

HOMESTEAD PROPERTY TAX CREDIT - EXTENSION TO ALL RESIDENTIAL PROPERTY - PROGRAMS IN OTHER STATES - BACKGROUND MEMORANDUM

Section 34 of 2009 House Bill No. 1324 directs the Legislative Management to study the feasibility and desirability of providing a homestead credit for all North Dakota residential property owners and occupants. Since 1969 North Dakota has provided a homestead property tax credit for persons age 65 or older with limited income. Several states provide similar homestead property tax credits. Several states also provide a homestead property tax credit that is available to all homeowners without regard to income or age restrictions. It appears it is the latter approach that the study directive is targeted to address.

It appears the reason the study directive focuses on residential property relates to the disparity between the effective tax rates for agricultural property and residential property. "Effective tax rate" means the percentage that property taxes paid are of the market value of the property. For 2007 the effective tax rate for the market value of agricultural property was 0.81 percent, and the effective tax rate for market value of residential property was 1.90 percent. It appears the intention is that consideration should be given to the feasibility and desirability of providing a residential homestead property tax credit to bring the effective tax rate for residential property to a percentage that is closer to the agricultural property effective tax rate.

HOMESTEAD PROPERTY TAX CREDIT

Since 1969 North Dakota Century Code Section 57-02-08 has provided a property tax reduction for persons age 65 or older with limited income. As created in 1969, the provision allowed a person age 65 or older with an income of \$3,000 or less per year from all sources to claim a 50 percent reduction in the assessment up to a maximum reduction of \$1,000 of assessed valuation on the person's homestead. This provision has been amended by 29 bills since 1969.

The income limitations in Section 57-02-08.1 have been increased by legislation approved in 1973, 1975, 1977, 1979, 1981, 1985, 1989, 1993, 1999, 2005, 2007, and 2009. Other significant changes to this section include a matching credit and refund for renters added in 1973, state reimbursement to political subdivisions of property tax revenue losses from the credit approved in 1973 and effective in 1975, extension of the credit in 1975 to a person who is permanently and totally disabled, allowance of a deduction from income for medical expenses in 1977, adjustment of the basis of the tax credit from assessed valuation to taxable valuation and proportionate reductions of the amount of credit allowed in 1983, exclusion in 1983 of the credit for any

person whose assets exceed \$50,000 other than the value of the homestead, exclusion of federal rent subsidies from income and exclusion of tax-exempt property from eligibility for the credit for renters in 1985, allowance of the credit upon absence of the person from the homestead for nursing home or similar care in 1989, redefinition of permanent and total disability in 1993, an increase of more than 50 percent in maximum valuations of the homestead to which the credit applies in 2005, an increase of more than 10 percent in maximum valuations of the homestead to which the credit applies in 2007, an increase of more than 30 percent in maximum valuations of the homestead to which the credit applies, and an increase to \$75,000 of nonhomestead assets that would disqualify a homeowner from the credit in 2009.

Under the current provisions of Section 57-02-08.1, a person who is age 65 or older or who is permanently and totally disabled whose income is \$26,000 or less per year from all sources, including the income of any dependent, is entitled to a reduction in taxable valuation of the person's homestead. The exemption 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. The reduction in taxable valuation varies depending upon income as follows:

Income	Maximum Reduction in Taxable Valuation	Equivalent Maximum Reduction in True and Full Valuation	Maximum Percentage Reduction in Valuation
\$18,000 or less	\$4,500	\$100,000	100%
\$18,001 to \$20,000	\$3,600	\$80,000	80%
\$20,001 to \$22,000	\$2,700	\$60,000	60%
\$22,001 to \$24,000	\$1,800	\$40,000	40%
\$24,001 to \$26,000	\$900	\$20,000	20%
Over \$26,000	\$0	\$0	0%

A person claiming the homestead property tax credit exemption must sign a statement that the person is age 65 or older or is permanently and totally disabled; that the person's income does not exceed \$26,000 per annum; and that the value of the person's assets excluding the value of the person's homestead does not exceed \$75,000, including the value of any assets divested within the last three years.

