

SENATE BILL NO. 2032

Introduced by

Legislative Council

(Finance and Taxation Committee)

1 A BILL for an Act to provide an appropriation for school district property tax relief; to create and
2 enact sections 57-01-20 and 57-15-01.2 of the North Dakota Century Code, relating to
3 allocation of school district property tax relief funds and general fund levy limitations of school
4 districts; to amend and reenact sections 57-15-01.1, 57-15-14, and 57-15-31 of the North
5 Dakota Century Code, relating to school district general fund levy limitations; to provide a
6 statement of legislative intent; to provide for a legislative council study; and to provide an
7 effective date.

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

9 **SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the
10 general fund in the state treasury, not otherwise appropriated, the sum of \$74,054,859, or so
11 much of the sum as may be necessary, to the state tax commissioner for the purpose of
12 allocation of school district property tax relief as provided in section 2 of this Act, for the
13 biennium beginning July 1, 2007, and ending June 30, 2009. The state tax commissioner shall
14 allocate \$35,897,132 of this appropriation among school districts in the first year of the 2007-09
15 biennium and \$38,157,727 of this appropriation among school districts in the second year of the
16 2007-09 biennium.

17 **SECTION 2.** Section 57-01-20 of the North Dakota Century Code is created and
18 enacted as follows:

19 **57-01-20. School district property tax relief allocation.** The state tax commissioner
20 shall allocate funds appropriated by the legislative assembly for school district property tax relief
21 as provided in this section.

22 1. The state tax commissioner shall determine an adjusted combined education mill
23 rate for each school district using the school district's combined education mill rate
24 for the 2005 taxable year and subtracting from that mill rate sixty percent of the

1 maximum number of mills that may be levied by a school district, without voter
2 approval, under section 57-15-14 for the previous year. The adjusted combined
3 education mill rate for a school district may not be reduced to less than zero mills.
4 A school district that has an adjusted combined education mill rate of zero mills
5 under this subsection is not eligible for an allocation under this section.

6 2. The state tax commissioner shall determine an adjusted combined education levy
7 in dollars for each school district by applying the adjusted combined education mill
8 rate for the school district to the final equalized taxable valuation of property in the
9 school district for the 2005 taxable year.

10 3. The state tax commissioner shall total the adjusted combined education levies in
11 dollars for all school districts eligible for an allocation under this section and divide
12 that total into the total amount available for allocation for the budget year to
13 determine the school district property tax relief percentage for the budget year.

14 4. The state tax commissioner shall multiply the adjusted combined education levy in
15 dollars for each school district times the school district property tax relief
16 percentage for the budget year to determine the school district property tax relief
17 allocation for the school district.

18 5. a. The school district property tax relief allocation for each school district must
19 be adjusted by multiplying it times a factor determined by dividing the average
20 taxable valuation per student for all school districts eligible for an allocation
21 under this section by the average taxable valuation per student for the school
22 district. The adjustment factor for a school district under this subsection may
23 not be more than one and twenty-five hundredths or less than seventy-five
24 hundredths.

25 b. A school district otherwise entitled to an allocation greater than five percent of
26 the total amount available for statewide allocation after applying the
27 adjustment factor under subdivision a may not receive a greater percentage of
28 the total amount available for statewide allocation than its percentage of the
29 total statewide enrollment in public elementary and secondary schools.

30 c. If after applying the adjustment factor the amount to be allocated does not
31 equal the amount available for allocation, the tax commissioner shall further

1 adjust allocations to provide each school district its pro rata share of the
2 amount available for allocation. The state tax commissioner shall transfer the
3 adjusted school district property tax relief allocation determined under this
4 subsection to each school district no later than April fifteenth of the budget
5 year.

6 6. The state tax commissioner shall certify to each school district by August first of
7 each year the amount of the school district property tax relief allocation for that
8 school district for the next budget year as calculated under this section. The state
9 tax commissioner shall certify the same information to each county auditor for each
10 school district in the auditor's county.

11 7. For purposes of this section:

12 a. "Budget year" means the taxable year in which the adjusted school district
13 property tax relief allocation under this section is to be transferred to school
14 districts.

15 b. "Combined education mill rate" means the combined number of mills levied by
16 a school district for the general fund and the number of mills levied for high
17 school tuition and high school transportation. Any excess levy authority
18 approved by the qualified electors of a school district after December 31,
19 2006, must be excluded from the combined education mill rate.

20 c. "Previous year" means the taxable year immediately preceding the year in
21 which the budget year allocations are determined under this section.

