

**SECOND ENGROSSMENT
with Conference Committee Amendments**

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 create and enact two new sections to chapter 57-38 and two new
2 subsections to section 57-38-30.3 of the North Dakota Century Code, relating to income tax
3 marriage penalty relief and a homestead income tax credit; to amend and reenact sections
4 57-02-08.1, 57-12-09, 57-15-14, 57-20-07.1, and 57-55-04 of the North Dakota Century Code,
5 relating to the homestead credit, notice of assessment increases, school district levy limitations,
6 contents of property tax statements, payment of real estate taxes, and mobile home taxes; to
7 provide an appropriation; to provide for a legislative council study; and to provide an effective
8 date.

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

10 **SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-02-08.1. Homestead credit.**

- 13 1. a. Any person sixty-five years of age or older or permanently and totally
14 disabled, in the year in which the tax was levied, with an income that does not
15 exceed the limitations of subdivision c is entitled to receive a reduction in the
16 assessment on the taxable valuation on the person's homestead. An
17 exemption under this subsection applies regardless of whether the person is
18 the head of a family.
- 19 b. The exemption under this subsection continues to apply if the person does
20 not reside in the homestead and the person's absence is due to confinement
21 in a nursing home, hospital, or other care facility, for as long as the portion of
22 the homestead previously occupied by the person is not rented to another
23 person.
- 24 c. The exemption must be determined according to the following schedule:

- 1 (1) If the person's income is not in excess of ~~eight~~ ten thousand ~~five~~
2 ~~hundred~~ dollars, a reduction of one hundred percent of the taxable
3 valuation of the person's homestead up to a maximum reduction of
4 three thousand ~~thirty-eight~~ three hundred seventy-five dollars of taxable
5 valuation.
- 6 (2) If the person's income is in excess of ~~eight~~ ten thousand ~~five hundred~~
7 dollars and not in excess of ~~ten~~ twelve thousand dollars, a reduction of
8 eighty percent of the taxable valuation of the person's homestead up to
9 a maximum reduction of two thousand ~~four~~ seven hundred ~~thirty~~
10 dollars of taxable valuation.
- 11 (3) If the person's income is in excess of ~~ten~~ twelve thousand dollars and
12 not in excess of ~~eleven~~ fourteen thousand ~~five hundred~~ dollars, a
13 reduction of sixty percent of the taxable valuation of the person's
14 homestead up to a maximum reduction of ~~one~~ two thousand ~~eight~~
15 ~~hundred twenty-three~~ twenty-five dollars of taxable valuation.
- 16 (4) If the person's income is in excess of ~~eleven~~ fourteen thousand ~~five~~
17 ~~hundred~~ dollars and not in excess of ~~thirteen~~ sixteen thousand dollars,
18 a reduction of forty percent of the taxable valuation of the person's
19 homestead up to a maximum reduction of one thousand ~~two~~ three
20 hundred ~~fifteen~~ fifty dollars of taxable valuation.
- 21 (5) If the person's income is in excess of ~~thirteen~~ sixteen thousand dollars
22 and not in excess of ~~fourteen~~ seventeen thousand five hundred dollars,
23 a reduction of twenty percent of the taxable valuation of the person's
24 homestead up to a maximum reduction of six hundred ~~eight~~
25 seventy-five dollars of taxable valuation.
- 26 d. Persons residing together, as spouses or when one or more is a dependent of
27 another, are entitled to only one exemption between or among them under
28 this subsection. Persons residing together, who are not spouses or
29 dependents, who are coowners of the property are each entitled to a
30 percentage of a full exemption under this subsection equal to their ownership
31 interests in the property.

