

**FIRST ENGROSSMENT
with House Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2328

Introduced by

Senators Fischer, Lee, Wardner

Representatives Belter, Brekke, S. Kelsh

1 A BILL for an Act to create and enact a new subsection to section 57-15-20.2, a new section to
2 chapter 57-15, a new section to chapter 58-01, a new subsection to section 58-03-07, and a
3 new chapter to title 58 of the North Dakota Century Code, relating to the definition of the term
4 freeholder of a township, the relevy of property taxes omitted by mistake, and to the creation of
5 special assessment districts by townships; to provide for retroactive application; and to provide
6 an expiration date.

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

8 **SECTION 1.** A new subsection to section 57-15-20.2 of the North Dakota Century
9 Code is created and enacted as follows:

10 A township levying a tax for special assessment districts in accordance with
11 section 5 of this Act.

12 **SECTION 2.** A new section to chapter 57-15 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Mistake in levy - Levy increase the following year - Levy reverts.**

15 1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the
16 2000 tax year which would result in ten percent or more of the amount a taxing
17 district intended to be levied, as of the October tenth deadline under section
18 57-15-31.1, not being levied and the mistake is brought to the attention of the
19 county auditor or county treasurer of any county with land in the taxing district by
20 February 1, 2001, the taxing district may include half of the amount which was
21 mistakenly not levied in the taxing district's budget and general fund levy for the
22 2001 tax year, and the other half that was mistakenly not levied in the taxing
23 district's budget and general fund for the 2002 tax year.

- 1 2. If the resulting general fund levy for the 2001 or 2002 tax year is above one
2 hundred eighty-five mills, the taxing district need not comply with chapter 57-16.
3 3. After the 2002 tax year, the taxing district's general fund levy must revert to the
4 general fund levy for the 1999 tax year plus any increase authorized by law.
5 4. The 2001 and 2002 taxable years may not be used as a "base year" under section
6 57-15-01.1, and may not be considered a "prior school year" under section
7 57-15-14.

8 **SECTION 3.** A new section to chapter 58-01 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Freeholder defined.** As used in this title, unless the context or subject matter requires
11 otherwise, "freeholder" means the legal title owner of the surface estate in real property.

12 **SECTION 4.** A new subsection to section 58-03-07 of the North Dakota Century Code
13 is created and enacted as follows:

14 To establish special assessment districts in accordance with section 5 of this Act.

15 **SECTION 5.** A new chapter to title 58 of the North Dakota Century Code is created and
16 enacted as follows:

17 **Power of townships to defray expenses of improvements by special assessment.**

18 A township, upon complying with the provisions of this chapter, may defray the expenses of
19 improvements through special assessment districts.

20 **Improvement districts to be created.** For the purpose of making an improvement
21 project and defraying the cost by special assessment, a board of township supervisors may
22 create an improvement district upon petition of sixty percent of the freeholders in a proposed
23 improvement district area. The improvement district must be designated by a name
24 appropriate to the type of improvement and by a number distinguishing it from other
25 improvement districts.

26 **Size and form of improvement districts.** Each improvement district must be of such
27 size and form as to include all properties, which in the judgment of the board of township
28 supervisors will be benefited by the construction of the improvement project that is proposed to
29 be made in or for the district.

30 **Approval of plans, specifications, and cost estimates - Special meeting.** After an
31 improvement district has been created, the board of township supervisors shall direct a

1 competent engineer to prepare a report as to the general nature, purpose, and feasibility of the
2 proposed improvement and an estimate of the probable cost of the work. The board of
3 township supervisors shall provide thirty days' written notice by first-class mail to each
4 freeholder within the improvement district at the address shown on the records of the county
5 treasurer and shall publish a notice in a legal newspaper published in the township or, if there is
6 no such newspaper, then in the county's official newspaper at least ten days prior to a special
7 meeting for public disclosure of the findings of the engineer.

8 **Election for proceeding.** At the special township meeting for public disclosure of the
9 findings of the engineer, the freeholders of the township in attendance are entitled to vote on
10 the question of whether to proceed with the improvement project. Upon approval by sixty
11 percent or more of the votes cast at the meeting or votes filed with the township clerk within
12 fifteen days after the meeting, the improvement project may proceed. A freeholder affected by
13 the project is entitled to one vote for each dollar of the proposed special assessment against
14 the freeholder's property within the proposed improvement district. If there is more than one
15 owner of a parcel of property, the votes available for the parcel must be prorated among the
16 owners in accordance with each owner's percentage interest in the property. If fewer than sixty
17 percent of the votes cast or filed on the question approve the project, the election result is a bar
18 against proceeding further with the improvement project described in the plans and
19 specifications. An election result barring proceeding further with the improvement project does
20 not preclude the payment of any costs incurred in developing the plans, specifications, cost
21 estimates, or other costs which must be paid from the general fund of the township. If the costs
22 incurred pose a financial burden on the general levy of a township of forty percent or more, the
23 board of township supervisors may levy and collect assessments from the improvement district
24 in yearly assessments not exceeding five years. If under forty percent, the township may use
25 methods approved by law.

26 **Election approval of project - Assessment levy.** If the election under this chapter
27 results in approval of a project, the board of township supervisors may cause the improvement
28 to be made and may levy and collect assessments from the improvement district.

29 **Appeal notice - Special meeting - Assessment determination - Limitations.** Any
30 aggrieved freeholder may appeal the special assessment against the freeholder's real property
31 by providing the township clerk a written notice of appeal, stating the grounds upon which the

1 appeal is based, within twenty days after the special township meeting. The clerk shall notify
2 the township board of supervisors of the appeal and schedule a special meeting to hear the
3 appeals by publishing a notice of the special meeting at least ten days before the meeting in a
4 legal newspaper published in the township or, if no such newspaper exists, in the county's
5 official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may
6 present reasons to change the freeholder's assessment at the special meeting. The board of
7 township supervisors may hear the appeals and reasons and may increase or diminish any of
8 the assessments as it may deem just, providing that the total amount of the assessments may
9 not be changed and an assessment as adjusted may not exceed the benefits to the parcel of
10 land on which it is assessed.

11 **SECTION 6. RETROACTIVE APPLICATION OF ACT.** Section 2 of this Act applies
12 retroactively to cases arising after December 31, 1999.

13 **SECTION 7. EXPIRATION DATE.** Section 2 of this Act is effective through the 2005
14 tax year and after that date is ineffective.