

**HOUSE BILL NO. 1521**

Introduced by

Representatives Monson, Nelson, Weisz, Zaiser

Senators Tallackson, Thane

1 A BILL for an Act to create and enact a new subsection to section 57-38-30.3 of the North  
2 Dakota Century Code, relating to individual income tax rates; to amend and reenact sections  
3 15.1-09-47, 57-15-01.1, 57-15-14, and 57-38-29 of the North Dakota Century Code, relating to  
4 school district tax levy limitations and individual income tax rates; to provide an appropriation;  
5 and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 15.1-09-47 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **15.1-09-47. Board of education of city of Fargo - Taxing authority.**

- 10 1. The board of education of the city of Fargo may levy taxes, as necessary for any of  
11 the following purposes:
- 12 a. To purchase, exchange, lease, or improve sites for schools.
  - 13 b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their  
14 appurtenances.
  - 15 c. To procure, exchange, improve, and repair school apparatus, books, furniture,  
16 and appendages, but not the furnishing of textbooks to any student whose  
17 parent is unable to furnish the same.
  - 18 d. To provide fuel.
  - 19 e. To defray the contingent expenses of the board, including the compensation  
20 of employees.
  - 21 f. To pay teacher salaries after the application of public moneys, which may by  
22 law be appropriated and provided for that purpose.
- 23 2. ~~The question of authorizing or discontinuing the unlimited taxing authority of the~~  
24 ~~board of education of the city of Fargo must be submitted to the qualified electors~~

1 ~~of the Fargo school district at the next regular election upon resolution of the board~~  
2 ~~of education or upon filing with the board a petition containing the signatures of~~  
3 ~~qualified electors of the district equal in number to twenty percent of the individuals~~  
4 ~~enumerated in the most recent school district census. However, if the electors~~  
5 ~~approve a discontinuation of the unlimited taxing authority, their approval of the~~  
6 ~~discontinuation may not affect the tax levy effective for the calendar year in which~~  
7 ~~the election is held. In addition, the minimum levy may not be less than the levy~~  
8 ~~that was in force at the time of the election. The board may increase determine its~~  
9 ~~levy limitations for general fund purposes in accordance with section ~~57-15-01.~~ If~~  
10 ~~the district experiences growing enrollment, the board may increase the levy by an~~  
11 ~~amount equal to the amount levied the preceding year per student times the~~  
12 ~~number of additional students enrolled during the new year 57-15-01.1 or~~  
13 ~~57-15-14.~~

14 **SECTION 2. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **57-15-01.1. Protection of taxpayers and taxing districts.** Each taxing district may  
17 levy the lesser of the amount in dollars as certified in the budget of the governing body, or the  
18 amount in dollars as allowed in this section, subject to the following:

- 19 1. No taxing district may levy more taxes expressed in dollars than the amounts  
20 allowed by this section.
- 21 2. For purposes of this section:
  - 22 a. "Base year" means the taxing district's taxable year with the highest amount  
23 levied in dollars in property taxes of the three taxable years immediately  
24 preceding the budget year. For a park district general fund the "amount levied  
25 in dollars in property taxes" is the sum of amounts levied in dollars in property  
26 taxes for the general fund under section 57-15-12 including any additional  
27 levy approved by the electors, the insurance reserve fund under section  
28 32-12.1-08, the employee health care program under section 40-49-12, the  
29 public recreation system under section 40-55-09 including any additional levy  
30 approved by the electors, forestry purposes under section 57-15-12.1 except  
31 any additional levy approved by the electors, pest control under section

