

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2199  
(Senators Wardner, Cook, O'Connell)  
(Representatives Kaldor, Monson, Svedjan)

AN ACT to create a property tax relief sustainability fund; to create and enact two new subdivisions to subsection 3 of section 57-15-01.1 and chapter 57-64 of the North Dakota Century Code, relating to allocation of state funds to school districts for mill levy reduction grants; to amend and reenact sections 57-15-14, 57-15-31, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to property tax levies of school districts, corporate income tax rates, and income tax rates for individuals, estates, and trusts; to repeal section 15.1-27-20.1 of the North Dakota Century Code, relating to the effect of the general fund levy of school districts on state aid allocations; to provide an appropriation; to provide for transfers; and to provide an effective date.

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

**SECTION 1.** Two new subdivisions to subsection 3 of section 57-15-01.1 of the North Dakota Century Code are created and enacted as follows:

Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.

Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.

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

**57-15-14. General fund levy limitations in school districts.** The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo school district, may not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
  - a. ~~There~~ there may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.
  - b. ~~There is no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.~~
2. In any school district having a total population of ~~less~~ fewer than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been

approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.

3. After June 30, ~~2007~~ 2009, in any school district election for approval by electors of ~~unlimited or~~ increased levy authority under subsection 1 or 2, the ballot must specify the number of mills, ~~the percentage increase in dollars levied, or that unlimited levy authority is~~ proposed for approval, and the number of taxable years for which that approval is to apply. After June 30, ~~2007~~ 2009, approval by electors of ~~unlimited or~~ increased levy authority under subsection 1 or 2 may not be effective for more than ten taxable years.
4. The authority for a levy of up to a specific number of mills under this section approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy for taxable years after 2015 of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.
5. The authority for an unlimited levy approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.

The question of authorizing or discontinuing such specific number of mills authority ~~or unlimited taxing authority~~ in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to ten percent of the number of electors who cast votes in the most recent election in the school district. However, not fewer than twenty-five signatures are required ~~unless the district has fewer than twenty five qualified electors, in which case the petition must be signed by not less than twenty five percent of the qualified electors of the district. In those districts with fewer than twenty five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located.~~ However, the approval of discontinuing either such authority does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

**SECTION 3. AMENDMENT.** Section 57-15-31 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The available surplus consisting of the free and unencumbered cash balance.
2. Estimated revenues from sources other than direct property taxes.
3. The total estimated collections from tax levies for previous years.
4. Such expenditures as are to be made from bond sources.
5. The amount of distributions received from an economic growth increment pool under section 57-15-61.

6. The estimated amount to be received from payments in lieu of taxes on a project under section 40-57.1-03.
7. The amount reported to a school district by the superintendent of public instruction as the school district's mill levy reduction grant for the year under section 57-64-02.

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

**SECTION 4. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1.
  - a. For the first ~~three~~ twenty-five thousand dollars of taxable income, at the rate of two and ~~six tenths~~ one-tenth percent.
  - b. On all taxable income ~~above three~~ exceeding twenty-five thousand dollars and not in excess of ~~eight~~ exceeding fifty thousand dollars, at the rate of ~~four and one-tenth~~ five and twenty-five hundredths percent.
  - c. On all taxable income ~~above eight~~ exceeding fifty thousand dollars and not in excess of ~~twenty thousand~~ thousand dollars, at the rate of ~~five and six tenths~~ six and four-tenths percent.
  - d. ~~On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of six and four tenths percent.~~
  - e. ~~On all taxable income above thirty thousand dollars, at the rate of six and one half percent.~~
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

**SECTION 5. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is: Not over <del>\$27,050</del> <u>\$33,950</u> Over <del>\$27,050</del> <u>\$33,950</u> but not over <del>\$65,550</del> <u>\$82,250</u>	The tax is equal to: <del>2.10%</del> <u>1.84%</u> <del>\$568.05</del> <u>\$624.68</u> plus <del>3.92%</del> <u>3.44%</u> of amount over <del>\$27,050</del> <u>\$33,950</u>
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Over <del>\$65,550</del> <u>\$82,250</u> but not over <del>\$136,750</del> <u>\$171,550</u>	<del>\$2,077.25</del> <u>\$2,286.20</u> plus <del>4.34%</del> <u>3.81%</u> of amount over <del>\$65,550</del> <u>\$82,250</u>
Over <del>\$136,750</del> <u>\$171,550</u> but not over <del>\$297,350</del> <u>\$372,950</u>	<del>\$5,167.33</del> <u>\$5,688.53</u> plus <del>5.04%</del> <u>4.42%</u> of amount over <del>\$136,750</del> <u>\$171,550</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$13,261.57</del> <u>\$14,590.41</u> plus <del>5.54%</del> <u>4.86%</u> of amount over <del>\$297,350</del> <u>\$372,950</u>