An illustration of the effect of the homestead property tax credit may be useful in understanding how the credit applies. For the following examples, a home with a \$100,000 true and full value is assumed for each homeowner, and the 2008 statewide average mill rate of 390 mills is applied to the property:

	Annual Income	Taxable Valuation Reduction	Property Tax Without Credit	Property Tax Savings With Credit
Homeowner A	\$17,500	\$4,500	\$1,755	\$1,755
Homeowner B	\$21,000	\$2,700	\$1,755	\$1,053
Homeowner C	\$25,000	\$900	\$1,755	\$351
Homeowner D	\$27,000	\$0	\$1,755	\$0

HOMESTEAD PROPERTY TAX CREDIT FOR RENTERS

Any person age 65 or older or permanently and totally disabled with an income of \$26,000 or less per year from all sources and who rents living quarters is eligible for a refund of a portion of the person's rent deemed to constitute payment of property taxes. Twenty percent of the person's annual rent, excluding federal rent subsidy and utilities, services, furniture, furnishings, or appliances furnished by the landlord under the rental agreement, is considered payment made for property taxes. This 20 percent of annual rent, to the extent it exceeds 4 percent of the annual income of the person, is refunded from the state general fund, but the refund may not exceed \$400. A husband and wife who are living together are entitled to only one rent refund. The refund is not available for living quarters, including a nursing home, that are exempt from property taxes.

STATE REIMBURSEMENT OF HOMESTEAD PROPERTY TAX CREDITS

Under Section 57-02-08.2, since 1975 the state has provided reimbursement to political subdivisions for property taxes lost as a result of the homestead property tax credit, and the state has also provided reimbursement to renters eligible for refunds under the homestead property tax credit. Each county is required to certify to the Tax Commissioner the name and address of each person allowed the homestead property tax credit for the previous year, the amount of the exemption, and the total of tax mill rates against the property. The Tax Commissioner is required to

certify to the State Treasurer for payment to each county the amount of property tax excused under the homestead property tax credit. Renters entitled to a refund must apply annually to the Tax Commissioner for refunds.

The following table shows appropriations made for state reimbursement to political subdivisions and payments to renters for the homestead property tax credit for each biennium since the state began providing reimbursement:

1975-77	\$3,286,014
1977-79	\$2,900,000
1979-81	\$3,550,000
1981-83	\$6,290,000
1983-85	\$5,341,000
1985-87	\$4,250,000 ¹
1987-89	\$4,706,000 ²
1989-91	\$5,000,000
1991-93	\$4,879,163
1993-95	\$5,375,000
1995-97	\$5,181,250
1997-99	\$4,790,813
1999-2001	\$4,540,813
2001-03	\$4,540,813
2003-05	\$4,000,000
2005-07	\$4,000,000
2007-09	\$8,104,000
2009-11	\$5,964,000

¹After a \$750,000 reduction by the 1987 Legislative Assembly.

²After a \$456,000 deficiency appropriation added by the 1989 Legislative Assembly.

Senate Bill No. 2402 (2009) substantially expanded the homestead credit and renters refund programs. The bill substantially increased income eligibility for the homestead credit and renters refund, the value of assets that disqualifies applicants, and the maximum annual refund to renters. The fiscal note for the bill estimated an additional \$3,823,000 general fund expenditure for state funding for the program. The fiscal note stated that this additional amount would be needed on top of the \$5,964,000 contained in the executive budget. However, the appropriation provided to the Tax Commissioner in 2009 House Bill No. 1006 was \$5,964,000. It appears the appropriation did not take into account the fiscal effect of the changes in Senate Bill No. 2402, and it appears likely that a deficiency appropriation will be required in 2011 to fully fund the homestead credit and renters refund for the second year of the biennium.