22 **SECTION 3. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **57-15-01.1. Protection of taxpayers and taxing districts.** Each taxing district,
25 excluding a school district, may levy the lesser of the amount in dollars as certified in the budget
26 of the governing body, or the amount in dollars as allowed in this section, subject to the
27 following:

28 1. No taxing district may levy more taxes expressed in dollars than the amounts
29 allowed by this section.

30 2. For purposes of this section:

- 1 a. "Base year" means the taxing district's taxable year with the highest amount
2 levied in dollars in property taxes of the three taxable years immediately
3 preceding the budget year. For a park district general fund, the "amount
4 levied in dollars in property taxes" is the sum of amounts levied in dollars in
5 property taxes for the general fund under section 57-15-12 including any
6 additional levy approved by the electors, the insurance reserve fund under
7 section 32-12.1-08, the employee health care program under section
8 40-49-12, the public recreation system under section 40-55-09 including any
9 additional levy approved by the electors, forestry purposes under
10 section 57-15-12.1 except any additional levy approved by the electors, pest
11 control under section 4-33-11, and handicapped person programs and
12 activities under section 57-15-60;
- 13 b. "Budget year" means the taxing district's year for which the levy is being
14 determined under this section;
- 15 c. "Calculated mill rate" means the mill rate that results from dividing the base
16 year taxes levied by the sum of the taxable value of the taxable property in the
17 base year plus the taxable value of the property exempt by local discretion or
18 charitable status, calculated in the same manner as the taxable property; and
- 19 d. "Property exempt by local discretion or charitable status" means property
20 exempted from taxation as new or expanding businesses under
21 chapter 40-57.1; improvements to property under chapter 57-02.2; or
22 buildings belonging to institutions of public charity, new single-family
23 residential or townhouse or condominium property, property used for early
24 childhood services, or pollution abatement improvements under section
25 57-02-08.
- 26 3. A taxing district may elect to levy up to the amount levied in dollars in the base
27 year. Any levy under this section must be specifically approved by a resolution
28 approved by the governing body of the taxing district. Before determining the levy
29 limitation under this section, the dollar amount levied in the base year must be:
- 30 a. Reduced by an amount equal to the sum determined by application of the
31 base year's calculated mill rate for that taxing district to the final base year

- 1 taxable valuation of any taxable property and property exempt by local
2 discretion or charitable status which is not included in the taxing district for the
3 budget year but was included in the taxing district for the base year.
- 4 b. Increased by an amount equal to the sum determined by the application of the
5 base year's calculated mill rate for that taxing district to the final budget year
6 taxable valuation of any taxable property or property exempt by local
7 discretion or charitable status which was not included in the taxing district for
8 the base year but which is included in the taxing district for the budget year.
- 9 c. Reduced to reflect expired temporary mill levy increases authorized by the
10 electors of the taxing district.
- 11 4. In addition to any other levy limitation factor under this section, a taxing district may
12 increase its levy in dollars to reflect new or increased mill levies authorized by the
13 legislative assembly or authorized by the electors of the taxing district.
- 14 5. Under this section a taxing district may supersede any applicable mill levy
15 limitations otherwise provided by law, or a taxing district may levy up to the mill
16 levy limitations otherwise provided by law without reference to this section, but the
17 provisions of this section do not apply to the following:
- 18 a. Any irrevocable tax to pay bonded indebtedness levied pursuant to
19 section 16 of article X of the Constitution of North Dakota.
- 20 b. The one-mill levy for the state medical center authorized by section 10 of
21 article X of the Constitution of North Dakota.
- 22 6. ~~A school district choosing to determine its levy authority under this section may~~
23 ~~apply subsection 3 only to the amount in dollars levied for general fund purposes~~
24 ~~under section 57-15-14 or, if the levy in the base year included separate general~~
25 ~~fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school~~
26 ~~district may apply subsection 3 to the total amount levied in dollars in the base year~~
27 ~~for both the general fund and special fund accounts. School district levies under~~
28 ~~any section other than section 57-15-14 may be made within applicable limitations~~
29 ~~but those levies are not subject to subsection 3.~~

1 7. Optional levies under this section may be used by any city or county that has
2 adopted a home rule charter unless the provisions of the charter supersede state
3 laws related to property tax levy limitations.

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

6 **57-15-01.2. School district optional levy limitation.** Each school district may levy
7 the lesser of the amount in dollars as certified in the budget of the school board, or the amount
8 in dollars as allowed in this section, subject to the following:

9 1. No school district may levy more taxes expressed in dollars than the amounts
10 allowed by this section.