- 1 e. This subsection does not reduce the liability of any person for special
2 assessments levied upon any property.
- 3 f. Any person claiming the exemption under this subsection shall sign a verified
4 statement of facts establishing the person's eligibility.
- 5 g. A person is ineligible for the exemption under this subsection if the value of
6 the assets of the person and any dependent residing with the person,
7 excluding the unencumbered value of the person's residence that the person
8 claims as a homestead, exceeds fifty thousand dollars, including the value of
9 any assets divested within the last three years. For purposes of this
10 subdivision, the unencumbered valuation of the homestead is limited to one
11 hundred thousand dollars.
- 12 h. The assessor shall attach the statement filed under subdivision f to the
13 assessment sheet and shall show the reduction on the assessment sheet.
- 14 i. An exemption under this subsection terminates at the end of the taxable year
15 of the death of the applicant.
- 16 2. a. Any person who would qualify for an exemption under subdivisions a and c of
17 subsection 1 except for the fact that the person rents living quarters is eligible
18 for refund of a portion of the person's annual rent deemed by this subsection
19 to constitute the payment of property tax.
- 20 b. For the purpose of this subsection, twenty percent of the annual rent,
21 exclusive of any federal rent subsidy and of charges for any utilities, services,
22 furniture, furnishings, or personal property appliances furnished by the
23 landlord as part of the rental agreement, whether expressly set out in the
24 rental agreement, must be considered as payment made for property tax.
25 When any part of the twenty percent of the annual rent exceeds four percent
26 of the annual income of a qualified applicant, the applicant is entitled to
27 receive a refund from the state general fund for that amount in excess of four
28 percent of the person's annual income, but the refund may not be in excess of
29 two hundred forty dollars. If the calculation for the refund is less than five
30 dollars, a minimum of five dollars must be sent to the qualifying applicant.

- 1 c. Persons who reside together, as spouses or when one or more is a
2 dependent of another, are entitled to only one refund between or among them
3 under this subsection. Persons who reside together in a rental unit, who are
4 not spouses or dependents, are each entitled to apply for a refund based on
5 the rent paid by that person.
- 6 d. Each application for refund under this subsection must be made to the tax
7 commissioner before the first day of June of each year by the person claiming
8 the refund. The tax commissioner may grant an extension of time to file an
9 application for good cause. The tax commissioner shall issue refunds to
10 applicants.
- 11 e. This subsection does not apply to rents or fees paid by a person for any living
12 quarters, including a nursing home licensed pursuant to section 23-16-01, if
13 those living quarters are exempt from property taxation and the owner is not
14 making a payment in lieu of property taxes.
- 15 f. A person may not receive a refund under this section for a taxable year in
16 which that person received an exemption under subsection 1.
- 17 3. All forms necessary to effectuate this section must be prescribed, designed, and
18 made available by the tax commissioner. The county directors of tax equalization
19 shall make these forms available upon request.
- 20 4. A person whose homestead is a farm structure exempt from taxation under
21 subsection 15 of section 57-02-08 may not receive any property tax credit under
22 this section.
- 23 5. For the purposes of this section:
 - 24 a. "Dependent" has the same meaning it has for federal income tax purposes.
 - 25 b. "Homestead" has the same meaning as provided in section 47-18-01.
 - 26 c. "Income" means income for the most recent complete taxable year from all
27 sources, including the income of any dependent of the applicant, and
28 including any county, state, or federal public assistance benefits, social
29 security, or other retirement benefits, but excluding any federal rent subsidy,
30 any amount excluded from income by federal or state law, and medical

1 expenses paid during the year by the applicant or the applicant's dependent
2 which is not compensated by insurance or other means.

3 d. "Medical expenses" has the same meaning as it has for state income tax
4 purposes, except that for transportation for medical care the person may use
5 the standard mileage rate allowed for state officer and employee use of a
6 motor vehicle under section 54-06-09.

7 e. "Permanently and totally disabled" means the inability to engage in any
8 substantial gainful activity by reason of any medically determinable physical
9 or mental impairment which can be expected to result in death or has lasted
10 or can be expected to last for a continuous period of not less than twelve
11 months as established by a certificate from a licensed physician.