- 1                   4-33-11, and handicapped person programs and activities under section  
2                   57-15-60;
- 3                   b. "Budget year" means the taxing district's year for which the levy is being  
4                   determined under this section;
- 5                   c. "Calculated mill rate" means the mill rate that results from dividing the base  
6                   year taxes levied by the sum of the taxable value of the taxable property in the  
7                   base year plus the taxable value of the property exempt by local discretion or  
8                   charitable status, calculated in the same manner as the taxable property; and
- 9                   d. "Property exempt by local discretion or charitable status" means property  
10                  exempted from taxation as new or expanding businesses under  
11                  chapter 40-57.1; improvements to property under chapter 57-02.2; or  
12                  buildings belonging to institutions of public charity, new single-family  
13                  residential or townhouse or condominium property, property used for early  
14                  childhood services, or pollution abatement improvements under section  
15                  57-02-08.
- 16                3. A taxing district may elect to levy the amount levied in dollars in the base year.  
17                Any levy under this section must be specifically approved by a resolution approved  
18                by the governing body of the taxing district. Before determining the levy limitation  
19                under this section, the dollar amount levied in the base year must be:
- 20                a. Reduced by an amount equal to the sum determined by application of the  
21                base year's calculated mill rate for that taxing district to the final base year  
22                taxable valuation of any taxable property and property exempt by local  
23                discretion or charitable status which is not included in the taxing district for the  
24                budget year but was included in the taxing district for the base year.
- 25                b. Increased by an amount equal to the sum determined by the application of the  
26                base year's calculated mill rate for that taxing district to the final budget year  
27                taxable valuation of any taxable property or property exempt by local  
28                discretion or charitable status which was not included in the taxing district for  
29                the base year but which is included in the taxing district for the budget year.
- 30                c. Reduced to reflect expired temporary mill levy increases authorized by the  
31                electors of the taxing district.

- 1           4. In addition to any other levy limitation factor under this section, a taxing district may  
2           increase its levy in dollars to reflect new or increased mill levies authorized by the  
3           legislative assembly or authorized by the electors of the taxing district.
- 4           5. Under this section a taxing district may supersede any applicable mill levy  
5           limitations otherwise provided by law, or a taxing district may levy up to the mill  
6           levy limitations otherwise provided by law without reference to this section, but the  
7           provisions of this section do not apply to the following:
- 8           a. Any irrevocable tax to pay bonded indebtedness levied pursuant to  
9           section 16 of article X of the Constitution of North Dakota.
- 10           b. The one-mill levy for the state medical center authorized by section 10 of  
11           article X of the Constitution of North Dakota.
- 12           c. School districts.
- 13           6. A school district choosing to determine its levy authority under this section may  
14           apply subsection 3 only to the amount in dollars levied for general fund purposes  
15           under section 57-15-14 or, if the levy in the base year included separate general  
16           fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school  
17           district may apply subsection 3 to the total amount levied in dollars in the base year  
18           for both the general fund and special fund accounts. School district levies under  
19           any section other than section 57-15-14 may be made within applicable limitations  
20           but those levies are not subject to subsection 3. A school district choosing to  
21           determine its levy under this section must reduce the dollar amount levied in the  
22           base year by an amount equal to the sum determined by application of thirty-five  
23           mills to the final base year taxable valuation of property in the district.
- 24           7. Optional levies under this section may be used by any city or county that has  
25           adopted a home rule charter unless the provisions of the charter supersede state  
26           laws related to property tax levy limitations.

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

29           **57-15-14. Tax levy limitations in school districts.** The aggregate amount levied  
30           each year for the purposes listed in section 57-15-14.2 by any school district, ~~except the Fargo~~  
31           ~~school district,~~ may not exceed the amount in dollars which the school district levied for the prior

1 school year plus eighteen percent up to a general fund levy of one hundred ~~eighty-five~~ fifty mills  
2 on the dollar of the taxable valuation of the district, except that:

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

5 a. ~~There~~ there may be levied any specific number of mills that upon resolution of  
6 the school board has been submitted to and approved by a majority of the  
7 qualified electors voting upon the question at any regular or special school  
8 district election.

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

13 2. In any school district having a total population of less than four thousand, there  
14 may be levied any specific number of mills that upon resolution of the school board  
15 has been approved by fifty-five percent of the qualified electors voting upon the  
16 question at any regular or special school election.

