

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Senate Amendments**

ENGROSSED HOUSE BILL NO. 1006

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the office of the tax
2 commissioner and for payment of state reimbursement under the homestead tax credit,
3 disabled veterans' tax credit, and primary residence credit; to create and enact a new section to
4 chapter 57-02 of the North Dakota Century Code, relating to the primary residence certification;
5 to amend and reenact section 57-01-04 and subsection 4 of section 57-02-08.9, as amended by
6 section 1 of Senate Bill No. 2201, as approved by the sixty-ninth legislative assembly, of the
7 North Dakota Century Code, relating to the salary of the state tax commissioner and the primary
8 residence credit; to provide an exemption; to provide for a transfer; to provide a contingent
9 effective date; and to declare an emergency.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
12 as may be necessary, are appropriated out of any moneys in the general fund in the state
13 treasury, not otherwise appropriated, and from other funds derived from federal funds, to the tax
14 commissioner for the purpose of defraying the expenses of the tax commissioner and paying
15 the state reimbursement under the homestead tax credit, disabled veterans' tax credit, and
16 primary residence credit, for the biennium beginning July 1, 2025, and ending June 30, 2027, as
17 follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
20 Salaries and wages	\$24,036,152	\$2,161,868	\$26,198,020
21 New and vacant FTE pool	0	1,119,992	1,119,992
22 Operating expenses	8,613,370	2,324,741	10,938,111

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1	Capital assets	6,000	0	6,000
2	Homestead tax credit	72,400,000	(11,800,000)	60,600,000
3	Disabled veterans' tax credit	18,745,000	10,655,000	29,400,000
4	Primary residence credit	<u>103,225,000</u>	<u>(103,225,000)</u>	<u>0</u>
5	Total all funds	\$227,025,522	(\$98,763,399)	\$128,262,123
6	Less other funds	<u>125,000</u>	<u>0</u>	<u>125,000</u>
7	Total general fund	\$226,900,522	(\$98,763,399)	\$128,137,123
8	Full-time equivalent positions	117.00	0.00	117.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

14	<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
15	Property tax relief administration	<u>\$1,500,000</u>	<u>\$0</u>	<u>\$1,500,000</u>
16	Total	\$1,500,000	\$0	\$1,500,000

SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST. The tax commissioner may not spend funds appropriated in the new and vacant FTE pool line item in section 1 of this Act, but may request the office of management and budget to transfer funds from the new and vacant FTE pool line item to the salaries and wages line item in accordance with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the sixty-ninth legislative assembly.

SECTION 4. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the state tax commissioner may transfer funds between the homestead tax credit and disabled veterans' tax credit line items in section 1 of this Act if one line item does not have sufficient funds available for state reimbursement of eligible tax credits. The state tax commissioner shall notify the office of management and budget and the legislative council of any transfers made pursuant to this section.

SECTION 5. MOTOR VEHICLE FUEL TAX REVENUE TRANSFER. There is transferred to the general fund in the state treasury out of motor vehicle tax revenue collected pursuant to section 57-43.1-02, the sum of \$1,761,168, for the purpose of reimbursing the general fund for

1 expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the
2 administration of these taxes, for the biennium beginning July 1, 2025, and ending June 30,
3 2027.

4 **SECTION 6. AMENDMENT.** Section 57-01-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-01-04. Salary.**

7 The annual salary of the state tax commissioner is ~~one hundred thirty-one thousand seven-~~
8 ~~hundred five~~ one hundred forty-one thousand eighty-two dollars through June 30, ~~2024~~ 2026,
9 and ~~one hundred thirty-six thousand nine hundred seventy-three~~ one hundred forty-five
10 thousand three hundred fourteen dollars thereafter.

11 **SECTION 7. AMENDMENT.** Subsection 4 of section 57-02-08.9 of the North Dakota
12 Century Code, as amended by section 1 of Senate Bill No. 2201, as approved by the sixty-ninth
13 legislative assembly, is amended and reenacted as follows:

- 14 4. Only one credit under this section may be applied against the property taxes levied
15 against any primary residence, except for property held by a cooperative entity. A trust
16 may not claim a credit for more than one primary residence under this section. All
17 credits earned by the individuals residing in property owned by a cooperative entity
18 must be applied against the property taxes levied against the cooperative. The tax
19 commissioner may require a cooperative entity to furnish any documentation needed
20 for the purpose of ensuring compliance with this section.

21 **SECTION 8.** A new section to chapter 57-02 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Primary residence certification - Eligibility for primary residential property**
24 **classification - Application.**

- 25 1. To be eligible for a primary residential property classification under this chapter, a
26 primary residence must be certified by the county director of tax equalization as
27 provided in this section.
28 2. A dwelling does not lose its character as a primary residence if the owner of the
29 dwelling does not reside in the primary residence because the individual is confined in
30 a nursing home, hospital, or other care facility, for as long as that confinement lasts

1 and the portion of the primary residence previously occupied by the individual is not
2 rented to another person.

3 3. To be certified as a primary residence and eligible for the primary residential property
4 classification under this chapter, an owner shall sign and file with the tax commissioner
5 an application containing a verified statement of facts establishing the owner's
6 property meets the eligibility requirements to be considered a primary residence under
7 this section as of the date of the application on a form and in the manner prescribed by
8 the tax commissioner.

9 a. An application for primary residence certification must be filed by February first of
10 each year to request a primary residence certification for:

11 (1) The taxable year during which the application is filed for a primary residence
12 taxed as real estate under this title.

13 (2) The taxable year succeeding the taxable year during which the application
14 is filed for a primary residence taxed as a mobile home under chapter
15 57-55.