12 **SECTION 2. AMENDMENT.** Section 57-12-09 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-12-09. ~~Written notice~~ Notice of increased assessment to real estate owner.**

15 When any assessor has increased the true and full valuation of any lot or tract of land ~~together~~
16 ~~with~~ or any improvements thereon by fifteen percent or more to more than ten percent more
17 than the amount of the last assessment, ~~written~~ notice of the amount of increase over the last
18 assessment and the amount of the last assessment must be delivered in writing by the
19 assessor to the property owner ~~or~~, mailed in writing to the property owner at the property
20 owner's last-known address ~~except that no notice need be delivered or mailed if the true and~~
21 ~~full valuation is increased by less than three thousand dollars,~~ or provided to the property owner
22 by electronic mail directed with verification of receipt to an electronic mail address at which the
23 property owner has consented to receive notice. Delivery of notice to a property owner under
24 this section must be completed not fewer than fifteen days before the meeting of the local
25 equalization board. The tax commissioner shall prescribe suitable forms for this notice and the
26 notice must show the true and full value as defined by law of the property, including
27 improvements, that the assessor used in making the assessment for the current year and for
28 the year in which the last assessment was made and must also show the date prescribed by
29 law for the meeting of the local equalization board of the assessment district in which the
30 property is located and the meeting date of the county equalization board. The notice must be
31 mailed or delivered ~~to the property owner at least ten days in advance of the meeting date of~~

1 ~~the local equalization board and must be mailed or delivered~~ at the expense of the assessment
2 district for which the assessor is employed.

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

5 **57-15-14. ~~Tax~~ General fund levy limitations in school districts.** The aggregate
6 amount levied each year for the purposes listed in section 57-15-14.2 by any school district,
7 except the Fargo school district, may not exceed the amount in dollars which the school district
8 levied for the prior school year plus eighteen percent up to a general fund levy of one hundred
9 eighty-five mills on the dollar of the taxable valuation of the district, except that:

- 10 1. In any school district having a total population in excess of four thousand
11 according to the last federal decennial census:
 - 12 a. There may be levied any specific number of mills that upon resolution of the
13 school board has been submitted to and approved by a majority of the
14 qualified electors voting upon the question at any regular or special school
15 district election.
 - 16 b. There is no limitation upon the taxes which may be levied if upon resolution of
17 the school board of any such district the removal of the mill levy limitation has
18 been submitted to and approved by a majority of the qualified electors voting
19 at any regular or special election upon such question.
- 20 2. In any school district having a total population of less than four thousand, there
21 may be levied any specific number of mills that upon resolution of the school board
22 has been approved by fifty-five percent of the qualified electors voting upon the
23 question at any regular or special school election.
- 24 3. After June 30, 2007, in any school district election for approval by electors of
25 unlimited or increased levy authority under subsection 1 or 2, the ballot must
26 specify the number of mills, the percentage increase in dollars levied, or that
27 unlimited levy authority is proposed for approval, and the number of taxable years
28 for which that approval is to apply. After June 30, 2007, approval by electors of
29 unlimited or increased levy authority under subsection 1 or 2 may not be effective
30 for more than ten taxable years.

1 4. In any school district in which the total assessed valuation of property has
2 increased twenty percent or more over the prior year and in which as a result of
3 that increase the school district is entitled to less in state aid payments provided in
4 chapter 15.1-27 because of the deduction required in section 15.1-27-05, there
5 may be levied any specific number of mills more in dollars than was levied in the
6 prior year up to a general fund levy of one hundred eighty-five mills on the dollar of
7 the taxable valuation of the school district. The additional levy authorized by this
8 subsection may be levied for not more than two years because of any twenty
9 percent or greater annual increase in assessed valuation. The total amount of
10 revenue generated in excess of the eighteen percent increase which is otherwise
11 permitted by this section may not exceed the amount of state aid payments lost as
12 a result of applying the deduction provided in section 15.1-27-05 to the increased
13 assessed valuation of the school district in a one-year period.

