

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1158

(Representatives Headland, Bosch, Dockter, Grueneich, Hagert, Heinert)  
(Senators Axtman, Conley, Kannianen, Meyer, K. Roers, Wanzek)

AN ACT to create and enact two new sections to chapter 57-02 of the North Dakota Century Code, relating to a property tax credit for property used as a primary residence; to amend and reenact subsection 1 of section 57-02-08.1 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to the homestead tax credit and income tax rates for individuals, estates, and trusts; to provide for a legislative management study; to provide for a legislative management report; to provide an appropriation; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
  - (1) If the person's income is not in excess of ~~twenty-two~~forty thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~five~~nine thousand ~~six hundred twenty-five~~ dollars of taxable valuation.
  - (2) If the person's income is in excess of ~~twenty-two~~forty thousand dollars and not in excess of ~~twenty-six~~seventy thousand dollars, a reduction of ~~eighty~~fifty percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.
  - (3) ~~If the person's income is in excess of twenty-six thousand dollars and not in excess of thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand three hundred seventy-five dollars of taxable valuation.~~
  - (4) ~~If the person's income is in excess of thirty thousand dollars and not in excess of thirty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand two hundred fifty dollars of taxable valuation.~~
  - (5) ~~If the person's income is in excess of thirty-four thousand dollars and not in excess of thirty-eight thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand one hundred twenty-five dollars of taxable valuation.~~

- ~~(6) If the person's income is in excess of thirty-eight thousand dollars and not in excess of forty-two thousand dollars, a reduction of ten percent of the taxable valuation of the person's homestead up to a maximum reduction of five hundred sixty-three dollars of taxable valuation.~~
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are co-owners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
  - e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
  - f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility. Any income information contained in the statement of facts is a confidential record.
  - ~~g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person exceeds five hundred thousand dollars, including the value of any assets divested within the last three years.~~
  - h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.
  - ~~i-h.~~ An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

**SECTION 2.** A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

**Primary residence credit - Qualification - Application.**

1. An individual is entitled to a credit of five hundred dollars against the property tax due on the individual's primary residence. The credit may not exceed the amount of property tax due. The credit must be applied to reduce the property tax owed on the individual's primary residence after other exemptions or credits under this chapter have been applied.
2. For purposes of this section, "primary residence" means a dwelling in this state owned and occupied by an individual as that individual's primary place of residence and includes residences taxed under chapter 57-55. An individual may not have more than one primary residence.
3. An individual who does not reside in the primary residence in this state is eligible for the credit under this section if the individual's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the primary residence previously occupied by the individual is not rented to another individual.
4. Only one credit under this section may be applied against the property taxes levied against any primary residence.
5. An individual whose primary residence is a farm structure exempt from taxation under subsection 15 of section 57-02-08 is not eligible for a credit under this section.
6. The credit may not reduce the liability for special assessments levied upon any property.
7. To apply for a credit under this section, an applicant shall sign and file with the tax commissioner, by April first of each year, an application containing a verified statement of facts

establishing the applicant's eligibility as of the date of the claim on a form and in the manner prescribed by the tax commissioner.

8. The tax commissioner, in consultation with the county auditors, shall prescribe, design, and make available all forms necessary to effectuate this section. The tax commissioner shall make these forms available upon request.

**SECTION 3.** A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

**Primary residence credit - Certification - Distribution.**

1. By June first of each year, the tax commissioner shall:
  - a. Review the applications received under section 2 of this Act and determine which applicants qualify for the credit allowed under section 2 of this Act; and
  - b. Provide to each county auditor:
    - (1) A copy of each approved application under subdivision a which identifies a primary residence located in the county; and
    - (2) The sum of the credits allowed under section 2 of this Act in the county for the current taxable year.
2. The county auditor shall apply the credit under section 2 of this Act to each primary residence identified by the tax commissioner as a qualifying primary residence on the corresponding property tax statement.
3. By January first of each year, the county auditor shall certify to the tax commissioner the sum of the credits approved by the tax commissioner under subsection 1 which were applied toward property taxes owed on primary residences in the county for the preceding year.
4. By June first of each year after 2024, the tax commissioner shall review a sampling of information provided by the county auditor to verify the accuracy of the application of the credit and certify to the state treasurer for payment to each county the aggregate dollar amount of credits allowed under section 2 of this Act in each county for the preceding year.
5. Within fourteen days of receiving the payment from the state treasurer, but no later than June thirtieth of each year after 2024, the county treasurer shall apportion and distribute the payment to the county and to the taxing districts of the county on the same basis as property taxes for the preceding year were apportioned and distributed.
6. Supplemental certifications by the county auditor and the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make corrections necessary because of errors.
7. The county auditors shall provide information requested by the tax commissioner to effectuate this section.
8. The tax commissioner shall prescribe, design, and make available all forms necessary to effectuate this section.

