

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1533

Introduced by

Representative Pinkerton

1 A BILL for an Act to create and enact section 21-03-06.1, two new subdivisions to subsection 3
2 of section 57-15-01.1, and chapter 57-64 of the North Dakota Century Code, relating to voter
3 approval of public building projects funded through a building authority or other indirect means
4 and allocation of state funds to school districts for property tax reduction grants; to amend and
5 reenact section 57-15-31 of the North Dakota Century Code, relating to property tax levies of
6 school districts; and to provide an effective date.

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

8 **SECTION 1.** Section 21-03-06.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **21-03-06.1. Voter approval of building authority or other indirect funding**
11 **methods - School construction project approval.**

- 12 1. Notwithstanding any other provision of law, a municipality or governing body of a
13 municipality may not enter an agreement pursuant to internal revenue service
14 revenue ruling 63-20 under which payments of any kind would be required by the
15 municipality to any building authority or other entity that incurs indebtedness or
16 other obligation in connection with acquisition, improvements, or construction of
17 any property or structure to be used by the municipality unless the agreement has
18 been approved by a vote of a majority of the qualified electors of the municipality
19 voting on the question if the agreement is for acquisition, improvements, or
20 construction of any property or structure for which an election would be required if
21 the municipality undertook the acquisition or construction project through issuance
22 of bonds of the municipality.
- 23 2. The school board of a school district may not enter an agreement pursuant to
24 internal revenue service revenue ruling 63-20 under which payments of any kind

1 would be required by the school district to any building authority or other entity that
2 incurs indebtedness or other obligation regarding construction, purchase, repair,
3 improvement, modernization, or renovation of any building or facility to be used by
4 the school district without approval by the superintendent of public instruction in
5 the manner provided in section 15.1-36-01, if approval by the superintendent of
6 public instruction would be required for the project under section 15.1-36-01 if the
7 school district undertook the project itself.

8 **SECTION 2.** 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 property tax reduction grant under
12 section 57-64-02 for the base year exceeds the amount of the school district's
13 property tax 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 property tax reduction grant under section
16 57-64-02 for the budget year exceeds the amount of the school district's
17 property tax reduction grant under section 57-64-02 for the base year.

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

20 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
21 township, school district, park district, or other municipality authorized to levy taxes shall be
22 computed by deducting from the amount of estimated expenditures for the current fiscal year as
23 finally determined, plus the required reserve fund determined upon by the governing board from
24 the past experience of the taxing district, the total of the following items:

- 25 1. The available surplus consisting of the free and unencumbered cash balance.
- 26 2. Estimated revenues from sources other than direct property taxes.
- 27 3. The total estimated collections from tax levies for previous years.
- 28 4. Such expenditures as are to be made from bond sources.
- 29 5. The amount of distributions received from an economic growth increment pool
30 under section 57-15-61.

1 6. The estimated amount to be received from payments in lieu of taxes on a project
2 under section 40-57.1-03.

3 7. The amount reported to a school district by the superintendent of public instruction
4 as the school district's property tax reduction grant for the year under section
5 57-64-02.

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

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

10 **57-64-01. Definitions.** For purposes of this chapter:

11 1. "Combined education mill rate" means the combined number of mills levied by a
12 school district for the general fund, high school tuition, and high school
13 transportation.

14 2. "Qualifying school district" means a school district that meets the conditions and
15 requirements of this chapter to receive a mill levy reduction grant.

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

18 **57-64-02. Property tax reduction grant.** Each qualifying school district in the state is
19 entitled to a property tax reduction grant as provided in this chapter, subject to legislative
20 appropriation to the superintendent of public instruction.

21 1. The property tax reduction grant for each qualifying school district is equal to two
22 thousand five hundred dollars per weighted student unit as determined for the
23 school year under chapter 15.1-27. The amount of grants under this subsection
24 must be increased for each school year by the average percentage salary increase
25 provided to state employees for that state fiscal year.

26 2. The grant to a qualifying school district is equal to the greater of:

27 a. The allocation determined under subsection 1; or

28 b. The taxable valuation of property in the school district in the previous taxable
29 year times the number of mills determined by subtracting one hundred twenty
30 mills from the combined education mill rate of the school district for the
31 previous taxable year.

- 1 3. The grant to a qualifying school district under subsection 2 may not exceed the
2 taxable valuation of property in the school district in the previous taxable year
3 times the number of mills determined by subtracting fifty mills from the combined
4 education mill rate of the school district from the previous taxable year.
- 5 4. The superintendent of public instruction shall report to each qualifying school
6 district by July fifteenth of each year the property tax 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 property tax
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.** The certificate of levy form filed with the
15 county auditor by a qualifying school district must reflect the revenue to be received by the
16 school district under this chapter and that the combined education mill rate for the school
17 district will be adjusted to provide the benefit of the revenue to taxpayers in the form of a
18 property tax reduction.

19 **57-64-04. School district levy limit - Voter approval for increase.** A school district
20 entitled to a grant under this chapter may not increase its combined education mill rate to a
21 number of mills greater than the number of mills remaining unfunded from the combined
22 education mill rate in the previous taxable year after adjustment by subtracting the amount of
23 the grant to be received by the school district for the current taxable year, unless a higher
24 combined education mill rate is approved by a majority of the electors of the school district
25 voting on the question.

26 **57-64-05. Open enrollment transfer of funds.** If a student who was included in the
27 weighted student unit calculation under subsection 1 of section 57-64-02 has enrolled in
28 another school district under open enrollment, the school board of the student's school district
29 of residence shall pay to the admitting district the amount of the grant received by the school
30 district of residence under this chapter attributable to that student, computed on the basis of the
31 total of grants received by the school district of residence divided by the number of students in

1 the school district of residence at the time the calculation of the grant under this chapter was
2 made.

3 **57-64-06. Application of grants for property tax reduction.** Notwithstanding any
4 other provision of law, the reduction in a school district's mill rate attributable to grant funds
5 under this chapter must be calculated to reduce only property taxes levied for residential and
6 agricultural property and property classified as commercial property to the extent that property
7 is devoted to use by an individual or group of individuals as a dwelling, but not including hotel
8 or motel accommodations.

9 **57-64-07. Allocation of property tax reduction benefits to lessees.** The owner of
10 property under lease to a lessee for residential, commercial, or agricultural use shall make a
11 payment to each lessee of record on January first and the cumulative amount of payments to
12 lessees of the property must equal fifty percent of the property tax reduction benefit for the
13 property under this chapter. The owner of a taxable hospital, nursing home, group home, foster
14 home, residential child care facility, or other facility providing health or social services benefits
15 to residents is not subject to the requirements of the section. Payments among multiple
16 lessees must be allocated in proportion to each lessee's relative share of total rental payments
17 on the property. A lessee's entitlement to payment under this section is enforceable by an
18 action filed in small claims court and, if the lessee prevails in the action, the award from the
19 small claims court or district court must include an award of reasonable attorney's fees incurred
20 by the lessee in enforcing the right to the benefit under this section.

21 **SECTION 5. EFFECTIVE DATE.** Sections 2 and 3 of this Act are effective for taxable
22 years beginning after December 31, 2008.