

**SECOND ENGROSSMENT - MAJORITY REPORT  
with House Amendments**

Sixty-first  
Legislative Assembly  
of North Dakota

**REENGROSSED SENATE BILL NO. 2199**

Introduced by

Senators Wardner, Cook, O'Connell

Representatives Kaldor, Monson, Svedjan

1 A BILL for an Act to create a property tax relief sustainability fund; to create and enact two new  
2 subdivisions to subsection 3 of section 57-15-01.1 and chapter 57-64 of the North Dakota  
3 Century Code, relating to allocation of state funds to school districts for mill levy reduction  
4 grants; to amend and reenact sections 57-15-14, 57-15-31, and 57-38-30 and subsection 1 of  
5 section 57-38-30.3 of the North Dakota Century Code, relating to property tax levies of school  
6 districts, corporate income tax rates, and income tax rates for individuals, estates, and trusts; to  
7 provide an appropriation; to provide for transfers; and to provide an effective date.

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

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

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

15 Reduced for a school district determining its levy limitation under this section,  
16 by the amount the school district's mill levy reduction grant under section  
17 57-64-02 for the budget year exceeds the amount of the school district's mill  
18 levy reduction grant under section 57-64-02 for the base year.

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

21 **57-15-14. General fund levy limitations in school districts.** The aggregate amount  
22 levied each year for the purposes listed in section 57-15-14.2 by any school district, except the  
23 Fargo school district, may not exceed the amount in dollars which the school district levied for

1 the prior school year plus eighteen percent up to a general fund levy of one hundred eighty-five  
2 mills on the dollar of the taxable valuation of the district, except that:

- 3 1. In any school district having a total population in excess of four thousand  
4 according to the last federal decennial census:
  - 5 a. ~~There~~ there may be levied any specific number of mills that upon resolution of  
6 the school board has been submitted to and approved by a majority of the  
7 qualified electors voting upon the question at any regular or special school  
8 district election.
  - 9 b. ~~There is no limitation upon the taxes which may be levied if upon resolution of~~  
10 ~~the school board of any such district the removal of the mill levy limitation has~~  
11 ~~been submitted to and approved by a majority of the qualified electors voting~~  
12 ~~at any regular or special election upon such question.~~
- 13 2. In any school district having a total population of ~~less~~ fewer than four thousand,  
14 there may be levied any specific number of mills that upon resolution of the school  
15 board has been approved by fifty-five percent of the qualified electors voting upon  
16 the question at any regular or special school election.
- 17 3. After June 30, ~~2007~~ 2009, in any school district election for approval by electors of  
18 ~~unlimited or~~ increased levy authority under subsection 1 or 2, the ballot must  
19 specify the number of mills, ~~the percentage increase in dollars levied, or that~~  
20 ~~unlimited levy authority~~ is proposed for approval, and the number of taxable years  
21 for which that approval is to apply. After June 30, ~~2007~~ 2009, approval by electors  
22 of ~~unlimited or~~ increased levy authority under subsection 1 or 2 may not be  
23 effective for more than ten taxable years.
- 24 4. The authority for a levy of up to a specific number of mills under this section  
25 approved by electors of a school district before July 1, 2009, is terminated effective  
26 for taxable years after 2012. If the electors of a school district subject to this  
27 subsection have not approved a levy for taxable years after 2012 of up to a  
28 specific number of mills under this section by December 31, 2012, the school  
29 district levy limitation for subsequent years is subject to the limitations under  
30 section 57-15-01.1 or this section.

1           5. The authority for an unlimited levy approved by electors of a school district before  
2           July 1, 2009, is terminated effective for taxable years after 2012. If the electors of  
3           a school district subject to this subsection have not approved a levy of up to a  
4           specific number of mills under this section by December 31, 2012, the school  
5           district levy limitation for subsequent years is subject to the limitations under  
6           section 57-15-01.1 or this section.

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

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

23           **57-15-31. Determination of levy.** The amount to be levied by any county, city,  
24 township, school district, park district, or other municipality authorized to levy taxes shall be  
25 computed by deducting from the amount of estimated expenditures for the current fiscal year as  
26 finally determined, plus the required reserve fund determined upon by the governing board from  
27 the past experience of the taxing district, the total of the following items:

- 28           1. The available surplus consisting of the free and unencumbered cash balance.
- 29           2. Estimated revenues from sources other than direct property taxes.
- 30           3. The total estimated collections from tax levies for previous years.
- 31           4. Such expenditures as are to be made from bond sources.

