

**HOUSE BILL NO. 1465**

Introduced by

Representatives Owens, K. Koppelman, Rohr, Weisz

1 A BILL for an Act to create and enact sections 46-03-10.1, 57-02-08.9, and 57-15-01.2 of the  
2 North Dakota Century Code, relating to statutory references to mills, property tax credits, and  
3 property tax levy limitations; to amend and reenact sections 57-02-27 and 57-39.2-26.1 of the  
4 North Dakota Century Code, relating to determination of taxable valuation and allocation of  
5 revenue to the state aid distribution fund; to repeal section 57-15-01.1 of the North Dakota  
6 Century Code, relating to property tax levies; to provide an appropriation; and to provide an  
7 effective date.

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

9 **SECTION 1.** Section 46-03-10.1 of the North Dakota Century Code is created and enacted  
10 as follows:

11 **46-03-10.1. Expression of mills references in decimal form.**

12 In arranging the laws for publication and in publishing and maintaining the laws, the  
13 legislative council shall change statutory references to mills in reference to property tax  
14 imposition to a decimal expression in numerals of the number of cents per dollar of taxable  
15 valuation equivalent to the number of mills stated.

16 **SECTION 2.** Section 57-02-08.9 of the North Dakota Century Code is created and enacted  
17 as follows:

18 **57-02-08.9. Residential, agricultural, and commercial property tax credit -**

19 **Certification - Distribution.**

20 1. An individual is entitled to receive a reduction of four thousand dollars or fifty percent,  
21 whichever is less, of the taxable valuation of the individual's primary residence as  
22 provided in this section. A reduction under this section applies regardless of whether  
23 the individual is the head of a family. If an individual is entitled to a reduction in taxable  
24 valuation under this section and section 57-02-08.1 or 57-02-08.8, any reduction under

1 sections 57-02-08.1 and 57-02-08.8 must be applied first and then the reduction under  
2 this section must be applied. The reduction under this section, alone or in combination  
3 with any other reduction allowed by law, may not exceed the taxable valuation of the  
4 primary residence.

5 2. An estate or trust, or a corporation or passthrough entity that owns residential property  
6 used as part of a farming or ranching operation is entitled to a reduction as provided in  
7 subsection 1 if that residential property is not exempt from property taxes as a farm  
8 residence and is occupied as a primary residence, as of the assessment date of the  
9 taxable year, by an individual who is a beneficiary of the estate or trust or who holds  
10 an ownership interest in the corporation or passthrough entity. Either the occupant or  
11 the entity that owns the residence may be the applicant for purposes of this subsection  
12 and the definition of primary residence under subsection 15. An estate, trust,  
13 corporation, or passthrough entity may not claim a reduction for more than one  
14 property under this subsection.

15 3. The reduction under subsection 1 or 2 continues to apply if the individual does not  
16 reside in the primary residence because the individual's absence is due to  
17 confinement in a nursing home, hospital, or other care facility, for as long as that  
18 confinement lasts and the portion of the primary residence previously occupied by the  
19 individual is not rented to another individual.

20 4. Individuals residing together, as spouses or when one or more is a dependent of  
21 another, are entitled to only one reduction between or among them under subsection 1  
22 or 2. Individuals residing together, who are not spouses or dependents, who are  
23 coowners of the property are each entitled to a percentage of a full reduction under  
24 subsection 1 or 2 equal to their ownership interests in the property.

25 5. The owner of a parcel of commercial property is entitled to receive a reduction of two  
26 thousand dollars or fifty percent, whichever is less, of the taxable valuation of the  
27 property if all individuals collectively owning a majority of the ownership interest in that  
28 parcel of commercial property reside in a primary residence eligible for the reduction  
29 under subsection 1 or 2. If a parcel of commercial property is owned in whole or in part  
30 by a corporation or passthrough entity, the reduction under this subsection applies to  
31 that property only if all individuals collectively owning a majority of the ownership

1 interest in that corporation or passthrough entity reside in a primary residence eligible  
2 for the reduction under subsection 1 or 2. An owner of commercial property is entitled  
3 to the reduction under this subsection for only one parcel of commercial property in  
4 this state.

