

**HOUSE BILL NO. 1422**

Introduced by

Representatives Kasper, Koppelman, Ruby, Thoreson

Senator Cook

1 A BILL for an Act to create and enact section 57-15-01.2, a new subdivision to subsection 1 of  
2 section 57-38-01.2, and a new subdivision to subsection 2 of section 57-38-30.3 of the North  
3 Dakota Century Code, relating to property tax levy increase limitations and an income tax  
4 deduction for special assessments; to amend and reenact sections 11-09.1-04 and 40-05.1-05,  
5 subsection 15 of section 57-02-01, and sections 57-02-11, 57-02-27, 57-09-04, 57-11-04,  
6 57-12-05, 57-12-06, 57-12-09, and 57-20-07.1 of the North Dakota Century Code, relating to  
7 home rule authority, property tax increase limitations, determination of true and full value, notice  
8 of assessment increases, appeals of property tax assessments, and contents of property tax  
9 statements; and to provide an effective date.

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

11 **SECTION 1. AMENDMENT.** Section 11-09.1-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **11-09.1-04. Ratification by majority vote - Supersession of existing charter and**  
14 **conflicting state laws - Filing of copies of new charter.** If a majority of the qualified electors  
15 voting on the charter at the election vote in favor of the home rule charter, it is ratified and  
16 becomes the organic law of the county on the first day of January or July next following the  
17 election, and extends to all its county matters. The charter and the ordinances made pursuant  
18 to the charter in county matters must be liberally construed to supersede within the territorial  
19 limits and jurisdiction of the county any conflicting state law except for any state law as it  
20 applies to cities or any power of a city to govern its own affairs, without the consent of the  
21 governing body of the city. The charter may not authorize the enactment of ordinances to  
22 diminish the authority of a board of supervisors of a township or to change the structure of  
23 township government in any organized civil township, without the consent of the board of  
24 supervisors of the township. ~~No~~ A charter or ordinance of a home rule county shall may not

1 supersede section 49-22-16 nor any provision of state law relating to property tax assessments,  
2 levy limitations, exemptions, credits, definitions, administration, or enforcement. One copy of  
3 the charter as ratified and approved must be filed with the secretary of state; one with the  
4 recorder for the county, unless the board of county commissioners designates a different  
5 official; and one with the auditor of the county to remain as a part of its permanent records.  
6 Courts shall take judicial notice of the charter.

7 **SECTION 2. AMENDMENT.** Section 40-05.1-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **40-05.1-05. Ratification by majority vote - Supersession of existing charter and**  
10 **state laws in conflict therewith - Filing of copies of new charter.** If a majority of the  
11 qualified voters voting on the charter at the election vote in favor of the home rule charter, the  
12 charter is ratified and is the organic law of the city, and extends to all its local and city matters.  
13 The charter and the ordinances made pursuant to the charter in such matters supersede within  
14 the territorial limits and other jurisdiction of the city any law of the state in conflict with the  
15 charter and ordinances and must be liberally construed for such purposes. A charter or  
16 ordinance of a home rule city may not supersede any provision of state law relating to property  
17 tax assessments, levy limitations, exemptions, credits, definitions, administration, or  
18 enforcement. One copy of the charter ratified and approved must be filed with the secretary of  
19 state and one with the auditor of the city to remain as a part of its permanent records.  
20 Thereupon the courts shall take judicial notice of the new charter.

21 **SECTION 3. AMENDMENT.** Subsection 15 of section 57-02-01 of the North Dakota  
22 Century Code is amended and reenacted as follows:

23 15. "True and full value" means the value determined by considering the earning or  
24 productive capacity, if any, the market value, if any, and all other matters that affect  
25 the actual value of the property to be assessed. ~~This shall include, for~~ The relative  
26 age and location of residential property must be considered in determination of  
27 market value. For purposes of arriving at the true and full value of property used  
28 for agricultural purposes, factors to consider include the schedule of modifiers of  
29 the county, farm rentals, soil capability, soil productivity, and soils analysis. "True  
30 and full value" does not include any portion of the value or cost of improvements by  
31 special assessment unless the assessor has supporting evidence of an equivalent

1           market value increase as shown by sales of property subject to those special  
2           assessments.