**SECTION 4. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically

provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of	amount	over
\$0	\$37,450	1.10%	\$0		
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450		
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750		
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300		
\$411,500		\$9,602.44 + 2.90%	\$411,500		
\$0	\$44,725	\$0.00 + 0.00%	\$0		
\$44,725	\$225,975	\$0.00 + 1.95%	\$44,725		
\$225,975		\$3,534.38 + 2.50%	\$225,975		

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of	amount	over
\$0	\$62,600	1.10%	\$0		
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600		
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200		
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450		
\$411,500		\$9,074.74 + 2.90%	\$411,500		
\$0	\$74,750	\$0.00 + 0.00%	\$0		
\$74,750	\$275,100	\$0.00 + 1.95%	\$74,750		
\$275,100		\$3,906.83 + 2.50%	\$275,100		

c. Married filing separately.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of	amount	over
\$0	\$31,300	1.10%	\$0		
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300		
\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600		
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225		
\$205,750		\$4,537.37 + 2.90%	\$205,750		
\$0	\$37,375	\$0.00 + 0.00%	\$0		
\$37,375	\$137,550	\$0.00 + 1.95%	\$37,375		
\$137,550		\$1,953.41 + 2.50%	\$137,550		

d. Head of household.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of	amount	over
\$0	\$50,200	1.10%	\$0		
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200		
\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600		
\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850		
\$411,500		\$9,317.20 + 2.90%	\$411,500		
\$0	\$59,950	\$0.00 + 0.00%	\$0		
\$59,950	\$250,550	\$0.00 + 1.95%	\$59,950		
\$250,550		\$3,716.70 + 2.50%	\$250,550		

e. Estates and trusts.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of	amount	over
\$0	\$2,500	1.10%	\$0		
\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500		
\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900		
\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050		
\$12,300		\$254.17 + 2.90%	\$12,300		
<u>\$0</u>	<u>\$3,000</u>	<u>\$0.00 + 0.00%</u>	<u>\$0</u>		
<u>\$3,000</u>	<u>\$10,750</u>	<u>\$0.00 + 1.95%</u>	<u>\$3,000</u>		
<u>\$10,750</u>		<u>\$151.13 + 2.50%</u>	<u>\$10,750</u>		

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

**SECTION 5. LEGISLATIVE TAX RELIEF ADVISORY COMMITTEE - TAX RELIEF STUDY - REPORT TO LEGISLATIVE MANAGEMENT.**

1. During the 2023-24 interim, the legislative management shall appoint a legislative tax relief advisory committee.
2. The committee must consist of three members of the finance and taxation standing committee of the house of representatives and three members of the finance and taxation standing committee of the senate, appointed by the respective majority leaders of the house of representatives and senate. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedures governing the operation of other legislative management interim committees.
3. The committee shall study tax relief, including income and property tax relief.
  - a. Based on information provided by the tax department, the study must include consideration of:

- (1) Historical income and property tax relief provided by the legislative assembly, including the estimated and actual fiscal impact of the tax relief;
  - (2) An analysis of the tax relief provided by the sixty-eighth legislative assembly through individual income tax rate changes, a primary residence credit, and an expansion of the homestead credit, including the estimated fiscal impact for each method of tax relief and the effect of the income tax rate changes on passthrough income related to income reported on K-1 forms and royalty income reported on 1099-MISC forms;
  - (3) Options to implement a flat individual income tax rate, including the estimated fiscal impact of the options;
  - (4) Options to adjust the individual income tax structure, including the estimated fiscal impact of the options; and
  - (5) An update on the progress of implementing the primary residence credit, including the status of information technology changes and the amount spent on advertising the credit.
- b. The committee may consider input from local taxing districts regarding the administration of the primary residence credit and the homestead credit.
  - c. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 6. APPROPRIATION - TAX COMMISSIONER - PROPERTY TAX RELIEF - ONE-TIME FUNDING.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$158,225,000, or so much of the sum as may be necessary, to the tax commissioner for property tax relief programs during the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

1. \$103,225,000 for paying the state reimbursement under the primary residence credit;
2. \$53,500,000 for paying the state reimbursement under the homestead credit; and
3. \$1,500,000, which is considered a one-time funding item, for operating expenses related to information technology and advertising costs for the primary residence credit.

**SECTION 7. EFFECTIVE DATE - EXPIRATION DATE.** Section 2 of this Act is effective for the first two taxable years beginning after December 31, 2023, and after that date is ineffective.

**SECTION 8. EFFECTIVE DATE.** Sections 1 and 4 of this Act are effective for taxable years beginning after December 31, 2022. Section 3 of this Act becomes effective on April 1, 2024.

**SECTION 9. EXPIRATION DATE.** Section 3 of this Act is effective through June 30, 2026, and after that date is ineffective.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1158.

House Vote:    Yeas 84            Nays 6            Absent 4

Senate Vote:    Yeas 45            Nays 2            Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State