The following table shows the number of claimants, total payments, and average payments per claimant under the homestead property tax credit:

Tax Year	Qualifying Homeowners	Paid for Homeowners	Average Per Homeowner	Qualifying Renters	Paid to Renters	Average Per Renter	Total Payments
1975*	6,004	\$650,693	\$108	414	\$26,182	\$63	\$676,875
1976	6,738	\$691,592	\$103	508	\$37,367	\$74	\$728,959
1977*	9,663	\$1,351,324	\$140	1,325	\$143,352	\$108	\$1,494,676
1978	10,736	\$1,556,881	\$145	2,301	\$292,458	\$127	\$1,849,339
1979*	10,529	\$1,582,655	\$150	2,572	\$353,058	\$137	\$1,935,713
1980	10,633	\$1,881,602	\$177	2,594	\$365,696	\$141	\$2,247,298
1981*	10,158	\$1,970,208	\$194	2,635	\$387,906	\$147	\$2,358,114
1982	9,411	\$1,886,433	\$200	2,664	\$414,429	\$156	\$2,300,862
1983	8,820	\$1,841,081	\$209	3,133	\$516,244	\$165	\$2,357,325
1984	8,206	\$1,818,526	\$222	3,068	\$519,667	\$169	\$2,338,193
1985*	7,362	\$1,697,678	\$231	2,206	\$159,713	\$72	\$1,857,391
1986	7,567	\$1,987,970	\$263	1,994	\$161,905	\$81	\$2,149,875
1987	7,540	\$2,011,933	\$267	1,878	\$163,092	\$87	\$2,175,025
1988	7,546	\$2,142,139	\$284	1,881	\$163,357	\$87	\$2,305,496
1989	7,307	\$2,158,650	\$295	1,657	\$149,666	\$90	\$2,308,316
1990*	7,188	\$2,336,992	\$325	1,601	\$149,705	\$94	\$2,486,697
1991	7,029	\$2,230,637	\$317	1,582	\$151,600	\$96	\$2,382,237
1992	6,743	\$2,181,292	\$323	1,534	\$155,205	\$101	\$2,336,497
1993	6,576	\$2,184,714	\$332	1,563	\$166,739	\$107	\$2,351,453
1994	6,376	\$2,159,466	\$339	1,626	\$175,554	\$108	\$2,335,020
1995*	6,095	\$2,194,689	\$360	1,590	\$177,782	\$112	\$2,372,471
1996	5,680	\$2,072,141	\$365	1,499	\$166,841	\$111	\$2,238,982
1997	5,278	\$1,974,283	\$374	1,482	\$165,060	\$111	\$2,139,343
1998	4,943	\$1,852,124	\$375	1,454	\$173,370	\$119	\$2,025,494
1999*	4,457	\$1,817,552	\$408	1,508	\$190,211	\$126	\$2,007,763
2000	4,231	\$1,814,130	\$429	1,471	\$178,406	\$126	\$1,992,536
2001	4,341	\$1,768,001	\$407	1,329	\$173,754	\$131	\$1,841,755
2002	4,060	\$1,676,737	\$413	1,288	\$172,224	\$134	\$1,848,961
2003	3,923	\$1,659,707	\$423	1,335	\$185,807	\$139	\$1,845,514
2004	3,817	\$1,655,555	\$434	1,332	\$186,896	\$140	\$1,842,451
2005*	3,516	\$2,025,060	\$576	1,273	\$182,947	\$142	\$2,208,007
2006	3,467	\$2,008,310	\$579	1,302	\$188,418	\$145	\$1,196,728
2007*	3,466	\$2,342,186	\$676	1,998	\$287,682	\$144	\$2,629,868
2008	3,715	\$2,396,968	\$645	2,051	\$302,361	\$147	\$2,699,329

*Denotes years in which income limitations for credits were increased. The 1990 increase was approved in 1989 legislation, the 1995 increase was approved in 1993 legislation, and an increase for 2000 was approved in 1999 legislation.