5 6. The owner of agricultural property is entitled to receive a reduction of two thousand  
6 dollars or fifty percent, whichever is less, of the taxable valuation of up to six hundred  
7 forty acres [258.99 hectares] of agricultural property owned by the applicant if all  
8 individuals collectively owning a majority of the ownership interest in that agricultural  
9 property reside in primary residences eligible for the reduction under subsection 1 or 2  
10 and do not reside in residential property exempt from property taxes as a farm  
11 residence. If agricultural property is owned in whole or in part by a corporation or  
12 passthrough entity, the reduction under this subsection applies to that property only if  
13 individuals collectively owning a majority of the ownership interest in the corporation or  
14 passthrough entity reside in a primary residence eligible for the reduction under  
15 subsection 1 or 2 and do not reside in residential property exempt from property taxes  
16 as a farm residence. An owner of agricultural property is eligible for only one reduction  
17 under this section against all agricultural property owned by that person in this state.

18 7. To claim a reduction under this section, an applicant must sign and file with the  
19 assessor, by October first of the year for which a reduction is initially claimed, a claim  
20 form containing a verified statement of facts establishing the applicant's eligibility as of  
21 February first of that year. A claim of the reduction under this section remains in effect  
22 for the property until the ownership of the property changes.

23 8. The assessor shall attach the statement filed under subsection 7 to the assessment  
24 sheet and shall show the reduction on the assessment sheet.

25 9. The tax commissioner shall prescribe, design, and make available all forms necessary  
26 to effectuate this section. Claim forms must include the full name, address, and social  
27 security or taxpayer identification number of the applicant, and any other information  
28 prescribed by the tax commissioner. The tax commissioner shall include on claim  
29 forms a statement to the effect that the applicant, by signing, declares the application  
30 to be true, correct, and complete and subject to the penalties under section 12.1-11-02

1           for making a false statement in a government matter. The county director of tax  
2           equalization shall make these forms available to applicants upon request.

3        10. A social security or taxpayer identification number contained in any form under this  
4        section is confidential and may be disclosed only to county officers, the tax  
5        commissioner, or a court and only for purposes of administering this section. A county  
6        officer, the tax commissioner, or a court in possession of a form or other document  
7        under this section shall delete or obscure any social security or taxpayer identification  
8        number on any copy of the form or other document released to the public.

9        11. A reduction under this section is valid for the entire taxable year for which the  
10       application was approved, without regard to any change of ownership of the property  
11       which occurs after the assessment date. A reduction remains effective for succeeding  
12       taxable years without the owner filing a claim for the exemption, but the assessor may  
13       require the owner to file a renewed claim or verify eligibility for succeeding taxable  
14       years.

15       12. If any applicant is found to have fraudulently claimed a reduction under this section to  
16       which that applicant is not entitled, all reductions under this section for that applicant  
17       for that taxable year must be canceled and that applicant is forever barred from  
18       claiming or receiving a reduction under this section. If an applicant received a  
19       reduction that is canceled under this section, the auditor of the county in which such  
20       property is located shall enter the amount of the canceled reduction plus a penalty of  
21       ten percent as omitted property on the assessment roll of property that has escaped  
22       taxation.

23       13. Determinations concerning eligibility for a reduction under this section may be  
24       appealed through the informal equalization process and formal abatement process.

25       14. This section does not reduce the liability of any individual for special assessments  
26       levied upon any property.

27       15. For the purposes of this section:

28           a. "Dependent" has the same meaning it has for federal income tax purposes.

29           b. "Owned" means the applicant holds a present ownership interest, including  
30           ownership in fee simple, holds a present life estate or other terminable present

1                   ownership interest, or is a purchaser under a contract for deed, but does not  
2                   include a mere right of occupancy or a tenancy under a lease.