11 2. For purposes of this section:

12 a. "Base year" means the school district's taxable year with the highest amount
13 levied in dollars in property taxes of the three taxable years immediately
14 preceding the budget year;

15 b. "Budget year" means the taxing district's year for which the levy is being
16 determined under this section;

17 c. "Calculated mill rate" means the mill rate that results from dividing the base
18 year taxes levied by the sum of the taxable value of the taxable property in the
19 base year plus the taxable value of the property exempt by local discretion or
20 charitable status, calculated in the same manner as the taxable property; and

21 d. "Property exempt by local discretion or charitable status" means property
22 exempted from taxation as new or expanding businesses under
23 chapter 40-57.1; improvements to property under chapter 57-02.2; or
24 buildings belonging to institutions of public charity, new single-family
25 residential or townhouse or condominium property, property used for early
26 childhood services, or pollution abatement improvements under section
27 57-02-08.

28 3. A school district may elect to levy up to the amount levied in dollars in the base
29 year. Any levy under this section must be specifically approved by a resolution
30 approved by the school board. Before determining the levy limitation under this
31 section, the dollar amount levied in the base year must be:

- 1 a. Reduced by an amount equal to the sum determined by application of the
2 base year's calculated mill rate for that school district to the final base year
3 taxable valuation of any taxable property and property exempt by local
4 discretion or charitable status which is not included in the school district for
5 the budget year but was included in the school district for the base year.
- 6 b. Increased by an amount equal to the sum determined by the application of the
7 base year's calculated mill rate for that school district to the final budget year
8 taxable valuation of any taxable property or property exempt by local
9 discretion or charitable status which was not included in the school district for
10 the base year but which is included in the school district for the budget year.
- 11 c. Reduced to reflect expired temporary mill levy increases authorized by the
12 electors of the school district.
- 13 d. Reduced by the amount of the school district's property tax relief allocation
14 under section 57-01-20 for the budget year to the extent that allocation
15 exceeds the amount of the school district's property tax relief allocation under
16 section 57-01-20 for the base year.
- 17 4. In addition to any other levy limitation factor under this section, a school district
18 may increase its levy in dollars to reflect new or increased mill levies authorized by
19 the legislative assembly or authorized by the electors of the school district.
- 20 5. Under this section a school district may supersede any applicable mill levy
21 limitations otherwise provided by law, or a school district may levy up to the mill
22 levy limitations otherwise provided by law without reference to this section, but the
23 provisions of this section do not apply to any irrepealable tax to pay bonded
24 indebtedness levied, pursuant to section 16 of article X of the Constitution of North
25 Dakota.
- 26 6. A school district choosing to determine its levy authority under this section may
27 apply subsection 3 only to the amount in dollars levied for general fund purposes
28 under section 57-15-14 or, if the levy in the base year included separate general
29 fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school
30 district may apply subsection 3 to the total amount levied in dollars in the base year
31 for both the general fund and special fund accounts. School district levies under

1 any section other than section 57-15-14 may be made within applicable limitations
2 but those levies are not subject to subsection 3.

3 **SECTION 5. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied
6 each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo
7 school district, may not exceed the amount in dollars which the school district levied for the prior
8 school year plus ~~eighteen percent~~ two percentage points more than the percentage increase in
9 the consumer price index, midwest region, for urban consumers, as computed by the United
10 States department of labor, bureau of labor statistics, for the most recent full calendar year, up
11 to a general fund levy of one hundred ~~eighty-five~~ sixty-five mills on the dollar of the taxable
12 valuation of the district, except that:

13 1. In any school district having a total population in excess of four thousand according
14 to the last federal decennial census:

15 a. ~~There~~ there may be levied any specific number of mills ~~that, not exceeding~~
16 five percent more than the maximum number of mills the school district may
17 levy under this section or section 57-15-01.2, which upon resolution of the
18 school board has been submitted to and approved by a majority of the
19 qualified electors voting upon the question at any regular or special school
20 district election.

21 b. ~~There is no limitation upon the taxes which may be levied if upon resolution of~~
22 ~~the school board of any such district the removal of the mill levy limitation has~~
23 ~~been submitted to and approved by a majority of the qualified electors voting~~
24 ~~at any regular or special election upon such question.~~

25 2. In any school district having a total population of less than four thousand, there
26 may be levied any specific number of mills ~~that, not exceeding five percent more~~
27 than the maximum number of mills the school district may levy under this section or
28 section 57-15-01.2, which upon resolution of the school board has been approved
29 by fifty-five percent of the qualified electors voting upon the question at any regular
30 or special school election.