HOMESTEAD CREDIT FOR SPECIAL ASSESSMENTS

Under Section 57-02-08.3, a person who is qualified for the homestead property tax credit also may elect to qualify for a homestead credit against special assessments. The credit is available only for annual installments of special assessments and must be claimed each year the applicant wants the credit. The total amount of credits allowed for any parcel of property may not exceed \$6,000, not including interest charged by the governing body levying the special assessment. The amounts claimed are to be reported by the county to the Tax Commissioner for payment to the special assessment district.

The amount of the homestead credit for special assessments, plus interest of 9 percent per year, is a lien in favor of the state against the property upon which the special assessment credit is allowed. The lien is generally payable from the estate of the claimant, and title to the homestead may not be transferred without the lien being satisfied, unless in

the case of a transfer between spouses because of the death of one of them, in which case the lien need not be satisfied until the property is again transferred.

PROPERTY AND INCOME TAX BENEFITS FOR HOMESTEAD PROPERTY IN ALL STATES

It appears the majority of states provide property tax relief in some form targeted to all residential property owners. The approach adopted is unique to each state, but all of the programs have in common an attempt by the state to reduce the burden of property taxes for residential property and, in many cases, residential rental property.

It is impossible to provide a short summary of all state homestead credit programs because each program is unique and has extensive restrictions and limitations. The following table is intended to briefly compare programs of all states to indicate eligible

taxpayers, the kind of tax relief provided, and whether income limitations apply for eligibility for the tax relief.

Another cautionary note regarding reference to the following table is that it is based on the most recent information available, which is for tax year 2007. Obviously, the amount of relief provided by each state

depends upon the fiscal health of the state. Most states have experienced significant budget shortfalls in 2008 and 2009, and, as a result, many states may have been forced to reduce state assistance for property tax relief to an amount less than the 2007 property tax relief reflected in the following table.

State	Eligible	Relief	Income Limit
Alabama	All homeowners ¹	Assessment reduction	No
Alaska	Homeowners age 65 and older	Assessment reduction	No
Arizona	All homeowners ¹	Assessment reduction	No
Arkansas	All homeowners ¹	Property tax credit	No
California	All homeowners and renters ¹	Assessment reduction	No
Colorado	Homeowners age 65 and older	Assessment reduction ²	No
Connecticut	Homeowners and renters age 65 and older	Assessment reduction	Yes
Delaware	Homeowners age 65 and older	Property tax credit	No
District of Columbia	All homeowners ¹	Assessment reduction	No
Florida	All homeowners ¹	Assessment reduction	No
Georgia	All homeowners ¹	Assessment reduction	No
Hawaii	All homeowners ¹	Assessment reduction	No
Idaho	All homeowners ¹	Assessment reduction	No
Illinois	All homeowners ¹	Assessment reduction and income tax credit	No
Indiana	All homeowners ¹	Assessment reduction	No
Iowa	All homeowners ¹	Assessment reduction	No
Kansas	All homeowners ¹	Assessment reduction	No
Kentucky	Homeowners age 65 and older	Assessment reduction	No
Louisiana	All homeowners ¹	Assessment reduction	No
Maine	All homeowners ³	Assessment reduction	No
Maryland	All homeowners and renters age 60 and older	Property tax credit	Yes
Massachusetts	Homeowners and renters age 65 and older	Property tax credit	Yes
Michigan	All homeowners	Assessment reduction	Yes
Minnesota	All homeowners ⁴	Property tax credit	No
Mississippi	All homeowners ¹	Property tax credit	No
Missouri	Homeowners and renters age 65 and older	Income tax credit	Yes
Montana	Homeowners and renters age 62 and older	Income tax credit	Yes
Nebraska	Homeowners age 65 and older	Assessment reduction	Yes
Nevada	Homeowners and renters age 62 and older	Property tax refund	Yes
New Hampshire	All homeowners and renters	Property tax credit	Yes
New Jersey	All homeowners and renters ⁵	Property tax rebate	Yes
New Mexico	All homeowners ¹	Assessment reduction	No
New York	All homeowners ¹	Assessment reduction	Yes
North Carolina	Homeowners age 65 and older	Assessment reduction	Yes
North Dakota	Homeowners and renters age 65 and older	Assessment reduction or refund	Yes
Ohio	All homeowners ¹	Assessment reduction	No
Oklahoma	All homeowners ¹	Assessment reduction	Yes
Oregon	None ⁶		
Pennsylvania	Homeowners and renters age 65 and older ⁷	Property tax rebate	Yes
Rhode Island	Homeowners age 65 and older	Property tax credit	Yes
South Carolina	All homeowners ¹	Assessment reduction	No
South Dakota	Homeowners age 65 and older	Property or sales tax refund	Yes
Tennessee	Homeowners age 65 and older	Assessment reduction	Yes
Texas	All homeowners ⁸	Assessment reduction	No
Utah	Homeowners age 65 and older ¹	Assessment reduction and local option	Yes
Vermont	All homeowners	Property tax refund	Yes
Virginia	Homeowners age 65 and older	Property tax deferral at local option	Yes
Washington	Homeowners age 61 and older ¹⁰	Assessment reduction	Yes
West Virginia	Homeowners age 65 and older ¹⁰	Assessment reduction	No
Wisconsin	All homeowners and renters ¹¹	Income tax credit	Yes
Wyoming	Homeowners age 65 and older	Property tax refund	Yes