3                   c. "Primary residence", for purposes of a residential property taxable valuation  
4                   reduction under this section, means a dwelling in this state owned and occupied  
5                   by the applicant as that applicant's primary residence as of the assessment date  
6                   of the taxable year and which is not exempt from property taxes as a farm  
7                   residence.

8                   16. Before April first of each year, the county auditor of each county shall certify to the tax  
9                   commissioner, on forms prescribed by the tax commissioner, the full name, address,  
10                   and social security or taxpayer identification number of each individual or entity for  
11                   whom the reduction under this section was allowed for the preceding year, the legal  
12                   description of the property, the taxable value of the property, the dollar amount of each  
13                   reduction in taxable value allowed, and the total of the tax mill rates for the preceding  
14                   year of all taxing districts in which the property was contained, exclusive of any state  
15                   mill rates, and any other information prescribed by the tax commissioner.

16                   17. By June first of each year, the tax commissioner shall review the certifications under  
17                   subsection 16, make any required corrections, and certify to the state treasurer for  
18                   payment to each county the sum of the amounts computed by multiplying the  
19                   reduction allowed for each qualifying property in the county for the preceding year by  
20                   the total of the tax mill rates for the preceding year of all taxing districts in which the  
21                   property was contained. In reviewing certifications, the tax commissioner may refer to  
22                   any income tax return information or other information available to the tax  
23                   commissioner.

24                   18. Upon receipt of the payment from the state treasurer, the county treasurer shall  
25                   apportion and distribute it without delay to the county and to the taxing districts of the  
26                   county on the same basis the general real estate tax for the preceding year is  
27                   apportioned and distributed.

28                   19. The tax commissioner shall certify annually to the state treasurer for deposit in the  
29                   state medical center fund the amount computed by multiplying one mill times the  
30                   reduction allowed under this section for the preceding year for all eligible property in  
31                   the state.

1        20. Supplemental certifications by the county auditor and the tax commissioner and  
2            supplemental payments by the state treasurer may be made after the dates prescribed  
3            in this section to make any corrections necessary because of errors or approval of any  
4            application for equalization or abatement filed by an individual or entity because all or  
5            part of the reduction under this section was not allowed.

6            **SECTION 3. 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 of**  
9 **property - Limitation on valuation of annexed agricultural lands.**

10        All property subject to taxation based on the value thereof must be valued as follows:

- 11        1. All residential property to be valued at ~~nine~~eight percent of assessed value. If any  
12            property is used for both residential and nonresidential purposes, the valuation must  
13            be prorated accordingly.
- 14        2. All agricultural property to be valued at ~~ten~~eight percent of assessed value as  
15            determined pursuant to section 57-02-27.2.
- 16        3. All commercial property to be valued at ~~ten~~twelve percent of assessed value.
- 17        4. All centrally assessed property to be valued at ~~ten~~twelve 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. In determining the assessed  
20        value of real and personal property, except agricultural property, the assessor may not adopt a  
21        lower or different standard of value because the same is to serve as a basis of taxation, nor  
22        may the assessor adopt as a criterion of value the price at which said property would sell at  
23        auction, or at forced sale, or in the aggregate with all the property in the town or district, but the  
24        assessor shall value each article or description by itself, and at such sum or price as the  
25        assessor believes the same to be fairly worth in money. In assessing any tract or lot of real  
26        property, there must be determined the value of the land, exclusive of improvements, and the  
27        value of all taxable improvements and structures thereon, and the aggregate value of the  
28        property, including all taxable structures and other improvements, excluding the value of crops  
29        growing upon cultivated lands. In valuing any real property upon which there is a coal or other  
30        mine, or stone or other quarry, the same must be valued at such a price as such property,  
31        including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands

1 within the corporate limits of a city which are not platted constitute agricultural property and  
2 must be so classified and valued for ad valorem property tax purposes until such lands are put  
3 to another use. Agricultural lands, whether within the corporate limits of a city or not, which were  
4 platted and assessed as agricultural property prior to March 30, 1981, must be assessed as  
5 agricultural property for ad valorem property tax purposes until put to another use. Such  
6 valuation must be uniform with the valuation of adjoining unannexed agricultural land.