17 3. In any school district in which the total assessed valuation of property has  
18 increased twenty percent or more over the prior year and in which as a result of  
19 that increase the school district is entitled to less in state aid payments provided in  
20 chapter 15.1-27 because of the deduction required in section 15.1-27-05, there  
21 may be levied any specific number of mills more in dollars than was levied in the  
22 prior year up to a general fund levy of one hundred ~~eighty-five~~ fifty mills on the  
23 dollar of the taxable valuation of the school district. The additional levy authorized  
24 by this subsection may be levied for not more than two years because of any  
25 twenty percent or greater annual increase in assessed valuation. The total amount  
26 of revenue generated in excess of the eighteen percent increase which is  
27 otherwise permitted by this section may not exceed the amount of state aid  
28 payments lost as a result of applying the deduction provided in section 15.1-27-05  
29 to the increased assessed valuation of the school district in a one-year period.

30 The question of authorizing or discontinuing such specific number of mills authority ~~or unlimited~~  
31 ~~taxing authority~~ in any school district must be submitted to the qualified electors at the next

1 regular election upon resolution of the school board or upon the filing with the school board of a  
2 petition containing the signatures of qualified electors of the district equal in number to twenty  
3 percent of the number of persons enumerated in the school census for that district for the most  
4 recent year such census was taken, unless such census is greater than four thousand in which  
5 case only fifteen percent of the number of persons enumerated in the school census is  
6 required. However, not fewer than twenty-five signatures are required unless the district has  
7 fewer than twenty-five qualified electors, in which case the petition must be signed by not less  
8 than twenty-five percent of the qualified electors of the district. In those districts with fewer than  
9 twenty-five qualified electors, the number of qualified electors in the district must be determined  
10 by the county superintendent for such county in which such school is located. However, the  
11 approval of discontinuing either such authority does not affect the tax levy in the calendar year  
12 in which the election is held. The election must be held in the same manner and subject to the  
13 same conditions as provided in this section for the first election upon the question of authorizing  
14 the mill levy.

15 **SECTION 4. AMENDMENT.** Section 57-38-29 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **57-38-29. Optional method of computing tax.** Notwithstanding the other provisions  
18 of this chapter, an individual, estate, or trust may elect to determine state income tax liability by  
19 applying the provisions of this section. A tax is hereby imposed upon every individual, to be  
20 levied, collected, and paid annually with respect to the taxable income of such individual as  
21 defined in this chapter, computed at the following rates:

- 22 1. On taxable income not in excess of three thousand dollars, a tax of two and  
23 sixty-seven hundredths percent.
- 24 2. On taxable income in excess of three thousand dollars and not in excess of five  
25 thousand dollars, a tax of four percent.
- 26 3. On taxable income in excess of five thousand dollars and not in excess of eight  
27 thousand dollars, a tax of five and thirty-three hundredths percent.
- 28 4. On taxable income in excess of eight thousand dollars and not in excess of fifteen  
29 thousand dollars, a tax of six and sixty-seven hundredths percent.
- 30 5. On taxable income in excess of fifteen thousand dollars and not in excess of  
31 twenty-five thousand dollars, a tax of eight percent.

1           6.    On taxable income in excess of twenty-five thousand dollars and not in excess of  
2                    thirty-five thousand dollars, a tax of nine and thirty-three hundredths percent.

3           7.    On taxable income in excess of thirty-five thousand dollars and not in excess of  
4                    fifty thousand dollars, a tax of ten and sixty-seven hundredths percent.

5           8.    On taxable income in excess of fifty thousand dollars, a tax of twelve percent.

6   In addition to the tax otherwise imposed under this section, there is imposed a surtax of  
7   twenty-two percent of the amount of tax otherwise determined.

8           **SECTION 5. AMENDMENT.** A new subsection to section 57-38-30.3 of the North  
9   Dakota Century Code is created and enacted as follows:

10           In addition to the tax otherwise imposed under this section, there is imposed a  
11           surtax of twenty-two percent of the amount of tax otherwise determined.

12           **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the  
13   general fund in the state treasury, not otherwise appropriated, the sum of \$102,822,000, or so  
14   much of the sum as may be necessary, to the superintendent of public instruction for the  
15   purpose of additional foundation aid payments to school districts in proportional amounts based  
16   on the payments otherwise provided by law, for the biennium beginning July 1, 2005, and  
17   ending June 30, 2007.

18           **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
19   December 31, 2004.