

HOUSE BILL NO. 1545

Introduced by

Representatives Ertelt, Hoverson

1 A BILL ~~for an Act to create and enact a new section to chapter 57-02 and a new section to~~
2 ~~chapter 57-38 of the North Dakota Century Code, relating to a property tax credit for property~~
3 ~~used as a primary residence and a surtax on income; to amend and reenact subsection 1 of~~
4 ~~section 57-02-08.3, section 57-02-11.1, subsection 1 of section 57-23-06, and section 57-55-10~~
5 ~~of the North Dakota Century Code, relating to the homestead tax credit for special~~
6 ~~assessments, townhouse property, abatement actions, and mobile home exemptions; to repeal~~
7 ~~subsection 20 of section 57-02-08, subsection 22 of section 57-02-08, subsection 26 of section~~
8 ~~57-02-08, and sections 57-02-08.1, 57-02-08.2, and 57-02-08.8 of the North Dakota Century~~
9 ~~Code, relating to the property tax exemption for disabled persons, the homestead tax credit,~~
10 ~~and the property tax credit for disabled veterans; to provide a penalty; and to provide an~~
11 ~~effective date.~~ for an Act to provide for a legislative management study of replacing the revenue
12 generated by property tax with an alternative funding source.

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

14 ~~— **SECTION 1.** A new section to chapter 57-02 of the North Dakota Century Code is created~~
15 ~~and enacted as follows:~~

16 ~~— **Primary residence property tax credit – Certification – Distribution.**~~

17 ~~— 1. An individual is entitled to receive a reduction equal to the taxable valuation of the~~
18 ~~individual's primary residence as provided in this section. A reduction under this~~
19 ~~section applies regardless of whether the individual is the head of a family.~~

20 ~~— 2. An estate or trust, or a corporation or passthrough entity that owns residential property~~
21 ~~used as part of a farming or ranching operation is entitled to a reduction as provided in~~
22 ~~subsection 1 if that residential property is not exempt from property taxes as a farm~~
23 ~~residence and is occupied as a primary residence, as of the assessment date of the~~
24 ~~taxable year, by an individual who is a beneficiary of the estate or trust or who holds~~

1 ~~an ownership interest in the corporation or passthrough entity. Either the occupant or~~
2 ~~the entity that owns the residence may be the applicant for purposes of this subsection~~
3 ~~and the definition of primary residence under subsection 13. An estate, trust,~~
4 ~~corporation, or passthrough entity may not claim a reduction for more than one~~
5 ~~property under this subsection.~~

6 ~~3. The reduction under subsection 1 or 2 continues to apply if the individual does not~~
7 ~~reside in the primary residence because the individual's absence is due to~~
8 ~~confinement in a nursing home, hospital, or other care facility, for as long as that~~
9 ~~confinement lasts and the portion of the primary residence previously occupied by the~~
10 ~~individual is not rented to another individual.~~

11 ~~4. Individuals residing together, who are not spouses or dependents, who are co-owners~~
12 ~~of the property are each entitled to a percentage of a full reduction under subsection 1~~
13 ~~or 2 equal to their ownership interests in the property.~~

14 ~~5. The owner of a parcel of commercial property is entitled to receive a reduction equal to~~
15 ~~the taxable valuation attributable to the portion of commercial property occupied by the~~
16 ~~owner as the owner's primary residence. If a parcel of commercial property is owned~~
17 ~~in whole or in part by a corporation or passthrough entity, the reduction under this~~
18 ~~subsection applies to that property only if each individual having an ownership interest~~
19 ~~in the corporation or passthrough entity resides in a primary residence eligible for the~~
20 ~~reduction under subsection 1 or 2.~~

21 ~~6. To claim a reduction under this section, an applicant must sign and file with the~~
22 ~~assessor, by October first of the year for which a reduction is claimed, a claim form~~
23 ~~containing a verified statement of facts establishing the applicant's eligibility as of~~
24 ~~February first of that year.~~

25 ~~7. The assessor shall attach the statement filed under subsection 6 to the assessment~~
26 ~~sheet and shall show the reduction on the assessment sheet.~~

27 ~~8. The tax commissioner shall prescribe, design, and make available all forms necessary~~
28 ~~to effectuate this section. Claim forms must include the full name and address of the~~
29 ~~applicant and any other information prescribed by the tax commissioner. The county~~
30 ~~director of tax equalization shall make these forms available to applicants upon~~
31 ~~request.~~