¹A larger assessment reduction is available for homeowners based on age and income qualifications.

²Colorado homeowners or renters age 65 and older with limited income may also qualify for property tax, rent, and heating cost rebates.

³Maine allows additional tax credits for homeowners and renters who meet income limits.

⁴Minnesota has a senior citizen property tax deferral program, a regular property tax refund program, and a special property tax refund program with differing effects based on age, income, and property tax levels.

⁵New Jersey provides additional property tax reimbursement for homeowners age 65 and older based on income eligibility.

⁶Oregon allows homeowners age 62 or older to claim a property tax deferral if they meet income limits.

⁷Pennsylvania school districts also have the option of offering an assessment reduction for homeowners without income limits.

⁸Texas also allows an additional assessment reduction for homeowners age 65 or older or disabled without income limits.

⁹Washington also allows homeowners an option to choose between two property tax deferred programs.

¹⁰West Virginia also allows homeowners age 65 or older or disabled who meet income limits an income tax credit.

¹¹Wisconsin also allows homeowners and renters who meet income limits an income tax credit and allows homeowners age 65 or older or disabled who meet income limits to claim a property tax deferral.

SUGGESTED STUDY APPROACH

It appears the intent of this study resolution is to determine whether it is appropriate to target property tax relief to residential property and bring the effective tax rate for residential property nearer to the effective tax rate for agricultural property. It appears most states have incorporated homestead credits as a component of their property tax structure, with tax relief targeted to resident homeowners in general and additional tax relief targeted to older and disabled homeowners. A large portion of these programs also target tax relief to residents who rent their primary residence.

Significant changes in 2009 will affect the effective tax rates for all property types. Senate Bill No. 2244 (2009) reduces the capitalization rate for tax years 2009 through 2012 under the valuation formula for agricultural property which will tend to increase

agricultural property assessments gradually for tax years 2009 and later. This will probably be accompanied by some shifting of property tax burdens. Property tax relief of approximately \$295 million provided by Senate Bill No. 2199 (2009) will reduce the effective tax rate for all property types. Increased eligibility for the homestead credit will not reduce effective tax rates because the property tax reduction is paid by the state and will not be reflected as a property tax reduction. However, homestead credit benefits for significantly more taxpayers and more tax relief must be considered as part of the property tax picture. It will be necessary to await availability of property tax statistics for taxable year 2009 before effective tax rate comparisons and consideration of relative property tax burdens can be made.