- 1           5.    The amount of distributions received from an economic growth increment pool  
2                    under section 57-15-61.
- 3           6.    The estimated amount to be received from payments in lieu of taxes on a project  
4                    under section 40-57.1-03.
- 5           7.    The amount reported to a school district by the superintendent of public instruction  
6                    as the school district's mill levy reduction grant for the year under section 57-64-02.

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

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

11           **57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon  
12 the taxable income of every domestic and foreign corporation which must be levied, collected,  
13 and paid annually as in this chapter provided:

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

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

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

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

15	If North Dakota taxable income is:	The tax is equal to:
16	Not over <del>\$27,050</del> <u>\$33,950</u>	<del>2.40%</del> <u>1.87%</u>
17	Over <del>\$27,050</del> <u>\$33,950</u> but not	<del>\$568.05</del> <u>\$634.87</u> plus <del>3.92%</del> <u>3.49%</u>
18	over <del>\$65,550</del> <u>\$82,250</u>	of amount over <del>\$27,050</del> <u>\$33,950</u>
19	Over <del>\$65,550</del> <u>\$82,250</u> but not	<del>\$2,077.25</del> <u>\$2,320.54</u> plus <del>4.34%</del> <u>3.87%</u>
20	over <del>\$136,750</del> <u>\$171,550</u>	of amount over <del>\$65,550</del> <u>\$82,250</u>
21	Over <del>\$136,750</del> <u>\$171,550</u> but not	<del>\$5,167.33</del> <u>\$5,776.45</u> plus <del>5.04%</del> <u>4.49%</u>
22	over <del>\$297,350</del> <u>\$372,950</u>	of amount over <del>\$136,750</del> <u>\$171,550</u>
23	Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$13,261.57</del> <u>\$14,819.31</u> plus <del>5.54%</del> <u>4.94%</u>
24		of amount over <del>\$297,350</del> <u>\$372,950</u>

25           b. Married filing jointly and surviving spouse.

26	If North Dakota taxable income is:	The tax is equal to:
27	Not over <del>\$45,200</del> <u>\$56,750</u>	<del>2.40%</del> <u>1.87%</u>
28	Over <del>\$45,200</del> <u>\$56,750</u> but not	<del>\$949.20</del> <u>\$1,061.23</u> plus <del>3.92%</del> <u>3.49%</u>
29	over <del>\$109,250</del> <u>\$137,050</u>	of amount over <del>\$45,200</del> <u>\$56,750</u>
30	Over <del>\$109,250</del> <u>\$137,050</u> but not	<del>\$3,459.96</del> <u>\$3,863.70</u> plus <del>4.34%</del> <u>3.87%</u>
31	over <del>\$166,500</del> <u>\$208,850</u>	of amount over <del>\$109,250</del> <u>\$137,050</u>

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1 Over ~~\$166,500~~ \$208,850 but not ~~\$5,944.61~~ \$6,642.36 plus ~~5.04%~~ 4.49%  
 2 over ~~\$297,350~~ \$372,950 of amount over ~~\$166,500~~ \$208,850  
 3 Over ~~\$297,350~~ \$372,950 ~~\$12,539.45~~ \$14,010.45 plus ~~5.54%~~ 4.94%  
 4 of amount over ~~\$297,350~~ \$372,950

5 c. Married filing separately.

6 If North Dakota taxable income is: The tax is equal to:  
 7 Not over ~~\$22,600~~ \$28,375 ~~2.40%~~ 1.87%  
 8 Over ~~\$22,600~~ \$28,375 but not ~~\$474.60~~ \$530.61 plus ~~3.92%~~ 3.49%  
 9 over ~~\$54,625~~ \$68,525 of amount over ~~\$22,600~~ \$28,375  
 10 Over ~~\$54,625~~ \$68,525 but not ~~\$1,729.98~~ \$1,931.85 plus ~~4.34%~~ 3.87%  
 11 over ~~\$83,250~~ \$104,425 of amount over ~~\$54,625~~ \$68,525  
 12 Over ~~\$83,250~~ \$104,425 but not ~~\$2,972.31~~ \$3,321.18 plus ~~5.04%~~ 4.49%  
 13 over ~~\$148,675~~ \$186,475 of amount over ~~\$83,250~~ \$104,425  
 14 Over ~~\$148,675~~ \$186,475 ~~\$6,269.73~~ \$7,005.22 plus ~~5.54%~~ 4.94%  
 15 of amount over ~~\$148,675~~ \$186,475

16 d. Head of household.

