FIRST ENGROSSMENT

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1051

Introduced by

Representatives Belter, Herbel

Senators Cook, Wardner

A BILL for an Act to create and enact sections 57-15-01.2 and 57-20-07.2 of the North Dakota Century Code, relating to limitations on levies by taxing districts and a state-paid property tax relief credit; to amend and reenact sections 57-02-08.1, 57-20-07.1, 57-20-09, 57-20-21.1, and 57-32-03 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to contents of property tax statements, income tax rates, priority for delinquent taxes, the homestead property tax credit, and the discount for early payment of property taxes; to provide an appropriation for state-paid property tax relief; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-02-08.1. Homestead credit.

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.

   b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.

   c. The exemption must be determined according to the following schedule:

(1) If the person's income is not in excess of ~~eight~~ ten thousand ~~five hundred~~ dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand thirty-eight dollars of taxable valuation.

(2) If the person's income is in excess of ~~eight~~ ten thousand ~~five hundred~~ dollars and not in excess of ~~ten~~ twelve thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand four hundred thirty dollars of taxable valuation.

(3) If the person's income is in excess of ~~ten~~ twelve thousand dollars and not in excess of ~~eleven~~ fourteen thousand ~~five hundred~~ dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand eight hundred twenty-three dollars of taxable valuation.

(4) If the person's income is in excess of ~~eleven~~ fourteen thousand ~~five hundred~~ dollars and not in excess of ~~thirteen~~ sixteen thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand two hundred fifteen dollars of taxable valuation.

(5) If the person's income is in excess of ~~thirteen~~ sixteen thousand dollars and not in excess of ~~fourteen~~ seventeen thousand five hundred dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of six hundred eight dollars of taxable valuation.

d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.

e. This subsection does not reduce the liability of any person for special assessments levied upon any property.

f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.

g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person, excluding the unencumbered value of the person's residence that the person claims as a homestead, exceeds fifty thousand dollars, including the value of any assets divested within the last three years. For purposes of this subdivision, the unencumbered valuation of the homestead is limited to one hundred thousand dollars.

h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.

i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.

b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of two hundred forty dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant.

c. Persons who reside together, as spouses or when one or more is a dependent of another, are entitled to only one refund between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a refund based on the rent paid by that person.

d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall issue refunds to applicants.

e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.

f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.

3. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. The county directors of tax equalization shall make these forms available upon request.

4. A person whose homestead is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may not receive any property tax credit under this section.

5. For the purposes of this section:

a. "Dependent" has the same meaning it has for federal income tax purposes.

b. "Homestead" has the same meaning as provided in section 47-18-01.

c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical

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

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

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

SECTION 2. Section 57-15-01.2 of the North Dakota Century Code is created and enacted as follows:

57-15-01.2. Limitation on levies by taxing districts.

1. Notwithstanding that a taxing district may have unused or excess levy authority under any other provision of law, this section limits that authority. This section may not be interpreted as authority to increase any levy limitation otherwise provided by law and may only be applied to limit any unused or excess levy authority that a taxing district may otherwise be entitled to use. Property taxes in dollars levied by a taxing district may not exceed by more than three and one-half percent the highest amount levied in dollars by that taxing district against taxable property in that taxing district in the three preceding taxable years except:

   a. When an improvement to property has been made or property has been added to the taxing district which was not taxable in the previous taxable year, the additional taxable valuation attributable to the improvement or additional property is taxable without regard to the limitation under this subsection.

   b. When a property tax exemption existed in the previous taxable year which has been reduced or no longer exists, the portion of the taxable valuation of the property which is no longer exempt is not subject to the limitation in this subsection.

c. When a property tax exemption exists for property that was taxable in the previous year, the amount levied in dollars in the previous taxable year by the taxing district must be reduced by the amount determined by applying the previous year's calculated mill rate for that taxing district to the previous year's taxable valuation of that property before the three and one-half percent increase allowable under this subsection is applied.

d. When temporary mill levy increases authorized by the electors of the taxing district or mill levies authorized by state law existed in the previous taxable year but are no longer applicable or have been reduced, the amount levied in dollars in the previous taxable year by the taxing district must be adjusted to reflect the expired temporary mill levy increases and the reduced or eliminated mill levies authorized by state law before the three and one-half percent increase allowable under this subsection is applied.

