

**HOUSE BILL NO. 1158**

Introduced by

Representatives Headland, Bosch, Dockter, Grueneich, Hagert, Heinert

Senators Axtman, Conley, Kannianen, Meyer, K. Roers, Wanzek

1 A BILL for an Act to create and enact two new sections to chapter 57-02 of the North Dakota  
 2 Century Code, relating to a property tax credit for property used as a primary residence; to  
 3 amend and reenact subsection 1 of section 57-02-08.1 and subsection 1 of section 57-38-30.3  
 4 of the North Dakota Century Code, relating to the ~~imposition of a flat~~ homestead tax credit and  
 5 income tax ~~rate of one and one-half percent~~ rates for individuals, estates, and trusts; ~~and to~~  
 6 provide for a legislative management study; to provide for a legislative management report; to  
 7 provide an appropriation; to provide an effective date; and to provide an expiration date.

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

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

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

1 (2) If the person's income is in excess of ~~twenty-two~~forty thousand dollars and  
2 not in excess of ~~twenty-six~~seventy thousand dollars, a reduction of  
3 ~~eighty~~fifty percent of the taxable valuation of the person's homestead up to  
4 a maximum reduction of four thousand five hundred dollars of taxable  
5 valuation.

6 ~~(3) If the person's income is in excess of twenty-six thousand dollars and not in~~  
7 ~~excess of thirty thousand dollars, a reduction of sixty percent of the taxable~~  
8 ~~valuation of the person's homestead up to a maximum reduction of three~~  
9 ~~thousand three hundred seventy-five dollars of taxable valuation.~~

10 ~~(4) If the person's income is in excess of thirty thousand dollars and not in~~  
11 ~~excess of thirty-four thousand dollars, a reduction of forty percent of the~~  
12 ~~taxable valuation of the person's homestead up to a maximum reduction of~~  
13 ~~two thousand two hundred fifty dollars of taxable valuation.~~

14 ~~(5) If the person's income is in excess of thirty-four thousand dollars and not in~~  
15 ~~excess of thirty-eight thousand dollars, a reduction of twenty percent of the~~  
16 ~~taxable valuation of the person's homestead up to a maximum reduction of~~  
17 ~~one thousand one hundred twenty-five dollars of taxable valuation.~~

18 ~~(6) If the person's income is in excess of thirty-eight thousand dollars and not in~~  
19 ~~excess of forty-two thousand dollars, a reduction of ten percent of the~~  
20 ~~taxable valuation of the person's homestead up to a maximum reduction of~~  
21 ~~five hundred sixty-three dollars of taxable valuation.~~

22 d. Persons residing together, as spouses or when one or more is a dependent of  
23 another, are entitled to only one exemption between or among them under this  
24 subsection. Persons residing together, who are not spouses or dependents, who  
25 are co-owners of the property are each entitled to a percentage of a full  
26 exemption under this subsection equal to their ownership interests in the  
27 property.

28 e. This subsection does not reduce the liability of any person for special  
29 assessments levied upon any property.

1 f. Any person claiming the exemption under this subsection shall sign a verified  
2 statement of facts establishing the person's eligibility. Any income information  
3 contained in the statement of facts is a confidential record.

4 g. ~~A person is ineligible for the exemption under this subsection if the value of the~~  
5 ~~assets of the person and any dependent residing with the person exceeds five~~  
6 ~~hundred thousand dollars, including the value of any assets divested within the~~  
7 ~~last three years.~~

8 ~~h.~~ The assessor shall attach the statement filed under subdivision f to the  
9 assessment sheet and shall show the reduction on the assessment sheet.

10 ~~i.h.~~ An exemption under this subsection terminates at the end of the taxable year of  
11 the death of the applicant.

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

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

15 1. An individual is entitled to a credit of five hundred dollars against the property tax due  
16 on the individual's primary residence. The credit may not exceed the amount of  
17 property tax due. The credit must be applied to reduce the property tax owed on the  
18 individual's primary residence after other exemptions or credits under this chapter  
19 have been applied.