17 If North Dakota taxable income is: The tax is equal to:  
 18 Not over ~~\$36,250~~ \$45,500 ~~2.40%~~ 1.87%  
 19 Over ~~\$36,250~~ \$45,500 but not ~~\$761.25~~ \$850.85 plus ~~3.92%~~ 3.49%  
 20 over ~~\$93,650~~ \$117,450 of amount over ~~\$36,250~~ \$45,500  
 21 Over ~~\$93,650~~ \$117,450 but not ~~\$3,044.33~~ \$3,361.91 plus ~~4.34%~~ 3.87%  
 22 over ~~\$151,650~~ \$190,200 of amount over ~~\$93,650~~ \$117,450  
 23 Over ~~\$151,650~~ \$190,200 but not ~~\$5,528.53~~ \$6,177.33 plus ~~5.04%~~ 4.49%  
 24 over ~~\$297,350~~ \$372,950 of amount over ~~\$151,650~~ \$190,200  
 25 Over ~~\$297,350~~ \$372,950 ~~\$12,871.81~~ \$14,382.81 plus ~~5.54%~~ 4.94%  
 26 of amount over ~~\$297,350~~ \$372,950

27 e. Estates and trusts.

28 If North Dakota taxable income is: The tax is equal to:  
 29 Not over ~~\$1,800~~ \$2,300 ~~2.40%~~ 1.87%  
 30 Over ~~\$1,800~~ \$2,300 but not ~~\$37.80~~ \$43.01 plus ~~3.92%~~ 3.49%  
 31 over ~~\$4,250~~ \$5,350 of amount over ~~\$1,800~~ \$2,300

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1	Over <del>\$4,250</del> <u>\$5,350</u> but not	<del>\$133.84</del> <u>\$149.46</u> plus <del>4.34%</del> <u>3.87%</u>
2	over <del>\$6,500</del> <u>\$8,200</u>	of amount over <del>\$4,250</del> <u>\$5,350</u>
3	Over <del>\$6,500</del> <u>\$8,200</u> but not	<del>\$231.49</del> <u>\$259.75</u> plus <del>5.04%</del> <u>4.49%</u>
4	over <del>\$8,900</del> <u>\$11,150</u>	of amount over <del>\$6,500</del> <u>\$8,200</u>
5	Over <del>\$8,900</del> <u>\$11,150</u>	<del>\$352.45</del> <u>\$392.21</u> plus <del>5.54%</del> <u>4.94%</u>
6		of amount over <del>\$8,900</del> <u>\$11,150</u>

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

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

- 19 g. For taxable years beginning after December 31, ~~2004~~ 2009, the tax  
20 commissioner shall prescribe new rate schedules that apply in lieu of the  
21 schedules set forth in subdivisions a through e. The new schedules must be  
22 determined by increasing the minimum and maximum dollar amounts for each  
23 income bracket for which a tax is imposed by the cost-of-living adjustment for  
24 the taxable year as determined by the secretary of the United States treasury  
25 for purposes of section 1(f) of the United States Internal Revenue Code of  
26 1954, as amended. For this purpose, the rate applicable to each income  
27 bracket may not be changed, and the manner of applying the cost-of-living  
28 adjustment must be the same as that used for adjusting the income brackets  
29 for federal income tax purposes.

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

1           **57-64-01. Definitions.** For purposes of this chapter:

2           1. "Combined education mill rate" means the combined number of mills levied by a  
3           school district for the general fund, high school tuition, and high school  
4           transportation.

5           2. "Qualifying school district" means a school district that meets the conditions and  
6           requirements of this chapter to receive a mill levy reduction grant.

7           3. "Weighted student unit" means weighted student unit as determined for the school  
8           district under chapter 15.1-27.

9           **57-64-02. Mill levy reduction allocation and grant.** Each qualifying school district in  
10 the state is entitled to a mill levy reduction allocation and grant as provided in this chapter,  
11 subject to legislative appropriation to the superintendent of public instruction.

12           1. The mill levy reduction allocation rate for each qualifying school district is equal to  
13 the payments to the school district based on the per student payment rate as  
14 determined for the school year under chapter 15.1-27.

15           2. The grant to a qualifying school district may not exceed the smallest of:

16           a. The allocation determined under subsection 1;

17           b. The taxable valuation of property in the school district in the previous taxable  
18 year times the number of mills determined by subtracting one hundred mills  
19 from the combined education mill rate of the school district for taxable year  
20 2008; or

21           c. The taxable valuation of property in the school district in the previous taxable  
22 year times seventy-five mills.

23           3. The grant to a qualifying school district may not be less than the grant to that  
24 school district in the preceding school year.

25           4. The superintendent of public instruction shall report to each qualifying school  
26 district by July fifteenth of each year the mill levy reduction grant in dollars  
27 available to that school district during the upcoming school year.