16 b. As soon as practicable after receiving the applications, no later than February
17 twenty-eighth of each year, the tax commissioner shall:

18 (1) Review the applications received under this subsection and determine
19 which applicants qualify for the primary residence certification; and

20 (2) Provide to each county director of tax equalization a copy of each approved
21 or rejected application received under this subsection which identifies
22 property located in the county.

23 c. Within fifteen days of receipt of the applications from the tax commissioner under
24 paragraph 2 of subdivision b, no later than March fifteenth of each year, the
25 county director of tax equalization shall notify the applicant of the approval or
26 denial of the application and reflect the appropriate classification of the property
27 on the assessment list.

28 d. The tax commissioner may request additional documentation from the applicant
29 when making the determination of eligibility.

30 e. Determinations of eligibility under this subsection may be appealed through the
31 informal equalization process and formal abatement process.

- 1 4. A primary residence certification under this section is valid for the entire taxable year
2 for which the application for certification was approved, without regard to any change
3 of ownership of the property which occurs after the application for certification was
4 approved.
- 5 5. The tax commissioner shall prescribe, design, and make available all forms necessary
6 to effectuate this section. Application forms must include the full name and address of
7 the applicant and any other information prescribed by the tax commissioner. The
8 county director of tax equalization shall make these forms available to applicants upon
9 request.
- 10 6. For purposes of this section:
- 11 a. "Owned" means the individual holds a present ownership interest, including
12 ownership in fee simple, holds a present life estate or other terminable present
13 ownership interest, holds a beneficial interest in a qualifying trust, has an
14 ownership interest in a cooperative entity that owns the property, or is a
15 purchaser under a contract for deed. The term does not include a mere right of
16 occupancy or a tenancy under a lease.
- 17 b. (1) "Primary residence" means a dwelling in this state, including the land,
18 appurtenances, and improvements used in the residential occupancy of the
19 dwelling, which is not exempt from property taxes as a farm residence and,
20 subject to subsection 2 and paragraph 2, as of the assessment date of the
21 taxable year, is:
- 22 (a) Owned by one or more individuals directly, through a beneficial
23 interest in a qualifying trust, or through an ownership interest in a
24 cooperative entity;
- 25 (b) Designed or adapted for human residence;
- 26 (c) Used as a residence; and
- 27 (d) Occupied as a primary place of residence by an owner, by an
28 individual who has a life estate in the property, by an individual who
29 holds an ownership interest in a cooperative entity, or, for property
30 owned through a beneficial interest in a qualifying trust, by a trustor or
31 beneficiary of the trust who qualifies for the certification.

(2) For purposes of the term:

(a) An individual may not have more than one primary residence.

(b) A primary residence includes a primary residence taxed under chapter 57-55.

(c) A primary residence includes each unit of a cooperatively owned building occupied as a primary place of residence by an individual with an ownership interest in the cooperative entity.

c. "Qualifying trust" means a trust:

(1) In which the agreement, will, or court order creating the trust, an instrument transferring property to the trust, or any other agreement that is binding on the trustee provides that the trustor of the trust or a beneficiary of the trust has the right to use and occupy as the trustor's or beneficiary's primary residence rent free and without charge except for taxes and other costs and expenses specified in the instrument or court order:

(a) For life;

(b) For the lesser of life or a term of years; or

(c) Until the date the trust is revoked or terminated by an instrument or court order that describes the property with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located; and

(2) That acquires the property in an instrument of title or under a court order that:

(a) Describes the property with sufficient certainty to identify it and the interest acquired; and

(b) Is recorded in the real property records of the county in which the property is located.

d. "Trustor" means an individual who transfers an interest in real or personal property to a qualifying trust, whether during the individual's lifetime or at death, or the individual's spouse.

**SECTION 9. EXEMPTION - PRIMARY RESIDENCE CREDIT - ABATEMENT AND
EXTENDED DEADLINE - COOPERATIVES.**

- 1 1. Notwithstanding the qualification criteria and application requirements and deadlines
2 for a primary residence credit against taxes levied in taxable year 2024 under section
3 57-02-08.9, an individual who occupies a unit of a cooperatively owned building as a
4 primary residence and has an ownership interest in the cooperative entity that owns
5 the property may file an abatement claim no later than May 31, 2025, on behalf of the
6 cooperative entity that owns the property for a refund of taxes paid by the cooperative
7 entity equal to the amount of the credit allowed under section 57-02-08.9 in taxable
8 year 2024. All refunds of taxes issued as a result of abatement claims under this
9 subsection must be issued to the cooperative entity that owned the property and paid
10 taxes levied on the property in taxable year 2024.
- 11 2. Notwithstanding the qualification criteria and application requirements and deadlines
12 for a primary residence credit against taxes levied in taxable year 2025 under section
13 57-02-08.9, an individual who occupies a unit of a cooperatively owned building as a
14 primary residence and has an ownership interest in the cooperative entity that owns
15 the property may file an application for a primary residence credit under section
16 57-02-08.9 by May 31, 2025, to be applied against the property taxes levied against
17 the cooperatively owned building in taxable year 2025. The county auditor shall apply
18 the credit against the property taxes levied against the cooperatively owned building
19 according to the procedures in section 57-02-08.9.
- 20 3. The tax commissioner may require a cooperative entity to furnish any documentation
21 needed for the purpose of ensuring compliance with this section.
- 22 4. Notwithstanding the dates prescribed in section 57-02-08.10, supplemental
23 certifications and payments shall be made and distributed according to the procedures
24 provided under section 57-02-08.10.

25 **SECTION 10. CONTINGENT EFFECTIVE DATE.** If House Bill No. 1176 is approved by the
26 sixty-ninth legislative assembly and becomes effective, sections 7 and 8 of this Act are effective
27 for taxable years beginning after December 31, 2025.

28 **SECTION 11. EMERGENCY.** Section 9 of this Act is declared to be an emergency
29 measure.