20 2. For purposes of this section, "primary residence" means a dwelling in this state owned  
21 and occupied by an individual as that individual's primary place of residence and  
22 includes residences taxed under chapter 57-55. An individual may not have more than  
23 one primary residence.

24 3. An individual who does not reside in the primary residence in this state is eligible for  
25 the credit under this section if the individual's absence is due to confinement in a  
26 nursing home, hospital, or other care facility, for as long as the portion of the primary  
27 residence previously occupied by the individual is not rented to another individual.

28 4. Only one credit under this section may be applied against the property taxes levied  
29 against any primary residence.

30 5. An individual whose primary residence is a farm structure exempt from taxation under  
31 subsection 15 of section 57-02-08 is not eligible for a credit under this section.

1 6. The credit may not reduce the liability for special assessments levied upon any  
2 property.

3 7. To claim a credit under this section, a claimant must sign and file with the county  
4 auditor, by April first of each year, an application containing a verified statement of  
5 facts establishing the claimant's eligibility as of the date of the claim on a form and in  
6 the manner prescribed by the tax commissioner.

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

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

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

13 1. By January first of each year, the county auditor shall certify to the tax commissioner  
14 the sum of the credits allowed under section 2 of this Act in the county for the  
15 preceding year and provide any other information required by the tax commissioner.

16 2. By June first of each year, the tax commissioner shall review a sample of the  
17 applications from each county and certify to the state treasurer for payment to each  
18 county the aggregate dollar amount of credits allowed under section 2 of this Act in  
19 each county for the preceding year.

20 3. By June fifteenth of each year, the state treasurer shall distribute moneys to counties  
21 in the amounts certified by the tax commissioner under subsection 2.

22 4. Within fourteen days of receiving the payment from the state treasurer under  
23 subsection 3, but no later than June thirtieth of each year, the county treasurer shall  
24 apportion and distribute the payment to the county and to the taxing districts of the  
25 county on the same basis as property taxes for the preceding year were apportioned  
26 and distributed.

27 5. Supplemental certifications by the county auditor and the tax commissioner and  
28 supplemental payments by the state treasurer may be made after the dates prescribed  
29 in this section to make corrections necessary because of errors or approval of any  
30 application for abatement filed by an individual because the credit under section 2 of  
31 this Act was not allowed.

6. 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~~The tax for an estate or trust, the schedule is equal to North Dakota taxable income multiplied by the rate in subdivision e must be used for purposes of this subsection. The tax to be computed for:

a. Single, other than head of household or ~~surviving spouse~~qualifying widow or widower is one and one-half percent of North Dakota taxable income exceeding forty-four thousand seven hundred twenty-five dollars.

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
<u>\$0</u>	<u>\$44,725</u>	<u>\$0.00 + 0.00%</u>	<u>\$0</u>
<u>\$44,725</u>	<u>\$225,975</u>	<u>\$0.00 + 1.95%</u>	<u>\$44,725</u>
<u>\$225,975</u>		<u>\$3,534.38 + 2.50%</u>	<u>\$225,975</u>

1 b. Married filing jointly and surviving spouse ~~qualifying widow or widower is one and~~  
 2 ~~one half percent of North Dakota taxable income exceeding seventy four~~  
 3 ~~thousand seven hundred fifty dollars.~~

4 If North Dakota taxable income is:

5	Over	Not over	The tax is equal to	Of amount over
6	\$0	\$62,600	1.10%	\$0
7	\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
8	\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
9	\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
10	\$411,500		\$9,074.74 + 2.90%	\$411,500
11	<u>\$0</u>	<u>\$74,750</u>	<u>\$0.00 + 0.00%</u>	<u>\$0</u>
12	<u>\$74,750</u>	<u>\$275,100</u>	<u>\$0.00 + 1.95%</u>	<u>\$74,750</u>
13	<u>\$275,100</u>		<u>\$3,906.83 + 2.50%</u>	<u>\$275,100</u>

14 c. Married filing separately ~~is one and one half percent of North Dakota taxable~~  
 15 ~~income exceeding thirty seven thousand three hundred seventy five dollars.~~