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

1 **SECTION 4. AMENDMENT.** Section 57-20-07.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-20-07.1. County treasurer to mail real estate tax statement.** On or before
4 December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement
5 to the owner of each parcel of real property at the owner's last-known address. The statement
6 must be provided in a manner that allows the taxpayer to retain a printed record of the
7 obligation for payment of taxes and special assessments as provided in the statement. If a
8 parcel of real property is owned by more than one individual, the county treasurer shall send
9 only one statement to one of the owners of that property. Additional copies of the tax statement
10 will be sent to the other owners upon their request and the furnishing of their names and
11 addresses to the county treasurer. ~~Such tax statements~~ The tax statement must include a
12 dollar valuation of the true and full value as defined by law of the property and the total mill levy
13 applicable. The tax statement must include, or be accompanied by a separate sheet, with
14 three columns showing, for the taxable year to which the tax statement applies and the two
15 immediately preceding taxable years, the property tax levy in dollars against the parcel by the
16 county and school district and any city or township that levied taxes against the parcel. Failure
17 of an owner to receive a statement will not relieve that owner of liability, nor extend the discount
18 privilege past the February fifteenth deadline.

19 **SECTION 5.** A new section to chapter 57-38 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Marriage penalty credit.**

- 22 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of
23 not to exceed three hundred dollars per couple as determined under this section.
24 The tax commissioner shall adjust the maximum amount of the credit under this
25 subsection each taxable year at the time and rate adjustments are made to rate
26 schedules under subdivision g of subsection 1 of section 57-38-30.3.
27 2. The credit under this section is the difference between the tax on the couple's joint
28 North Dakota taxable income under the rates and income levels in subdivision b of
29 subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and
30 income levels of subdivision a of subsection 1 of section 57-38-30.3 on the earned
31 income of the lesser-earning spouse, and the tax under the rates and income

1 levels of subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint
2 North Dakota taxable income, minus the earned income of the lesser-earning
3 spouse.

4 3. The tax commissioner shall prepare and make available to taxpayers a
5 comprehensive table showing the credit under this section at brackets of earnings
6 of the lesser-earning spouse and joint taxable income. The brackets of earnings
7 may not be more than two thousand dollars.

8 4. For a nonresident or part-year resident, the credit under this section must be
9 adjusted based on the percentage calculated under subdivision f of subsection 1 of
10 section 57-38-30.3.

11 5. For purposes of this section:

12 a. "Earned income" means the sum of the following, to the extent included in
13 North Dakota taxable income:

14 (1) Earned income as defined in section 32(c)(2) of the Internal Revenue
15 Code;

16 (2) Income received from a retirement pension, profit-sharing, stock bonus,
17 or annuity plan; and

18 (3) Social security benefits as defined in section 86(d)(1) of the Internal
19 Revenue Code.

20 b. "Earned income of the lesser-earning spouse" means the earned income of
21 the spouse with the lesser amount of earned income for the taxable year
22 minus the sum of:

23 (1) The amount for one exemption under section 151(d) of the Internal
24 Revenue Code; and

25 (2) One-half of the amount of the standard deduction under section
26 63(c)(2)(A)(4) of the Internal Revenue Code.

27 **SECTION 6.** A new section to chapter 57-38 of the North Dakota Century Code is
28 created and enacted as follows:

29 **Homestead income tax credit - Rules.**

30 1. In addition to any other credit or deduction allowed by law for a homeowner, an
31 individual is entitled to a credit against the tax imposed under section 57-38-29 or

- 1 section 57-38-30.3 for taxable years 2007 and 2008 in the amount of ten percent
2 of property taxes or mobile home taxes that became due during the income tax
3 taxable year and are paid which were levied against the individual's homestead in
4 this state. For purposes of this section, "property taxes" does not include any
5 special assessments.
- 6 2. For purposes of this section, "homestead" means the dwelling occupied by the
7 individual as the individual's primary residence and, if that residence is in this state,
8 any residential or agricultural property owned by that individual in this state.
- 9 3. a. The amount of the credit under this section may not exceed one thousand
10 dollars for married persons filing a joint return or five hundred dollars for a
11 single individual or married individuals filing separate returns.
- 12 b. The amount of the credit under this section may not exceed the taxpayer's tax
13 liability under this chapter.
- 14 4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability
15 may be carried forward for up to five years.
- 16 5. Persons owning property together are entitled to only one credit for a parcel of
17 property between or among them under this section. Persons owning property
18 together are each entitled to a percentage of the credit for a single individual under
19 this section equal to their ownership interests in the property.
- 20 6. This section is not subject to subsection 1 or subsection 2 of section 57-38-45.
- 21 7. The tax commissioner shall adopt rules to provide for filing and verification of
22 claims of credits under this section.
- 23 8. a. If, on November 15, 2008, the total amount of tax credits claimed under this
24 section exceeds forty-four million dollars, the tax commissioner shall reduce
25 the rate of the credit under subsection 1. The adjusted credit rate must be
26 calculated by the tax commissioner as follows:
- 27 (1) The tax commissioner shall determine the percentage by which the
28 credits claimed under this section exceeds forty-four million dollars.
- 29 (2) The difference between the number one and the amount calculated
30 under subdivision a multiplied by ten percent is the adjusted credit rate
31 for the 2008 taxable year.

