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Sixty-second
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1047

Introduced by

Legislative Management

(Taxation Committee)

A BILL for an Act to amend and reenact sections 57-15-01.1, 57-64-01, 57-64-02, 57-64-03, and 57-64-04 of the North Dakota Century Code, relating to allocation of state funding to school districts for mill levy reduction grants and property tax levies of school districts; to repeal chapter 57-16 of the North Dakota Century Code, relating to certain excess levies of school districts; 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. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

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

approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

b. "Budget year" means the taxing district's year for which the levy is being determined under this section;

c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and

d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:

a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.

b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. <u>For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill</u>

rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.

d. 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.

e. 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.

4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.

5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:

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

b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.

6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.

7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. AMENDMENT. Section 57-64-01 of the North Dakota Century Code is amended and reenacted 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.~~

SECTION 3. AMENDMENT. Section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

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 grant to a qualifying school district may not exceed the grant to that school district in the preceding school year by a percentage that is more than the percentage increase in statewide taxable valuation which was determined for the previous taxable year.

5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.

~~4.~~6. 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.~~7. 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.~~8. 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.~~9. 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.

SECTION 4. AMENDMENT. Section 57-64-03 of the North Dakota Century Code is amended and reenacted as follows:

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; or
   d. The district has authority for a higher levy under subdivision b of subsection 2.
2. The authority under subdivision a or 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 at a time 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 extension of levy authority ~~to levy a specific number of mills~~under this subsection 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 as determined for the school district's budget year under section 57-15-01.1 or 57-15-14, whichever produces the higher levy limitation.

SECTION 5. AMENDMENT. Section 57-64-04 of the North Dakota Century Code is amended and reenacted as follows:

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, if allocation funds remain after the high school tuition levy mill rate is reduced to zero, then to reduce the high school transportation levy of the qualified school district.

SECTION 6. REPEAL. Chapter 57-16 of the North Dakota Century Code is repealed.

SECTION 7. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $341,790,000, 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, 2011, and ending June 30, 2013.

SECTION 8. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND - GENERAL FUND. The office of management and budget shall transfer the sum of $295,000,000 from the property tax relief sustainability fund to the general fund on July 1, 2011.

SECTION 9. TRANSFER - PERMANENT OIL TAX TRUST FUND - GENERAL FUND. The office of management and budget shall transfer the sum of $46,790,000 from the permanent oil tax trust fund to the general fund on July 1, 2011.

SECTION 10. TRANSFER - PERMANENT OIL TAX TRUST FUND - PROPERTY TAX RELIEF SUSTAINABILITY FUND. The office of management and budget shall transfer the sum of $341,790,000 from the permanent oil tax trust fund to the property tax relief sustainability fund on July 1, 2012.

1 **SECTION 11. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable years
2 beginning after December 31, 2010. The remainder of this Act is effective July 1, 2011.