3           **SECTION 4. AMENDMENT.** Section 57-02-11 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **57-02-11. Listing of property - Assessment thereof - Limitations.** Property must be  
6 listed and assessed as follows:

- 7           1. All real property subject to taxation must be listed and assessed every year with  
8           reference to its value, on February first of that year.
- 9           2. Notwithstanding any other provision of law, the taxable valuation of real property  
10           may not be increased by more than two percent from its taxable valuation from the  
11           previous taxable year unless:
  - 12           a. Improvements have been made on the property which were not subject to  
13           assessment in the previous taxable year, in which case the taxable valuation  
14           of the property, without the improvements, from the previous taxable year may  
15           not be increased by more than two percent and the taxable valuation of the  
16           improvements may be added. For purposes of this subdivision, "taxable  
17           valuation of the improvements" means the value determined by comparison  
18           with taxable valuation of comparable property; or
  - 19           b. The classification of the property has changed from the previous taxable year.
- 20           3. Notwithstanding any other provision of law, the true and full value for residential  
21           and commercial property must be based on a five-year rolling average of market  
22           value of those properties as determined by the sales, market, and productivity  
23           study for the locality where the property is located.
- 24           4. The true and full value of land underlying residential or commercial property may  
25           not be uniformly increased within an assessment district. The true and full value of  
26           land underlying residential or commercial property must be determined separately  
27           for each parcel of residential or commercial property and must recognize the  
28           valuation factors that uniquely apply, and the degree to which they apply, to each  
29           individual parcel.
- 30           5. Whenever after the first day of February and before the first day of April in any  
31           year, it is made to appear to the assessor by the oath of the owner that any

1 building, structure, or other improvement, or tangible personal property, which is  
2 listed for taxation for the current year has been destroyed or injured by fire, flood,  
3 or tornado, the assessor shall investigate the matter and deduct from the valuation  
4 of the property of the owner of such destroyed property an amount which in the  
5 assessor's judgment fairly represents such deduction as should be made.

6 **SECTION 5. AMENDMENT.** Section 57-02-27 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **57-02-27. Property to be valued at a percentage of assessed value - Classification**  
9 **of property - Limitation on valuation of annexed agricultural lands.** All property subject to  
10 taxation based on the value thereof must be valued as follows:

- 11 1. All residential property to be valued at nine percent of assessed value. If any  
12 property is used for both residential and nonresidential purposes, the valuation  
13 must be prorated accordingly.
- 14 2. All agricultural property to be valued at ten percent of assessed value as  
15 determined pursuant to section 57-02-27.2.
- 16 3. All commercial property to be valued at ten percent of assessed value.
- 17 4. All centrally assessed property to be valued at ten percent of assessed value  
18 except as provided in section 57-06-14.1.

19 The resulting amounts must be known as the taxable valuation. However, taxable valuation of  
20 property may not be increased by more than two percent from the taxable valuation of the  
21 property from the previous taxable year, except under the conditions in subsection 2 of section  
22 57-02-11. In determining the assessed value of real and personal property, except agricultural  
23 property, the assessor may not adopt a lower or different standard of value because the same  
24 is to serve as a basis of taxation, nor may the assessor adopt as a criterion of value the price at  
25 which said property would sell at auction, or at forced sale, or in the aggregate with all the  
26 property in the town or district, but the assessor shall value each article or description by itself,  
27 and at such sum or price as the assessor believes the same to be fairly worth in money. In  
28 assessing any tract or lot of real property, there must be determined the value of the land,  
29 exclusive of improvements, and the value of all taxable improvements and structures thereon,  
30 and the aggregate value of the property, including all taxable structures and other  
31 improvements, excluding the value of crops growing upon cultivated lands. In valuing any real

1 property upon which there is a coal or other mine, or stone or other quarry, the same must be  
2 valued at such a price as such property, including the mine or quarry, would sell for at a fair  
3 voluntary sale for cash. Agricultural lands within the corporate limits of a city which are not  
4 platted constitute agricultural property and must be so classified and valued for ad valorem  
5 property tax purposes until such lands are put to another use. Agricultural lands, whether within  
6 the corporate limits of a city or not, which were platted and assessed as agricultural property  
7 prior to March 30, 1981, must be assessed as agricultural property for ad valorem property tax  
8 purposes until put to another use. Such valuation must be uniform with the valuation of  
9 adjoining unannexed agricultural land.