1 b. The tax commissioner shall report any adjustment under this subsection to
2 the budget section of the legislative council for review.

3 **SECTION 7.** Two new subsections to section 57-38-30.3 of the North Dakota Century
4 Code are created and enacted as follows:

5 A taxpayer filing a return under this section is entitled to the credit provided under
6 section 5 of this Act.

7 A taxpayer filing a return under this section is entitled to the credit provided under
8 section 6 of this Act.

9 **SECTION 8. AMENDMENT.** Section 57-55-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-55-04. Taxes - How determined - Disbursement.** The director of tax equalization
12 shall determine the tax for each mobile home by placing an evaluation on the mobile home
13 based upon its assessed value and by adjusting the valuation of the mobile home by the
14 percentage provided in section 57-02-27 to determine its taxable valuation under standards and
15 guides determined by the state tax commissioner and applying that evaluation to the preceding
16 year's total mill levies applying to property within the taxing district in which the mobile home is
17 located. The county treasurer shall provide a tax statement for each mobile home subject to
18 taxation under this chapter, including three columns showing, for the taxable year to which the
19 tax statement applies and the two immediately preceding taxable years, the property tax levy in
20 dollars against the mobile home by the county and school district and any city or township that
21 levied taxes against the mobile home. If a mobile home is acquired or moved into this state
22 during the calendar year and a tax permit has not been previously issued for such mobile home
23 in this state for such year, the tax is determined by computing the remaining number of months
24 of the current year to the nearest full month and multiplying that number by one-twelfth of the
25 amount which would be due for the full year. The taxes collected under this chapter must be
26 disbursed in the same year they are collected and in the same manner as real estate taxes for
27 the preceding year are disbursed.

28 **SECTION 9. APPROPRIATION.** There is appropriated out of any moneys in the
29 general fund in the state treasury, not otherwise appropriated, the sum of \$3,604,000, or so
30 much of the sum as may be necessary, to the state tax commissioner for the purpose of

1 enhanced funding for the expanded homestead tax credit as provided in this Act, for the
2 biennium beginning July 1, 2007, and ending June 30, 2009.

3 **SECTION 10. LEGISLATIVE COUNCIL STUDY.** The legislative council shall study in
4 each interim through 2012 the feasibility and desirability of property tax reform and providing
5 property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual
6 property tax bill to an amount that is not more than one and one-half percent of the true and full
7 value of property, and including examination of the proper measure of education funding from
8 local taxation and state resources and the variability of funding resources among taxing districts
9 and examination of improved collection and reporting of property tax information to identify
10 residency of property owners with minimized administrative difficulty. The legislative council
11 shall report its findings and recommendations, together with any legislation necessary to
12 implement the recommendations, to the legislative assembly subsequent to each interim.

13 **SECTION 11. EFFECTIVE DATE.** Sections 1, 3, and 4 of this Act are effective for
14 taxable years beginning after December 31, 2006. Section 8 of this Act is effective for taxable
15 years beginning after December 31, 2007, for mobile home taxes. Section 2 of this Act is
16 effective for taxable years beginning after December 31, 2007. Sections 5, 6, and 7 of this Act
17 are effective for taxable years beginning after December 31, 2006.