2. The limitation under subsection 1 does not apply to:

a. New or increased mill levies authorized by state law or the electors of the taxing district which did not exist in the previous taxable year.

b. Any irrepealable tax to pay bonded indebtedness levied under section 16 of article X of the Constitution of North Dakota.

c. A county emergency fund levy under section 57-15-28 or a city emergency fund levy under section 57-15-48.

3. The mill rate applied to property that was not taxed in the previous taxable year may not exceed the mill rate determined by law for the current taxable year for property that was taxed in the previous taxable year.

4. The limitation under this section may not be superseded by a city or county under home rule authority but may be suspended within a taxing district by approval of a majority of electors of the taxing district voting on the question at a regular or special election of the taxing district.

SECTION 3. AMENDMENT. Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-07.1. County treasurer to mail real estate tax statement. On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement

to the owner of each parcel of real property at the owner's last-known address. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. ~~Such tax statements~~ The tax statement must include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable. The tax statement must include a line item with the statement "State-paid property tax relief credit" and the dollar amount of the credit for the parcel under section 57-20-07.2, if that credit applies to that parcel. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline.

SECTION 4. Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

57-20-07.2. State-paid property tax relief credit.

1. The owner of a parcel of taxable residential, agricultural, or commercial property, or property containing one or more of those classifications of taxable property, is entitled to a credit against property taxes levied against that property.
   a. The credit applies to the total amount of property taxes in dollars levied against the taxable value of the property. The credit is equal to:
      (1) Ten percent of property taxes in dollars levied against residential property owned and occupied by an individual as that individual's homestead;
      (2) Five percent of property taxes in dollars levied against commercial or agricultural property, if the individual primarily responsible for management decisions regarding that property has an ownership interest of at least twenty percent in that property and owns and occupies residential property or a mobile home in this state as that person's homestead;

(3) Ten percent of mobile home taxes in dollars levied against residential mobile homes under chapter 57-55 if the mobile home is owned and occupied by an individual as that individual's homestead; or

(4) Five percent of mobile home taxes in dollars levied against commercial mobile homes under chapter 57-55 if the individual primarily responsible for management decisions regarding that property has an ownership interest of at least twenty percent in that property and owns and occupies residential property or a mobile home in this state as that individual's homestead.

b. If a parcel of property contains residential property and agricultural or commercial property, or residential and both agricultural and commercial property, the county treasurer shall allow the credit in the appropriate percentage under subdivision a against property taxes in dollars levied against each classification of property on the parcel.

2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 is entitled to a credit against property taxes levied within each county against that property in the amount of five percent of property taxes levied in dollars against that property.

3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount of five percent of taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.

4. The tax commissioner shall determine the total amount of credits under subsections 1 and 2 for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for

payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made.

5. Upon receipt of the payment from the state treasurer under subsection 4, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

6. After payments to counties under subsection 4 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.

7. Notwithstanding any other provision of law, the property tax credit under this section does not apply to any property other than mobile homes subject to payments or taxes in lieu of personal or real property taxes.

SECTION 5. AMENDMENT. Section 57-20-09 of the North Dakota Century Code is amended and reenacted as follows:

57-20-09. Discount for early payment of tax. Except as provided in section 57-20-21.1, the county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount applies, after deduction of any credit allowed under section 57-20-07.2, to the net remaining amount of all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts but does not apply to personal property taxes or special assessment installments. Whenever the board of county commissioners, by resolution,

determines that an emergency exists in the county by virtue of weather or other catastrophe, it may extend the discount period for an additional thirty days.

SECTION 6. AMENDMENT. Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-21.1. Priority for delinquent taxes. When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit made by the state must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent.

SECTION 7. AMENDMENT. Section 57-32-03 of the North Dakota Century Code is amended and reenacted as follows:

57-32-03. Tax statements prepared by state tax commissioner - When due and delinquent. On or before the thirty-first day of March in each year, the tax commissioner shall provide each company assessed under the provisions of this chapter a statement of its taxes due for the preceding year, with the valuations and taxes assessed in each case. The tax statement must include a line item with the statement "State-paid property tax relief credit" and the dollar amount of the credit that applies against the taxes due for the preceding year under section 57-20-07.2. Such taxes are due upon the fifteenth day of April next following the date of the statement of taxes due. The taxes become delinquent on the first day of May next following the due date and, if not paid on or before said date, are subject to a penalty of two percent and, on June first following delinquency, an additional penalty of two percent and, on July first following delinquency, an additional penalty of two percent and, an additional penalty of two percent on October fifteenth following delinquency. From and after January first of the year following the year in which the taxes became due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes must be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. All the provisions of the law respecting delinquency of

personal property assessments generally so far as may be consistent with the provisions of this chapter are applicable equally to the assessments and taxes provided for in this chapter.