- 1 3. In any school district in which the total assessed valuation of property has
2 increased twenty percent or more over the prior year and in which as a result of
3 that increase the school district is entitled to less in state aid payments provided in
4 chapter 15.1-27 because of the deduction required in section 15.1-27-05, there
5 may be levied any specific number of mills more in dollars than was levied in the
6 prior year up to a general fund levy of one hundred ~~eighty-five~~ sixty-five mills on
7 the dollar of the taxable valuation of the school district. The additional levy
8 authorized by this subsection may be levied for not more than two years because
9 of any twenty percent or greater annual increase in assessed valuation. The total
10 amount of revenue generated in excess of the ~~eighteen percent~~ increase of two
11 percentage points more than the percentage increase in the consumer price index,
12 midwest region, for urban consumers, as computed by the United States
13 department of labor, bureau of labor statistics, for the most recent full calendar
14 year which is otherwise permitted by this section may not exceed the amount of
15 state aid payments lost as a result of applying the deduction provided in section
16 15.1-27-05 to the increased assessed valuation of the school district in a one-year
17 period.
- 18 4. The question of authorizing or discontinuing such specific number of mills authority
19 or unlimited taxing authority in any school district must be submitted to the qualified
20 electors at the next regular election upon resolution of the school board or upon the
21 filing with the school board of a petition containing the signatures of qualified
22 electors of the district equal in number to twenty percent of the number of persons
23 enumerated in the school census for that district for the most recent year such
24 census was taken, unless such census is greater than four thousand in which case
25 only fifteen percent of the number of persons enumerated in the school census is
26 required. However, not fewer than twenty-five signatures are required unless the
27 district has fewer than twenty-five qualified electors, in which case the petition must
28 be signed by not less than twenty-five percent of the qualified electors of the
29 district. In those districts with fewer than twenty-five qualified electors, the number
30 of qualified electors in the district must be determined by the county superintendent
31 for such county in which such school is located. However, the approval of

1 discontinuing either such authority does not affect the tax levy in the calendar year
2 in which the election is held. The election must be held in the same manner and
3 subject to the same conditions as provided in this section for the first election upon
4 the question of authorizing the mill levy.

5 **SECTION 6. AMENDMENT.** Section 57-15-31 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
8 township, school district, park district, or other municipality authorized to levy taxes shall be
9 computed by deducting from the amount of estimated expenditures for the current fiscal year as
10 finally determined, plus the required reserve fund determined upon by the governing board from
11 the past experience of the taxing district, the total of the following items:

- 12 1. The available surplus consisting of the free and unencumbered cash balance.
- 13 2. Estimated revenues from sources other than direct property taxes.
- 14 3. The total estimated collections from tax levies for previous years.
- 15 4. Such expenditures as are to be made from bond sources.
- 16 5. The amount of distributions received from an economic growth increment pool
17 under section 57-15-61.
- 18 6. The estimated amount to be received from payments in lieu of taxes on a project
19 under section 40-57.1-03.
- 20 7. The amount certified to a school district by the state tax commissioner as the
21 school district's property tax relief allocation for the budget year under section
22 57-01-20.

23 Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five
24 percent of the amount of the levy.

25 **SECTION 7. LEGISLATIVE INTENT - LEGISLATIVE COUNCIL STUDY.** It is the
26 intent of the sixtieth legislative assembly that enactment of this Act will initiate an increase in the
27 state's share of elementary and secondary education funding to secure immediate and future
28 benefits to the citizens of the state. These benefits include relief from the expanded property
29 tax burden that has created disparity within the tax structure of the state, enhanced equity of
30 funding to support elementary and secondary education students, enduring property tax
31 reductions, and returning to taxpayers a substantial measure of revenue collections augmented

1 by a robust state economy. It is the further intent of the sixtieth legislative assembly that
2 enactment of this Act will produce a reduction in property tax burdens which, with continued
3 efforts of future legislative assemblies, will result in reduction of each annual property tax bill to
4 not more than one and one-half percent of the true and full value for any parcel of property.

5 The legislative council shall assign a study in each legislative interim through 2012 by
6 the interim committee for taxation issues, for consideration by that committee of compliance
7 with, and future funding sources for, the shift in education funding and taxation policy initiated
8 by enactment of this Act.

9 **SECTION 8. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
10 December 31, 2006.