7 **SECTION 4.** Section 57-15-01.2 of the North Dakota Century Code is created and enacted  
8 as follows:

9 **57-15-01.2. Cap on property taxes levied by a taxing district.**

- 10 1. Notwithstanding that a taxing district may have unused or excess levy authority under  
11 any other provision of law, this section limits that authority. This section may not be  
12 interpreted as authority to increase any levy limitation otherwise provided by law and  
13 may be applied only to limit any levy authority that a taxing district may otherwise be  
14 entitled to use.
- 15 2. Property taxes in dollars levied by a taxing district for all purposes may not exceed the  
16 amount levied in dollars by that taxing district for all purposes against taxable property  
17 in that taxing district in the preceding taxable year adjusted by a percentage equal to  
18 the percentage change in the consumer price index for urban consumers in the  
19 midwest region as compiled by the bureau of labor statistics for the most recently  
20 ended calendar year, subject to the following:
- 21 a. When a taxable improvement to property has been made or property has been  
22 added to the taxing district which was not taxable in the previous taxable year,  
23 the additional taxable valuation attributable to the improvement or additional  
24 property is taxable and not subject to the limitation under this subsection.
- 25 b. When a property tax exemption that existed in the previous taxable year has  
26 been reduced or no longer exists, the portion of the taxable valuation of the  
27 property which is no longer exempt is taxable and not subject to the limitation in  
28 this subsection.
- 29 c. When a property tax exemption exists for property that was taxable in the  
30 previous year, the amount levied in dollars in the previous taxable year by the  
31 taxing district must be reduced by the amount determined by applying the

1                   previous year's calculated mill rate for that taxing district to the previous year's  
2                   taxable valuation of that property before the increase allowable under this  
3                   subsection is applied.

4           d. When temporary mill levy increases authorized by the electors of the taxing  
5           district or mill levies authorized by state law existed in the previous taxable year  
6           but are no longer applicable or have been reduced, the amount levied in dollars  
7           in the previous taxable year by the taxing district must be adjusted to reflect the  
8           expired temporary mill levy increases and the reduced or eliminated mill levies  
9           authorized by state law before the increase allowable under this subsection is  
10           applied.

11       3. The limitation under subsection 2 does not apply to:

12           a. New or increased mill levies authorized by state law or the electors of the taxing  
13           district which did not exist in the previous taxable year.

14           b. Any irrevocable tax to pay bonded indebtedness levied under section 16 of  
15           article X of the Constitution of North Dakota.

16       4. The mill rate applied to property that was not taxed in the previous taxable year may  
17           not exceed the mill rate determined by law for the current taxable year for property that  
18           was taxed in the previous taxable year.

19       5. The limitation under this section may not be superseded by a city or county under  
20           home rule authority but:

21           a. The allowable percentage increase under subsection 2 may be doubled if the  
22           governing body provides notice published one each week for two consecutive  
23           weeks in the official newspaper of the taxing district and states in that notice  
24           when a public hearing will be held at which the governing body will hear and  
25           consider protests of the increase; and

26           b. The percentage increase limitations of this section may be suspended within a  
27           taxing district by approval of at least fifty-five percent of electors of the taxing  
28           district voting on the question at a regular or special election of the taxing district.  
29           A ballot measure for levy increase authority under this subsection must state the  
30           percentage rate of the proposed increase in levy authority in dollars and state for  
31           which years the increase in levy authority would apply.

- 1       6. The limitation determined for a school district under this section is also subject to the  
2       following adjustments:
- 3       a. The dollar amount levied in the base year must be increased by the amount the  
4       school district's mill levy reduction grant under section 57-64-02 for the base year  
5       exceeds the amount of the school district's mill levy reduction grant under section  
6       57-64-02 for the budget year.
- 7       b. The dollar amount levied in the base year must be reduced by the amount the  
8       school district's mill levy reduction grant under section 57-64-02 for the budget  
9       year exceeds the amount of the school district's mill levy reduction grant under  
10       section 57-64-02 for the base year.

