

Sixtieth
Legislative Assembly
of North Dakota

REENGROSSED 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, 57-15-31, 57-20-07.1, and
5 57-32-03 of the North Dakota Century Code, relating to school district general fund levy
6 limitations and contents of property tax statements; to provide a statement of legislative intent;
7 to provide for a legislative council study; and to provide an 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 \$100,177,634, 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 \$48,771,743 of this appropriation among school districts in the first year of the 2007-09
15 biennium and \$51,405,891 of this appropriation among school districts in the second year of
16 the 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
21 relief 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 2006 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 2006 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 total amount available for allocation
15 for the budget year times the school district property tax relief percentage for the
16 budget year to determine the school district property tax relief allocation for the
17 school district.
- 18 5. a. A school district otherwise entitled to an allocation greater than five percent of
19 the total amount available for statewide allocation may not receive a greater
20 percentage of the total amount available for statewide allocation than its
21 percentage of the total statewide enrollment in public elementary and
22 secondary schools.
- 23 b. If after applying the adjustment factor the amount to be allocated does not
24 equal the amount available for allocation, the tax commissioner shall further
25 adjust allocations to provide each school district its pro rata share of the
26 amount available for allocation. The state tax commissioner shall transfer the
27 adjusted school district property tax relief allocation determined under this
28 subsection to each school district no later than April fifteenth of the budget
29 year.
- 30 6. The state tax commissioner shall certify to each school district by August first of
31 each year the amount of the school district property tax relief allocation for that

1 school district for the next budget year as calculated under this section. The state
2 tax commissioner shall certify the same information to each county auditor for each
3 school district in the auditor's county.

4 7. For purposes of this section:

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

8 b. "Combined education mill rate" means the combined number of mills levied
9 by a school district for the general fund and the number of mills levied for high
10 school tuition and high school transportation. Any excess levy authority
11 approved by the qualified electors of a school district after December 31,
12 2006, must be excluded from the combined education mill rate.

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

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

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

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

23 2. For purposes of this section:

24 a. "Base year" means the taxing district's taxable year with the highest amount
25 levied in dollars in property taxes of the three taxable years immediately
26 preceding the budget year. For a park district general fund, the "amount
27 levied in dollars in property taxes" is the sum of amounts levied in dollars in
28 property taxes for the general fund under section 57-15-12 including any
29 additional levy approved by the electors, the insurance reserve fund under
30 section 32-12.1-08, the employee health care program under section
31 40-49-12, the public recreation system under section 40-55-09 including any

- 1 additional levy approved by the electors, forestry purposes under
2 section 57-15-12.1 except any additional levy approved by the electors, pest
3 control under section 4-33-11, and handicapped person programs and
4 activities under section 57-15-60;
- 5 b. "Budget year" means the taxing district's year for which the levy is being
6 determined under this section;
- 7 c. "Calculated mill rate" means the mill rate that results from dividing the base
8 year taxes levied by the sum of the taxable value of the taxable property in
9 the base year plus the taxable value of the property exempt by local
10 discretion or charitable status, calculated in the same manner as the taxable
11 property; and
- 12 d. "Property exempt by local discretion or charitable status" means property
13 exempted from taxation as new or expanding businesses under
14 chapter 40-57.1; improvements to property under chapter 57-02.2; or
15 buildings belonging to institutions of public charity, new single-family
16 residential or townhouse or condominium property, property used for early
17 childhood services, or pollution abatement improvements under section
18 57-02-08.
- 19 3. A taxing district may elect to levy up to the amount levied in dollars in the base
20 year. Any levy under this section must be specifically approved by a resolution
21 approved by the governing body of the taxing district. Before determining the levy
22 limitation under this section, the dollar amount levied in the base year must be:
- 23 a. Reduced by an amount equal to the sum determined by application of the
24 base year's calculated mill rate for that taxing district to the final base year
25 taxable valuation of any taxable property and property exempt by local
26 discretion or charitable status which is not included in the taxing district for the
27 budget year but was included in the taxing district for the base year.
- 28 b. Increased by an amount equal to the sum determined by the application of
29 the base year's calculated mill rate for that taxing district to the final budget
30 year taxable valuation of any taxable property or property exempt by local