16 If North Dakota taxable income is:

17	Over	Not over	The tax is equal to	Of amount over
18	\$0 \$31,300		1.10%	\$0
19	\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
20	\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
21	\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
22	\$205,750		\$4,537.37 + 2.90%	\$205,750
23	<u>\$0</u>	<u>\$37,375</u>	<u>\$0.00 + 0.00%</u>	<u>\$0</u>
24	<u>\$37,375</u>	<u>\$137,550</u>	<u>\$0.00 + 1.95%</u>	<u>\$37,375</u>
25	<u>\$137,550</u>		<u>\$1,953.41 + 2.50%</u>	<u>\$137,550</u>

26 d. Head of household ~~is one and one half percent of North Dakota taxable income~~  
 27 ~~exceeding fifty nine thousand nine hundred fifty dollars.~~

28 If North Dakota taxable income is:

29	Over	Not over	The tax is equal to	Of amount over
30	\$0 \$50,200		1.10%	\$0
31	\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200

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1	\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
2	\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
3	\$411,500		\$9,317.20 + 2.90%	\$411,500
4	\$0	\$59,950	\$0.00 + 0.00%	\$0
5	\$59,950	\$250,550	\$0.00 + 1.95%	\$59,950
6	\$250,550		\$3,716.70 + 2.50%	\$250,550

e. Estates and trusts ~~is one and one-half percent of North Dakota taxable income exceeding three thousand dollars.~~

If North Dakota taxable income is:

10	Over	Not over	The tax is equal to	Of amount over
11	\$0 \$2,500	1.10%	\$0	
12	\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
13	\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
14	\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
15	\$12,300		\$254.17 + 2.90%	\$12,300
16	\$0	\$3,000	\$0.00 + 0.00%	\$0
17	\$3,000	\$10,750	\$0.00 + 1.95%	\$3,000
18	\$10,750		\$151.13 + 2.50%	\$10,750

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.

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

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

- 18           1. During the 2023-24 interim, the legislative management shall consider appointing a  
19 legislative tax relief advisory committee.
- 20           2. If appointed, the committee must consist of three members of the finance and taxation  
21 standing committee of the house of representatives and three members of the finance  
22 and taxation standing committee of the senate, appointed by the respective majority  
23 leaders of the house of representatives and senate. The legislative management shall  
24 designate the chairman of the committee. The committee shall operate according to  
25 the statutes and procedures governing the operation of other legislative management  
26 interim committees.
- 27           3. If appointed, the committee shall study tax relief, including income and property tax  
28 relief.
- 29           a. Based on information provided by the tax department, the study must include  
30 consideration of:



- 1 (1) Historical income and property tax relief provided by the legislative  
2 assembly, including the estimated and actual fiscal impact of the tax relief;
  - 3 (2) An analysis of the tax relief provided by the sixty-eighth legislative assembly  
4 through individual income tax rate changes, a primary residence credit, and  
5 an expansion of the homestead credit, including the estimated fiscal impact  
6 for each method of tax relief and the effect of the income tax rate changes  
7 on passthrough income related to income reported on K 1 forms and royalty  
8 income reported on 1099 MISC forms;
  - 9 (3) Options to implement a flat individual income tax rate, including the  
10 estimated fiscal impact of the options; and
  - 11 (4) Options to adjust the individual income tax structure to eliminate the  
12 individual income tax in a future biennium, including the estimated fiscal  
13 impact of the options.
- 14 b. The committee may consider input from local taxing districts regarding the  
15 administration of the primary residence credit and the homestead credit.
  - 16 c. The committee shall report its findings and recommendations, together with any  
17 legislation required to implement the recommendations, to the sixty-ninth  
18 legislative assembly.

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

- 24 1. \$103,225,000 for paying the state reimbursement under the primary residence credit;
- 25 2. \$53,500,000 for paying the state reimbursement under the homestead credit; and
- 26 3. \$1,500,000, which is considered a one-time funding item, for operating expenses  
27 related to information technology and advertising costs for the primary residence  
28 credit.

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

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

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