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$45,200</del> <u>\$56,750</u>	<del>2.10%</del> <u>1.84%</u>
Over <del>\$45,200</del> <u>\$56,750</u> but not over <del>\$109,250</del> <u>\$137,050</u>	<del>\$949.20</del> <u>\$1,044.20</u> plus <del>3.92%</del> <u>3.44%</u> of amount over <del>\$45,200</del> <u>\$56,750</u>
Over <del>\$109,250</del> <u>\$137,050</u> but not over <del>\$166,500</del> <u>\$208,850</u>	<del>\$3,459.96</del> <u>\$3,806.52</u> plus <del>4.34%</del> <u>3.81%</u> of amount over <del>\$109,250</del> <u>\$137,050</u>
Over <del>\$166,500</del> <u>\$208,850</u> but not over <del>\$297,350</del> <u>\$372,950</u>	<del>\$5,944.64</del> <u>\$6,542.10</u> plus <del>5.04%</del> <u>4.42%</u> of amount over <del>\$166,500</del> <u>\$208,850</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$12,539.45</del> <u>\$13,795.32</u> plus <del>5.54%</del> <u>4.86%</u> of amount over <del>\$297,350</del> <u>\$372,950</u>

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$22,600</del> <u>\$28,375</u>	<del>2.10%</del> <u>1.84%</u>
Over <del>\$22,600</del> <u>\$28,375</u> but not over <del>\$54,625</del> <u>\$68,525</u>	<del>\$474.60</del> <u>\$522.10</u> plus <del>3.92%</del> <u>3.44%</u> of amount over <del>\$22,600</del> <u>\$28,375</u>
Over <del>\$54,625</del> <u>\$68,525</u> but not over <del>\$83,250</del> <u>\$104,425</u>	<del>\$1,729.98</del> <u>\$1,903.26</u> plus <del>4.34%</del> <u>3.81%</u> of amount over <del>\$54,625</del> <u>\$68,525</u>
Over <del>\$83,250</del> <u>\$104,425</u> but not over <del>\$148,675</del> <u>\$186,475</u>	<del>\$2,972.34</del> <u>\$3,271.05</u> plus <del>5.04%</del> <u>4.42%</u> of amount over <del>\$83,250</del> <u>\$104,425</u>
Over <del>\$148,675</del> <u>\$186,475</u>	<del>\$6,269.73</del> <u>\$6,897.66</u> plus <del>5.54%</del> <u>4.86%</u> of amount over <del>\$148,675</del> <u>\$186,475</u>

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$36,250</del> <u>\$45,500</u>	<del>2.10%</del> <u>1.84%</u>
Over <del>\$36,250</del> <u>\$45,500</u> but not over <del>\$93,650</del> <u>\$117,450</u>	<del>\$761.25</del> <u>\$837.20</u> plus <del>3.92%</del> <u>3.44%</u> of amount over <del>\$36,250</del> <u>\$45,500</u>
Over <del>\$93,650</del> <u>\$117,450</u> but not over <del>\$151,650</del> <u>\$190,200</u>	<del>\$3,041.33</del> <u>\$3,312.28</u> plus <del>4.34%</del> <u>3.81%</u> of amount over <del>\$93,650</del> <u>\$117,450</u>
Over <del>\$151,650</del> <u>\$190,200</u> but not over <del>\$297,350</del> <u>\$372,950</u>	<del>\$5,528.53</del> <u>\$6,084.06</u> plus <del>5.04%</del> <u>4.42%</u> of amount over <del>\$151,650</del> <u>\$190,200</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$12,871.84</del> <u>\$14,161.61</u> plus <del>5.54%</del> <u>4.86%</u> of amount over <del>\$297,350</del> <u>\$372,950</u>

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$1,800</del> <u>\$2,300</u>	<del>2.10%</del> <u>1.84%</u>
Over <del>\$1,800</del> <u>\$2,300</u> but not over <del>\$4,250</del> <u>\$5,350</u>	<del>\$37.80</del> <u>\$42.32</u> plus <del>3.92%</del> <u>3.44%</u> of amount over <del>\$1,800</del> <u>\$2,300</u>
Over <del>\$4,250</del> <u>\$5,350</u> but not over <del>\$6,500</del> <u>\$8,200</u>	<del>\$133.84</del> <u>\$147.24</u> plus <del>4.34%</del> <u>3.81%</u> of amount over <del>\$4,250</del> <u>\$5,350</u>
Over <del>\$6,500</del> <u>\$8,200</u> but not over <del>\$8,900</del> <u>\$11,150</u>	<del>\$231.49</del> <u>\$255.83</u> plus <del>5.04%</del> <u>4.42%</u> of amount over <del>\$6,500</del> <u>\$8,200</u>
Over <del>\$8,900</del> <u>\$11,150</u>	<del>\$352.45</del> <u>\$386.22</u> plus <del>5.54%</del> <u>4.86%</u> of amount over <del>\$8,900</del> <u>\$11,150</u>

- f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:
- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
  - (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. For taxable years beginning after December 31, ~~2004~~ 2009, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

**SECTION 6.** Chapter 57-64 of the North Dakota Century Code is created and enacted as follows:

**57-64-01. Definitions.** For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a mill levy reduction grant.
3. "Weighted student unit" means weighted student unit as determined for the school district under chapter 15.1-27.