- 1 discretion or charitable status which was not included in the taxing district for
2 the base year but which is included in the taxing district for the budget year.
- 3 c. Reduced to reflect expired temporary mill levy increases authorized by the
4 electors of the taxing district.
- 5 4. In addition to any other levy limitation factor under this section, a taxing district
6 may increase its levy in dollars to reflect new or increased mill levies authorized by
7 the legislative assembly or authorized by the electors of the taxing district.
- 8 5. Under this section a taxing district may supersede any applicable mill levy
9 limitations otherwise provided by law, or a taxing district may levy up to the mill
10 levy limitations otherwise provided by law without reference to this section, but the
11 provisions of this section do not apply to the following:
- 12 a. Any irrevocable tax to pay bonded indebtedness levied pursuant to
13 section 16 of article X of the Constitution of North Dakota.
- 14 b. The one-mill levy for the state medical center authorized by section 10 of
15 article X of the Constitution of North Dakota.
- 16 6. ~~A school district choosing to determine its levy authority under this section may~~
17 ~~apply subsection 3 only to the amount in dollars levied for general fund purposes~~
18 ~~under section 57-15-14 or, if the levy in the base year included separate general~~
19 ~~fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school~~
20 ~~district may apply subsection 3 to the total amount levied in dollars in the base~~
21 ~~year for both the general fund and special fund accounts. School district levies~~
22 ~~under any section other than section 57-15-14 may be made within applicable~~
23 ~~limitations but those levies are not subject to subsection 3.~~
- 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 4.** Section 57-15-01.2 of the North Dakota Century Code is created and
28 enacted as follows:

29 **57-15-01.2. School district optional levy limitation.** Each school district may levy
30 the lesser of the amount in dollars as certified in the budget of the school board, or the amount
31 in dollars as allowed in this section, subject to the following:

- 1 1. No school district may levy more taxes expressed in dollars than the amounts
2 allowed by this section.
- 3 2. For purposes of this section:
- 4 a. "Base year" means the school district's taxable year with the highest amount
5 levied in dollars in property taxes of the three taxable years immediately
6 preceding the budget year;
- 7 b. "Budget year" means the taxing district's year for which the levy is being
8 determined under this section;
- 9 c. "Calculated mill rate" means the mill rate that results from dividing the base
10 year taxes levied by the sum of the taxable value of the taxable property in
11 the base year plus the taxable value of the property exempt by local
12 discretion or charitable status, calculated in the same manner as the taxable
13 property; and
- 14 d. "Property exempt by local discretion or charitable status" means property
15 exempted from taxation as new or expanding businesses under
16 chapter 40-57.1; improvements to property under chapter 57-02.2; or
17 buildings belonging to institutions of public charity, new single-family
18 residential or townhouse or condominium property, property used for early
19 childhood services, or pollution abatement improvements under section
20 57-02-08.
- 21 3. A school district may elect to levy up to the amount levied in dollars in the base
22 year. Any levy under this section must be specifically approved by a resolution
23 approved by the school board. Before determining the levy limitation under this
24 section, the dollar amount levied in the base year must be:
- 25 a. Reduced by an amount equal to the sum determined by application of the
26 base year's calculated mill rate for that school district to the final base year
27 taxable valuation of any taxable property and property exempt by local
28 discretion or charitable status which is not included in the school district for
29 the budget year but was included in the school district for the base year.
- 30 b. Increased by an amount equal to the sum determined by the application of
31 the base year's calculated mill rate for that school district to the final budget

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

27 **SECTION 5. 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

- 1 prior school year plus ~~eighteen~~ five percent up to a general fund levy of one hundred
2 ~~eighty-five~~ fifty-seven mills 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
4 according to the last federal decennial census:
 - 5 a. ~~There~~ there may be levied any specific number of mills ~~that,~~ not exceeding
6 five percent more than the maximum number of mills the school district may
7 levy under this section or section 57-15-01.2, which upon resolution of the
8 school board has been submitted to and approved by a majority of the
9 qualified electors voting upon the question at any regular or special school
10 district election.
 - 11 b. ~~There is no limitation upon the taxes which may be levied if upon resolution of~~
12 ~~the school board of any such district the removal of the mill levy limitation has~~
13 ~~been submitted to and approved by a majority of the qualified electors voting~~
14 ~~at any regular or special election upon such question.~~
 - 15 2. In any school district having a total population of less than four thousand, there
16 may be levied any specific number of mills ~~that,~~ not exceeding five percent more
17 than the maximum number of mills the school district may levy under this section
18 or section 57-15-01.2, which upon resolution of the school board has been
19 approved by fifty-five percent of the qualified electors voting upon the question at
20 any regular or special school election.
 - 21 3. In any school district in which the total assessed valuation of property has
22 increased twenty percent or more over the prior year and in which as a result of
23 that increase the school district is entitled to less in state aid payments provided in
24 chapter 15.1-27 because of the deduction required in section 15.1-27-05, there
25 may be levied any specific number of mills more in dollars than was levied in the
26 prior year up to a general fund levy of one hundred ~~eighty-five~~ fifty-seven mills on
27 the dollar of the taxable valuation of the school district. The additional levy
28 authorized by this subsection may be levied for not more than two years because
29 of any twenty percent or greater annual increase in assessed valuation. The total
30 amount of revenue generated in excess of the ~~eighteen~~ five percent increase
31 which is otherwise permitted without voter approval by this section may not exceed

1 the amount of state aid payments lost as a result of applying the deduction
2 provided in section 15.1-27-05 to the increased assessed valuation of the school
3 district in a one-year period.