28           5. By December first, January first, February first, and March first of each school  
29 year, the superintendent of public instruction shall forward to each qualifying  
30 school district installments equal to twenty-five percent of the total mill levy  
31 reduction grant the district is eligible to receive during that school year.



- 1           6. Allocations to a school district under this chapter are not considered per student  
2                   payments or state aid for purposes of chapter 15.1-27.
- 3           7. For all purposes under law relating to allocation of funds among political  
4                   subdivisions based on property tax levies, property taxes levied by a school district  
5                   are the amount that would have been levied without the mill reduction grant  
6                   provided to the school district under this chapter.

7           **57-64-03. School district levy compliance.**

- 8           1. To be eligible to receive a grant under this chapter, a qualifying school district must  
9                   establish a spending level that does not result in a general fund mill rate exceeding  
10                  one hundred ten mills. The certificate of levy form filed with the county auditor by a  
11                  qualifying school district must reflect the revenue to be received by the school  
12                  district under this chapter and that the general fund mill rate for the school district  
13                  will not exceed one hundred ten mills unless:
- 14                  a. The district has approval of a majority of the electors of the school district for  
15                        a higher levy;
- 16                  b. The higher levy is the result of a school district reorganization in compliance  
17                        with chapter 15.1-12; or
- 18                  c. The higher levy does not produce an amount in dollars exceeding the amount  
19                        allowed under section 57-15-01.1 for taxable year 2008 reduced by the  
20                        amount of the school district's mill levy reduction grant under section 57-64-02  
21                        for the budget year.
- 22           2. The authority under subdivision a or b of subsection 1 for a school district to levy a  
23                    general fund mill rate exceeding one hundred ten mills applies for not more than  
24                    ten taxable years after taxable year 2008 unless a majority of the electors of the  
25                    school district approve an extension of that authority. Approval by electors of  
26                    extension of levy authority under subdivision a or b of subsection 1 is effective for  
27                    not more than ten taxable years at a time. A ballot measure for approval by  
28                    electors of extension of levy authority under subdivision a or b of subsection 1 is  
29                    subject to the following:
- 30                  a. The ballot measure must specify the number of mills for the general fund mill  
31                        rate for which approval is sought.

1           **b.** If a ballot measure for approval of authority to levy a specific number of mills  
2           is not approved by a majority of the electors of the school district general fund  
3           voting on the question, the school district general fund levy limitation for  
4           subsequent years is subject to the limitations under section 57-15-01.1 or  
5           57-15-14.

6           **57-64-04. Levy reduction priority.** In setting mill rates for qualified school districts,  
7           the county auditor shall apply funds allocated to a school district under this chapter for mill levy  
8           reduction first to reduce the number of mills levied for general fund purposes and, if allocation  
9           funds remain after the general fund mill rate is reduced to zero, the balance must be applied to  
10          reduce the high school tuition levy and then to reduce the high school transportation levy of the  
11          qualified school district.

12          **57-64-05. Tax increment financing district revenue replacement grants.**

13          1. A city in which a tax increment financing district was established before January 1,  
14          2009, is entitled to a grant, subject to legislative appropriation, to reimburse the  
15          district for the loss of tax increments attributable to the mill levy reduction under  
16          this chapter for the school district in which the tax increment financing district  
17          property is located. The grant to which a city is entitled under this section is equal  
18          to the combined education mill rate reduction under this chapter for the school  
19          district for the taxable year times the incremental value of property that had a tax  
20          increment value before January 1, 2009, as determined under section 40-58-20,  
21          discounted by five percent as allowed for taxpayers under section 57-20-09.  
22          2. Applications for grants under this section must be filed with the tax commissioner  
23          by January thirty-first immediately following the taxable year of the combined  
24          education mill rate reduction under this chapter. Applications must be filed on a  
25          form prescribed by the tax commissioner. The tax commissioner shall audit  
26          applications, make corrections as required, and certify grant amounts and  
27          recipients to the state treasurer for payment of grants by March thirty-first following  
28          receipt of applications.

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

1           **SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the  
2 general fund in the state treasury, not otherwise appropriated, the sum of \$295,000,000, or so  
3 much of the sum as may be necessary, to the superintendent of public instruction for the  
4 purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the  
5 biennium beginning July 1, 2009, and ending June 30, 2011.

6           **SECTION 9. APPROPRIATION.** There is appropriated out of any moneys in the  
7 permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of  
8 \$1,720,000, or so much of the sum as may be necessary, to the state treasurer for the purpose  
9 of allocation of revenue replacement grants to tax increment financing districts under section  
10 57-64-05, for the biennium beginning July 1, 2009, and ending June 30, 2011.

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

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

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