**57-64-02. Mill levy reduction allocation and grant.** Each qualifying school district in the state is entitled to a mill levy reduction allocation and grant as provided in this chapter, subject to legislative appropriation to the superintendent of public instruction.

1. The mill levy reduction allocation rate for each qualifying school district is equal to the payments to the school district based on the per student payment rate as determined for the school year under chapter 15.1-27.
2. The grant to a qualifying school district may not exceed the smallest of:
  - a. The allocation determined under subsection 1;
  - b. The taxable valuation of property in the school district in the previous taxable year times the number of mills determined by subtracting one hundred mills from the combined education mill rate of the school district for taxable year 2008; or
  - c. The taxable valuation of property in the school district in the previous taxable year times seventy-five mills.

3. The grant to a qualifying school district may not be less than the grant to that school district in the preceding school year.
4. The superintendent of public instruction shall report to each qualifying school district by July fifteenth of each year the mill levy reduction grant in dollars available to that school district during the upcoming school year.
5. By December first, January first, February first, and March first of each school year, the superintendent of public instruction shall forward to each qualifying school district installments equal to twenty-five percent of the total mill levy reduction grant the district is eligible to receive during that school year.
6. Allocations to a school district under this chapter are not considered per student payments or state aid for purposes of chapter 15.1-27.
7. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter.

**57-64-03. School district levy compliance.**

1. To be eligible to receive a grant under this chapter, a qualifying school district must establish a spending level that does not result in a general fund mill rate exceeding one hundred ten mills. The certificate of levy form filed with the county auditor by a qualifying school district must reflect the revenue to be received by the school district under this chapter and that the general fund mill rate for the school district will not exceed one hundred ten mills unless:
  - a. The district has approval of a majority of the electors of the school district for a higher levy;
  - b. The higher levy is the result of a school district reorganization in compliance with chapter 15.1-12; or
  - c. The higher levy does not produce an amount in dollars exceeding the amount allowed under section 57-15-01.1 for taxable year 2008 reduced by the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
2. The authority under subdivision b of subsection 1 for a school district to levy a general fund mill rate exceeding one hundred ten mills applies for not more than ten taxable years after taxable year 2008 unless a majority of the electors of the school district approve an extension of that authority. Approval by electors of extension of levy authority under subdivision a or b of subsection 1 is effective for not more than ten taxable years at a time. A ballot measure for approval by electors of extension of levy authority under subdivision a or b of subsection 1 is subject to the following:
  - a. The ballot measure must specify the number of mills for the general fund mill rate for which approval is sought.
  - b. If a ballot measure for approval of authority to levy a specific number of mills is not approved by a majority of the electors of the school district voting on the question, the school district general fund levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or 57-15-14.

**57-64-04. Levy reduction priority.** In setting mill rates for qualified school districts, the county auditor shall apply funds allocated to a school district under this chapter for mill levy reduction first to reduce the number of mills levied for general fund purposes and, if allocation funds remain after the

general fund mill rate is reduced to zero, the balance must be applied to reduce the high school tuition levy and then to reduce the high school transportation levy of the qualified school district.

**SECTION 7. Property tax relief sustainability fund.** The property tax relief sustainability fund is a special fund in the state treasury. Moneys in the fund may be spent, pursuant to legislative appropriations, for property tax relief programs.

**SECTION 8. REPEAL.** Section 15.1-27-20.1 of the North Dakota Century Code is repealed.

**SECTION 9. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$295,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 10. TRANSFER - PERMANENT OIL TAX TRUST FUND - GENERAL FUND.** The office of management and budget shall transfer the sum of \$295,000,000 from the permanent oil tax trust fund to the general fund on July 1, 2009.

**SECTION 11. TRANSFER - PERMANENT OIL TAX TRUST FUND - PROPERTY TAX RELIEF SUSTAINABILITY FUND.** The office of management and budget shall transfer the sum of \$295,000,000 from the permanent oil tax trust fund to the property tax relief sustainability fund on July 1, 2010.

**SECTION 12. EFFECTIVE DATE.** Sections 1, 2, 3, 4, and 5 of this Act are effective for taxable years beginning after December 31, 2008.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2199.

Senate Vote:    Yeas    45        Nays    2        Absent    0

House Vote:    Yeas    86        Nays    6        Absent    2

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State