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

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

24 **57-15-31. Determination of levy.** The amount to be levied by any county, city,
25 township, school district, park district, or other municipality authorized to levy taxes shall be
26 computed by deducting from the amount of estimated expenditures for the current fiscal year as
27 finally determined, plus the required reserve fund determined upon by the governing board from
28 the past experience of the taxing district, the total of the following items:

- 29 1. The available surplus consisting of the free and unencumbered cash balance.
- 30 2. Estimated revenues from sources other than direct property taxes.
- 31 3. The total estimated collections from tax levies for previous years.

- 1 4. Such expenditures as are to be made from bond sources.
2 5. The amount of distributions received from an economic growth increment pool
3 under section 57-15-61.
4 6. The estimated amount to be received from payments in lieu of taxes on a project
5 under section 40-57.1-03.
6 7. The amount certified to a school district by the state tax commissioner as the
7 school district's property tax relief allocation for the budget year under section
8 57-01-20.

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

11 **SECTION 7. AMENDMENT.** Section 57-20-07.1 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-20-07.1. County treasurer to mail real estate tax statement.** On or before
14 December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement
15 to the owner of each parcel of real property at the owner's last-known address. The statement
16 must be provided in a manner that allows the taxpayer to retain a printed record of the
17 obligation for payment of taxes and special assessments as provided in the statement. If a
18 parcel of real property is owned by more than one individual, the county treasurer shall send
19 only one statement to one of the owners of that property. Additional copies of the tax statement
20 will be sent to the other owners upon their request and the furnishing of their names and
21 addresses to the county treasurer. ~~Such tax statements~~ The tax statement must include a
22 dollar valuation of the true and full value as defined by law of the property and the total mill levy
23 applicable. The tax statement must include the statement "State-paid school district property
24 tax relief" and the dollar amount of the property tax reduction for the parcel under section
25 57-01-20. Failure of an owner to receive a statement will not relieve that owner of liability, nor
26 extend the discount privilege past the February fifteenth deadline.

27 **SECTION 8. AMENDMENT.** Section 57-32-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-32-03. Tax statements prepared by state tax commissioner - When due and**
30 **delinquent.** On or before the thirty-first day of March in each year, the tax commissioner shall
31 provide each company assessed under the provisions of this chapter a statement of its taxes

1 due for the preceding year, with the valuations and taxes assessed in each case. The tax
2 statement must include the statement "State-paid school district property tax relief" and the
3 dollar amount of the property tax reduction under section 57-01-20 which applies against the
4 taxes due for the preceding year. Such taxes are due upon the fifteenth day of April next
5 following the date of the statement of taxes due. The taxes become delinquent on the first day
6 of May next following the due date and, if not paid on or before said date, are subject to a
7 penalty of two percent and, on June first following delinquency, an additional penalty of two
8 percent and, on July first following delinquency, an additional penalty of two percent and, an
9 additional penalty of two percent on October fifteenth following delinquency. From and after
10 January first of the year following the year in which the taxes became due and payable, simple
11 interest at the rate of twelve percent per annum upon the principal of the unpaid taxes must be
12 charged until such taxes and penalties are paid, with such interest charges to be prorated to
13 the nearest full month for a fractional year of delinquency. All the provisions of the law
14 respecting delinquency of personal property assessments generally so far as may be
15 consistent with the provisions of this chapter are applicable equally to the assessments and
16 taxes provided for in this chapter.

17 **SECTION 9. LEGISLATIVE INTENT - LEGISLATIVE COUNCIL STUDY.** It is the
18 intent of the sixtieth legislative assembly that enactment of this Act will initiate an increase in
19 the state's share of elementary and secondary education funding to secure immediate and
20 future benefits to the citizens of the state. These benefits include relief from the expanded
21 property tax burden that has created disparity within the tax structure of the state, enhanced
22 equity of funding to support elementary and secondary education students, enduring property
23 tax reductions, and returning to taxpayers a substantial measure of revenue collections
24 augmented by a robust state economy. It is the further intent of the sixtieth legislative
25 assembly that enactment of this Act will produce a reduction in property tax burdens which, with
26 continued efforts of future legislative assemblies, will result in reduction of each annual property
27 tax bill to not more than one and one-half percent of the true and full value for any parcel of
28 property.

29 The legislative council shall assign a study in each legislative interim through 2012 by
30 the interim committee for taxation issues, for consideration by that committee of compliance

1 with, and future funding sources for, the shift in education funding and taxation policy initiated
2 by enactment of this Act.

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