10 **SECTION 6. AMENDMENT.** Section 57-09-04 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **57-09-04. Duties of board - Notice of right to appeal.** The township board of  
13 equalization shall ascertain whether all taxable property in its township has been properly  
14 placed upon the assessment list and duly valued by the assessor. In case any real property  
15 has been omitted by inadvertence or otherwise, the board shall place the same upon the list  
16 with the true value thereof. The board shall proceed to correct the assessment so that each  
17 tract or lot of real property is entered on the assessment list at the true value thereof. The  
18 assessment of the property of any person may not be raised until such person has been notified  
19 of the intent of the board to raise the same. All complaints and grievances of residents of the  
20 township must be heard and decided by the board and it may make corrections as appear to be  
21 just. Complaints by nonresidents with reference to the assessment of any real property and  
22 complaints by others with reference to any assessment made after the meeting of the township  
23 board of equalization must be heard and determined by the county board of equalization. The  
24 board shall advise any person who has expressed a complaint or grievance to the board  
25 regarding a property assessment of the person's right to appeal the board's decision to the  
26 county board of equalization and of the time and place the county board of equalization will  
27 meet for that purpose as required by section 57-12-01.

28 **SECTION 7. AMENDMENT.** Section 57-11-04 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **57-11-04. Application for correction of assessment.** During the session of the  
31 board, any person, or the attorney or agent of any person feeling aggrieved by anything in the

1 assessment roll, may apply to the board for the correction of alleged errors in the listing or  
2 valuation of real property, and the board may correct the errors as it may deem just. The board  
3 shall advise any person who has expressed a complaint or grievance to the board regarding a  
4 property assessment of the person's right to appeal the board's decision to the county board of  
5 equalization and of the time and place the county board of equalization will meet for that  
6 purpose as required by section 57-12-01.

7 **SECTION 8. AMENDMENT.** Section 57-12-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **~~57-12-05. Requirements to be followed in equalization~~ Equalization of individual**  
10 **assessments.** The county board of equalization, when equalizing individual assessments,  
11 shall observe the following rules:

- 12 1. The valuation of each tract or lot of real property which is returned below its true  
13 and full value must be raised to the sum believed by such board to be the true and  
14 full value thereof.
- 15 2. The valuation of each tract or lot of real property which, in the opinion of the board,  
16 is returned above its true and full value must be reduced to such sum as is  
17 believed to be the true and full value thereof.
- 18 3. The board may not make any adjustment in taxable valuation of property which  
19 would exceed the limitations of subsection 2 of section 57-02-11 or section  
20 57-02-27.

21 **SECTION 9. AMENDMENT.** Section 57-12-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **~~57-12-06. Requirements to be followed in equalizing~~ Equalization of assessments**  
24 **between assessment districts and in equalizing between property owners among**  
25 **properties.**

- 26 1. The rules prescribed in section 57-12-05 apply when the board of county  
27 commissioners is equalizing assessments between the several assessment and  
28 taxing districts in the county provided that in such case, except as otherwise  
29 provided in subsection 2, the board may raise or lower the valuation of classes of  
30 property only so as to equalize the assessments as between districts.
- 31 2. Notwithstanding any other provision of this section:

- 1           a.    The county board of equalization after notice to the local board of equalization  
2                    may reduce the assessment on any separate piece or parcel of real estate  
3                    even though such property was assessed in a city or township having a local  
4                    board of equalization; provided, that the county board of equalization does not  
5                    have authority to reduce any such assessment unless the owner of the  
6                    property or the person to whom it was assessed first appeals to the county  
7                    board of equalization, either by appearing personally or by a representative  
8                    before the board or by mail or other communication to the board, in which the  
9                    owner's reasons for asking for the reduction are made known to the board.  
10                  The proceedings of the board shall show the manner in which the appeal was  
11                  made known to the board and the reasons for granting any reduction in any  
12                  such assessment.
- 13           b.    The county board of equalization after notice to the local board of equalization  
14                    may increase the assessment on any separate piece or parcel of real property  
15                    even though such property was assessed in a city or township having a local  
16                    board of equalization; provided, that the county board of equalization does not  
17                    have authority to increase any such assessment unless it first gives notice by  
18                    mail to the owner of the property that such person may appear before the  
19                    board on the date designated in the notice, which date must be at least five  
20                    days after the mailing of the notice. The county auditor as clerk of the board  
21                    shall send such notice to the person or persons concerned.
- 22           c.    If the county board of equalization during the course of its equalization  
23                    sessions determines that any property of any person has been listed and  
24                    assessed in the wrong classification, it shall direct the county auditor to  
25                    correct the listing so as to include such assessment in the correct  
26                    classification.
- 27           3.    The owner of any separate piece or parcel of real estate that has been assessed  
28                    may appeal the assessment thereon to the state board of equalization as provided  
29                    in subdivision a of subsection 3 of section 57-13-04; provided, however, that such  
30                    owner has first appealed the assessment to the local equalization board of the

1           taxing district in which the property was assessed and to the county board of  
2           equalization of the county in which the property was assessed.

3           4. The county board of equalization shall advise any person who has appealed an  
4           assessment to the board of county board of equalization of the person's right to  
5           appeal the board's decision to the state board of equalization and the time and  
6           place the state board of equalization will meet for that purpose as required by  
7           section 57-13-03.

8           **SECTION 10. AMENDMENT.** Section 57-12-09 of the North Dakota Century Code is  
9           amended and reenacted as follows:

10           **57-12-09. Notice of increased assessment to real estate owner.** When any  
11           assessor has increased the true and full valuation of any lot or tract of land or any  
12           improvements thereon to more than ~~ten~~ five percent more than the amount of the last  
13           assessment, notice of the amount of increase over the last assessment and the amount of the  
14           last assessment must be delivered in writing by the assessor to the property owner, mailed in  
15           writing to the property owner at the property owner's last-known address, or provided to the  
16           property owner by electronic mail directed with verification of receipt to an electronic mail  
17           address at which the property owner has consented to receive notice. Delivery of notice to a  
18           property owner under this section must be completed not fewer than ~~fifteen~~ twenty days before  
19           the meeting of the local equalization board. The tax commissioner shall prescribe suitable  
20           forms for this notice and the notice must show the true and full value as defined by law of the  
21           property, including improvements, that the assessor used in making the assessment for the  
22           current year and for the year in which the last assessment was made and must also show the  
23           date prescribed by law for the meeting of the local equalization board of the assessment district  
24           in which the property is located and the meeting date of the county equalization board. The  
25           notice must be mailed or delivered at the expense of the assessment district for which the  
26           assessor is employed.

27           **SECTION 11.** Section 57-15-01.2 of the North Dakota Century Code is created and  
28           enacted as follows:

29           **57-15-01.2. Limitation on levies by taxing districts.**

30           1. Notwithstanding that a taxing district may have unused or excess levy authority  
31           under any other provision of law, this section limits that authority. This section may