SECTION 8. 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:	The tax is equal to:
Not over ~~$27,050~~ $31,850	2.10%
Over ~~$27,050~~ $31,850 but not over ~~$65,550~~ $77,100	~~$568.05~~ $668.85 plus 3.92% of amount over ~~$27,050~~ $31,850
Over ~~$65,550~~ $77,100 but not over ~~$136,750~~ $160,850	~~$2,077.25~~ $2,442.65 plus 4.34% of amount over ~~$65,550~~ $77,100
Over ~~$136,750~~ $160,850 but not over ~~$297,350~~ $349,700	~~$5,167.33~~ $6,077.40 plus 5.04% of amount over ~~$136,750~~ $160,850
Over ~~$297,350~~ $349,700	~~$13,261.57~~ $15,595.44 plus 5.54% of amount over ~~$297,350~~ $349,700

   b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$45,200~~ $63,700	2.10%

Over ~~$45,200~~ $63,700 but not over ~~$109,250~~ $154,200	~~$949.20~~ $1,337.70 plus 3.92% of amount over ~~$45,200~~ $63,700
Over ~~$109,250~~ $154,200 but not over ~~$166,500~~ $321,700	~~$3,459.96~~ $4,885.30 plus 4.34% of amount over ~~$109,250~~ $154,200
Over ~~$166,500~~ $321,700 but not over ~~$297,350~~ $699,400	~~$5,944.61~~ $12,154.80 plus 5.04% of amount over ~~$166,500~~ $321,700
Over ~~$297,350~~ $699,400	~~$12,539.45~~ $31,190.88 plus 5.54% of amount over ~~$297,350~~ $699,400

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$22,600~~ $31,850	2.10%
Over ~~$22,600~~ $31,850 but not over ~~$54,625~~ $77,100	~~$474.60~~ $668.85 plus 3.92% of amount over ~~$22,600~~ $31,850
Over ~~$54,625~~ $77,100 but not over ~~$83,250~~ $160,850	~~$1,729.98~~ $2,442.65 plus 4.34% of amount over ~~$54,625~~ $77,100
Over ~~$83,250~~ $160,850 but not over ~~$148,675~~ $349,700	~~$2,972.31~~ $6,077.40 plus 5.04% of amount over ~~$83,250~~ $160,850
Over ~~$148,675~~ $349,700	~~$6,269.73~~ $15,595.44 plus 5.54% of amount over ~~$148,675~~ $349,700

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$36,250~~ $42,650	2.10%
Over ~~$36,250~~ $42,650 but not over ~~$93,650~~ $110,100	~~$761.25~~ $895.65 plus 3.92% of amount over ~~$36,250~~ $42,650
Over ~~$93,650~~ $110,100 but not over ~~$151,650~~ $178,350	~~$3,011.33~~ $3,539.69 plus 4.34% of amount over ~~$93,650~~ $110,100
Over ~~$151,650~~ $178,350 but not over ~~$297,350~~ $349,700	~~$5,528.53~~ $6,501.74 plus 5.04% of amount over ~~$151,650~~ $178,350
Over ~~$297,350~~ $349,700	~~$12,871.81~~ $15,137.78 plus 5.54% of amount over ~~$297,350~~ $349,700

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over ~~$1,800~~ $2,150	2.10%
Over ~~$1,800~~ $2,150 but not over ~~$4,250~~ $5,000	~~$37.80~~ $45.15 plus 3.92% of amount over ~~$1,800~~ $2,150
Over ~~$4,250~~ $5,000 but not over ~~$6,500~~ $7,650	~~$133.84~~ $156.87 plus 4.34% of amount over ~~$4,250~~ $5,000
Over ~~$6,500~~ $7,650 but not over ~~$8,900~~ $10,450	~~$231.49~~ $271.88 plus 5.04% of amount over ~~$6,500~~ $7,650
Over ~~$8,900~~ $10,450	~~$352.45~~ $413.00 plus 5.54% of amount over ~~$8,900~~ $10,450

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, ~~2001~~ 2007, 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 9. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $116,720,911, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing state-paid property tax relief credits as provided in section 4 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 10. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2006, for ad valorem property taxes and for taxable years beginning after December 31, 2007, for mobile home taxes. Section 8 of this Act is effective for taxable years beginning after December 31, 2006.