11       **SECTION 5. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is  
12       amended and reenacted as follows:

13       **57-39.2-26.1. Allocation of revenues among political subdivisions.**

14       Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and  
15       motor vehicle excise tax collections, equal to forty percent of an amount determined by  
16       multiplying the quotient of one percent divided by the general sales tax rate, that was in effect  
17       when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle  
18       excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be  
19       deposited by the state treasurer so the first twenty million dollars each month is deposited in the  
20       residential, agricultural, and commercial property tax credit fund and the remainder is deposited  
21       in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer  
22       the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be  
23       deposited in the residential, agricultural, and commercial property tax credit fund and the state  
24       aid distribution fund as determined under this section. If the residential, agricultural, and  
25       commercial property tax credit fund ceases to be used for residential, agricultural, and  
26       commercial property tax credit allocations, any unexpended and unobligated balance in the  
27       fund must be transferred by the state treasurer to the state aid distribution fund. Revenues  
28       deposited in the state aid distribution fund are provided as a standing and continuing  
29       appropriation and must be allocated as follows:

- 30       1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in  
31       the first month after each quarterly period as provided in this subsection.

- 1           a.   Sixty-four percent of the amount must be allocated among the seventeen  
2           counties with the greatest population, in the following manner:  
3           (1)   Thirty-two percent of the amount must be allocated equally among the  
4           counties; and  
5           (2)   The remaining amount must be allocated based upon the proportion each  
6           such county's population bears to the total population of all such counties.  
7           b.   Thirty-six percent of the amount must be allocated among all counties, excluding  
8           the seventeen counties with the greatest population, in the following manner:  
9           (1)   Forty percent of the amount must be allocated equally among the counties;  
10           and  
11           (2)   The remaining amount must be allocated based upon the proportion each  
12           such county's population bears to the total population of all such counties.

13           A county shall deposit all revenues received under this subsection in the county  
14           general fund. Each county shall reserve a portion of its allocation under this  
15           subsection for further distribution to, or expenditure on behalf of, townships, rural fire  
16           protection districts, rural ambulance districts, soil conservation districts, county  
17           recreation service districts, county hospital districts, the Garrison Diversion  
18           Conservancy District, the southwest water authority, and other taxing districts within  
19           the county, excluding school districts, cities, and taxing districts within cities. The share  
20           of the county allocation under this subsection to be distributed to a township must be  
21           equal to the percentage of the county share of state aid distribution fund allocations  
22           that township received during calendar year 1996. The governing boards of the county  
23           and township may agree to a different distribution.

- 24           2.   Forty-six and three-tenths percent of the revenues must be allocated to cities in the  
25           first month after each quarterly period based upon the proportion each city's  
26           population bears to the total population of all cities.

27           A city shall deposit all revenues received under this subsection in the city general  
28           fund. Each city shall reserve a portion of its allocation under this subsection for further  
29           distribution to, or expenditure on behalf of, park districts and other taxing districts  
30           within the city, excluding school districts. The share of the city allocation under this  
31           subsection to be distributed to a park district must be equal to the percentage of the

1           city share of state aid distribution fund allocations that park district received during  
2           calendar year 1996, up to a maximum of thirty percent. The governing boards of the  
3           city and park district may agree to a different distribution.

4           **SECTION 6. REPEAL.** Section 57-15-01.1 of the North Dakota Century Code is repealed.

5           **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general  
6           fund in the state treasury, not otherwise appropriated, the sum of \$240,000,000, or so much of  
7           the sum as may be necessary, to the tax commissioner for the purpose of residential,  
8           agricultural, and commercial property tax credit allocations under section 2 of this Act, for the  
9           biennium beginning July 1, 2013, and ending June 30, 2015.

10          **SECTION 8. EFFECTIVE DATE.** Sections 2, 3, 4, and 6 of this Act are effective for taxable  
11          years beginning after December 31, 2012. Section 5 of this Act is effective for taxable events  
12          occurring after June 30, 2013.