- 1           not be interpreted as authority to increase any levy limitation otherwise provided by  
2           law and may be applied only to limit any unused or excess levy authority that a  
3           taxing district may otherwise be entitled to use. Property taxes levied in dollars by  
4           a taxing district may not exceed the amount levied in dollars by that taxing district  
5           against taxable property in that taxing district in the preceding taxable year by more  
6           than four percent or the percentage change in the midwest region consumer price  
7           index, United States department of labor bureau of labor statistics, during the most  
8           recently completed calendar year, whichever is less, and property taxes levied in  
9           dollars by a taxing district against a parcel of property may not exceed the amount  
10           the taxing district levied in dollars against that parcel of property in the preceding  
11           taxable year by more than two percent, except:
- 12           a.   When improvements to property have been made which were not taxable in  
13           the previous taxable year, the additional taxable valuation attributable to the  
14           improvements is taxable without regard to the limitation under this subsection  
15           but the limitation on the taxable valuation of the improvements under  
16           subdivision a of subsection 2 of section 57-02-11 applies to those  
17           improvements.
- 18           b.   When a property tax exemption existed in the previous taxable year which  
19           has been reduced or does not exist, the portion of the taxable valuation of the  
20           property which is no longer exempt is not subject to the limitation in this  
21           subsection.
- 22           c.   When temporary mill levy increases authorized by the electors of the taxing  
23           district or mill levies authorized by state law existed in the previous taxable  
24           year but are no longer applicable or have been reduced, the amount levied in  
25           dollars in the previous taxable year by the taxing district must be adjusted to  
26           reflect the expired temporary mill levy increases and the reduced or  
27           eliminated mill levies authorized by state law before the percentage increase  
28           allowable under this subsection is applied.
- 29           2.   The limitation on the total amount levied by a taxing district under subsection 1  
30           does not apply to:

- 1           a. New or increased mill levies authorized by state law or the electors of the  
2           taxing district which did not exist in the previous taxable year.
- 3           b. Any irrevocable tax to pay bonded indebtedness levied under section 16 of  
4           article X of the Constitution of North Dakota.
- 5           c. Levies for a building fund or capital improvements.
- 6           d. Levies for fire protection, law enforcement, or emergency services.
- 7           e. Budget expenditures for substantial equipment purchases for infrastructure  
8           maintenance, repair, or construction such as road equipment, mowers,  
9           equipment for collection of solid waste, and similar equipment but not  
10           including office or computer equipment.
- 11          3. The mill rate applied to property that was not taxed in the previous taxable year  
12           may not exceed the mill rate determined by law for the current taxable year for  
13           property that was taxed in the previous taxable year.
- 14          4. Application of this section may be suspended and additional levy authority  
15           approved for a taxing district upon approval by sixty percent or more of the  
16           qualified electors of the taxing district voting on the question at a regular election of  
17           the taxing district.

18           **SECTION 12. AMENDMENT.** Section 57-20-07.1 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **57-20-07.1. ~~County treasurer to mail real~~ Real estate tax statement mailing and**  
21 **contents.** On or before December twenty-sixth of each year, the county treasurer shall mail a  
22 real estate tax statement to the owner of each parcel of real property at the owner's last-known  
23 address. The statement must be provided in a manner that allows the taxpayer to retain a  
24 printed record of the obligation for payment of taxes and special assessments as provided in  
25 the statement. If a parcel of real property is owned by more than one individual, the county  
26 treasurer shall send only one statement to one of the owners of that property. Additional copies  
27 of the tax statement will be sent to the other owners upon their request and the furnishing of  
28 their names and addresses to the county treasurer. The tax statement must include a dollar  
29 valuation of the true and full value as defined by law of the property and the total mill levy  
30 applicable. The tax statement must include, or be accompanied by a separate sheet, with ~~three~~  
31 four columns showing, for the taxable year to which the tax statement applies and the ~~two~~ three

1 immediately preceding taxable years, the property tax levy in dollars against the parcel by the  
2 county and school district and any city or township that levied taxes against the parcel. Failure  
3 of an owner to receive a statement will not relieve that owner of liability, nor extend the discount  
4 privilege past the February fifteenth deadline.

5           **SECTION 13.** A new subdivision to subsection 1 of section 57-38-01.2 of the North  
6 Dakota Century Code is created and enacted as follows:

7                   Reduced by special assessments against property in this state which were  
8                   paid by the taxpayer during the taxable year.

9           **SECTION 14.** A new subdivision to subsection 2 of section 57-38-30.3 of the North  
10 Dakota Century Code is created and enacted as follows:

11                   Reduced by special assessments against property in this state which were  
12                   paid by the taxpayer during the taxable year.

13           **SECTION 15. EFFECTIVE DATE.** This Act is effective for taxable years beginning  
14 after December 31, 2008.