxable year
30 2008; or

- 1 c. The taxable valuation of property in the school district in the previous taxable
2 year times seventy-five mills.
- 3 3. The grant to a qualifying school district may not be less than the grant to that
4 school district in the preceding school year.
- 5 4. The superintendent of public instruction shall report to each qualifying school
6 district by July fifteenth of each year the mill levy reduction grant in dollars
7 available to that school district during the upcoming school year.
- 8 5. By December first, January first, February first, and March first of each school
9 year, the superintendent of public instruction shall forward to each qualifying
10 school district installments equal to twenty-five percent of the total mill levy
11 reduction grant the district is eligible to receive during that school year.
- 12 6. Allocations to a school district under this chapter are not considered per student
13 payments or state aid for purposes of chapter 15.1-27.

14 **57-64-03. School district levy compliance.**

- 15 1. To be eligible to receive a grant under this chapter, a qualifying school district must
16 establish a spending level that does not result in a combined education mill rate
17 exceeding one hundred ten mills. The certificate of levy form filed with the county
18 auditor by a qualifying school district must reflect the revenue to be received by the
19 school district under this chapter and that the combined education mill rate for the
20 school district will not exceed one hundred ten mills unless:
- 21 a. The district has approval of a majority of the electors of the school district for
22 a higher levy;
- 23 b. The higher levy is the result of a school district reorganization in compliance
24 with chapter 15.1-12; or
- 25 c. The higher levy does not produce an amount in dollars exceeding the amount
26 allowed under section 57-15-01.1 for taxable year 2008 reduced by the
27 amount of the school district's mill levy reduction grant under section 57-64-02
28 for the budget year.
- 29 2. The authority under subdivision a or b of subsection 1 for a school district to levy a
30 combined education mill rate exceeding one hundred ten mills applies for not more
31 than ten taxable years after taxable year 2008 unless a majority of the electors of

1 the school district approve an extension of that authority. Approval by electors of
2 extension of levy authority under subdivision a or b of subsection 1 is effective for
3 not more than ten taxable years at a time. A ballot measure for approval by
4 electors of extension of levy authority under subdivision a or b of subsection 1 is
5 subject to the following:

- 6 a. The ballot measure must specify the number of mills for the combined
7 education mill rate for which approval is sought.
8 b. If a ballot measure for approval of authority to levy a specific number of mills
9 is not approved by a majority of the electors of the school district voting on the
10 question, the school district levy limitation for subsequent years is subject to
11 the limitations under section 57-15-01.1 or 57-15-14.

12 **57-64-04. Levy reduction priority.** In setting mill rates for qualified school districts,
13 the county auditor shall apply funds allocated to a school district under this chapter for mill levy
14 reduction first to reduce the number of mills levied for general fund purposes and, if allocation
15 funds remain after the general fund mill rate is reduced to zero, the balance must be applied to
16 reduce the high school tuition levy and then to reduce the high school transportation levy of the
17 qualified school district.

18 **57-64-05. Tax increment financing district revenue replacement grants.**

- 19 1. A city in which a tax increment financing district was established before January 1,
20 2009, is entitled to a grant, subject to legislative appropriation, to reimburse the
21 district for the loss of tax increments attributable to the mill levy reduction under
22 this chapter for the school district in which the tax increment financing district
23 property is located. The grant to which a city is entitled under this section is equal
24 to the combined education mill rate reduction under this chapter for the school
25 district for the taxable year times the incremental value of property that had a tax
26 increment value before January 1, 2009, as determined under section 40-58-20,
27 discounted by five percent as allowed for taxpayers under section 57-20-09.
28 2. Applications for grants under this section must be filed with the tax commissioner
29 by January thirty-first immediately following the taxable year of the combined
30 education mill rate reduction under this chapter. Applications must be filed on a
31 form prescribed by the tax commissioner. The tax commissioner shall audit

1 applications, make corrections as required, and certify grant amounts and
2 recipients to the state treasurer for payment of grants by March thirty-first following
3 receipt of applications.

4 **SECTION 5. Property tax relief sustainability fund.** The property tax relief
5 sustainability fund is a special fund in the state treasury. Moneys in the fund may be spent,
6 pursuant to legislative appropriations, for property tax relief programs.

7 **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the
8 general fund in the state treasury, not otherwise appropriated, the sum of \$295,000,000, or so
9 much of the sum as may be necessary, to the superintendent of public instruction for the
10 purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the
11 biennium beginning July 1, 2009, and ending June 30, 2011.

12 **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the
13 permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of
14 \$1,720,000, or so much of the sum as may be necessary, to the state treasurer for the purpose
15 of allocation of revenue replacement grants to tax increment financing districts under section
16 57-64-05, for the biennium beginning July 1, 2009, and ending June 30, 2011.

17 **SECTION 8. TRANSFER - PERMANENT OIL TAX TRUST FUND - GENERAL FUND.**
18 The office of management and budget shall transfer the sum of \$295,000,000 from the
19 permanent oil tax trust fund to the general fund on July 1, 2009.

20 **SECTION 9. TRANSFER - PERMANENT OIL TAX TRUST FUND - PROPERTY TAX**
21 **RELIEF SUSTAINABILITY FUND.** The office of management and budget shall transfer the
22 sum of \$295,000,000 from the permanent oil tax trust fund to the property tax relief
23 sustainability fund on July 1, 2010.

24 **SECTION 10. EFFECTIVE DATE.** Sections 1, 2, and 3 of this Act are effective for
25 taxable years beginning after December 31, 2008.