- 1 ~~9. A reduction under this section is valid for the entire taxable year for which the~~
2 ~~application was approved, without regard to any change of ownership of the property~~
3 ~~which occurs after the assessment date. A reduction remains effective for succeeding~~
4 ~~taxable years without the owner filing a claim for the exemption, but the assessor may~~
5 ~~require the owner to file a renewed claim or verify eligibility for succeeding taxable~~
6 ~~years.~~
- 7 ~~10. If any applicant is found to have fraudulently claimed a reduction under this section to~~
8 ~~which that applicant is not entitled, all reductions under this section for that applicant~~
9 ~~for that taxable year must be canceled. If an applicant received a reduction that is~~
10 ~~canceled under this section, the auditor of the county in which the property is located~~
11 ~~shall enter the amount of the canceled reduction as omitted property on the~~
12 ~~assessment roll of property that has escaped taxation.~~
- 13 ~~11. Determinations concerning eligibility for a reduction under this section may be~~
14 ~~appealed through the informal equalization process and formal abatement process.~~
- 15 ~~12. This section does not reduce the liability of any individual for special assessments~~
16 ~~levied upon any property.~~
- 17 ~~13. For the purposes of this section:~~
- 18 ~~a. "Dependent" has the same meaning it has for federal income tax purposes.~~
- 19 ~~b. "Owned" means the applicant holds a present ownership interest, including~~
20 ~~ownership in fee simple, holding a present life estate or other terminable present~~
21 ~~ownership interest, or being a purchaser under a contract for deed, but does not~~
22 ~~include a mere right of occupancy or a tenancy under a lease.~~
- 23 ~~c. "Primary residence", for purposes of a residential property taxable valuation~~
24 ~~reduction under this section, means a dwelling in this state owned and occupied~~
25 ~~by the applicant as that applicant's primary residence as of the assessment date~~
26 ~~of the taxable year and which is not exempt from property taxes as a farm~~
27 ~~residence.~~
- 28 ~~14. Before April first of each year, the county auditor of each county shall certify to the tax~~
29 ~~commissioner, on forms prescribed by the tax commissioner, the full name of each~~
30 ~~individual for whom the reduction under this section was allowed for the preceding~~
31 ~~year, the legal description of the property, the taxable value of the property, the dollar~~

1 ~~amount of each reduction in taxable value allowed, and the total of the tax mill rates~~
2 ~~for the preceding year of all taxing districts in which the property was contained,~~
3 ~~exclusive of any state mill rates, and any other information prescribed by the tax~~
4 ~~commissioner.~~

5 ~~15. By June first of each year, the tax commissioner shall review the certifications under~~
6 ~~subsection 14, make any required corrections, and certify to the state treasurer for~~
7 ~~payment to each county the sum of the amounts computed by multiplying the~~
8 ~~reduction allowed for each qualifying property in the county for the preceding year by~~
9 ~~the total of the tax mill rates for the preceding year of all taxing districts in which the~~
10 ~~property was contained. In reviewing certifications, the tax commissioner may refer to~~
11 ~~any income tax return information or other information available to the tax~~
12 ~~commissioner.~~

13 ~~16. Upon receipt of the payment from the state treasurer, the county treasurer shall~~
14 ~~apportion and distribute the payment without delay to the county and to the taxing~~
15 ~~districts of the county on the same basis the general real estate tax for the preceding~~
16 ~~year is apportioned and distributed.~~

17 ~~17. The tax commissioner shall certify annually to the state treasurer for deposit in the~~
18 ~~state medical center fund the amount computed by multiplying one mill times the~~
19 ~~reduction allowed under this section for the preceding year for all eligible property in~~
20 ~~the state.~~

21 ~~18. Supplemental certifications by the county auditor and the tax commissioner and~~
22 ~~supplemental payments by the state treasurer may be made after the dates prescribed~~
23 ~~in this section to make any corrections necessary because of errors or approval of any~~
24 ~~application for equalization or abatement filed by an individual or entity because all or~~
25 ~~part of the reduction under this section was not allowed.~~

26 ~~**SECTION 2. AMENDMENT.** Subsection 1 of section 57-02-08.3 of the North Dakota~~
27 ~~Century Code is amended and reenacted as follows:—~~

28 ~~1. Any person who has qualified for the property tax credit provided for in section~~
29 ~~57-02-08.11 of this Act may elect to also qualify for an additional homestead credit~~
30 ~~against that person's homestead for the portion of any special assessment levied by a~~
31 ~~taxing district which becomes due for the same year. The total amount of credits~~

1 ~~allowed for any one property must not exceed six thousand dollars excluding any~~
2 ~~interest charged by the body levying the special assessment. This credit may be~~
3 ~~granted only at the election of the qualifying person. The person making the election~~
4 ~~shall do so by filing with the county auditor a claim for the special assessment credit~~
5 ~~on a form prescribed by the tax commissioner. The claim must be filed with the county~~
6 ~~auditor on or before February first of the year in which the special assessment~~
7 ~~installment thereof becomes payable.~~

8 ~~— **SECTION 3. AMENDMENT.** Section 57-02-11.1 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **57-02-11.1. Townhouses -- Common areas -- Assessment and taxation.**~~

11 ~~— Townhouse property must be classified and valued as is other property except that the~~
12 ~~value of the townhouse property must be increased by the value added by the right to use any~~
13 ~~common areas in connection with the townhouse development. The common areas of the~~
14 ~~development may not be separately taxed. The value of a common area of the townhouse~~
15 ~~development must be assessed in an equal amount to each townhouse in the development~~
16 ~~unless a declaration setting out a different apportionment is recorded in the office of the county~~
17 ~~recorder. The total value of the townhouse property, including the value added as provided~~
18 ~~herein, must have the benefit of any homestead primary residence property tax credit under~~
19 ~~section 57-02-08.11 of this Act or other special classification if the townhouse otherwise~~
20 ~~qualifies.~~

21 ~~— **SECTION 4. AMENDMENT.** Subsection 1 of section 57-23-06 of the North Dakota Century~~
22 ~~Code is amended and reenacted as follows: ———~~

23 ~~— 1. — Within ten days after receiving an application for abatement, the city auditor or the~~
24 ~~township clerk shall give the applicant a notice of a hearing to be held before the~~
25 ~~governing body of the city or township, or such other committee as it may designate, in~~
26 ~~which the assessed property is located. Said hearing must be set for no more than~~
27 ~~sixty days after the date of the notice of hearing, and in any event, must be held~~
28 ~~before the recommendations provided for in subsection 2 are made. The applicant~~
29 ~~may waive, in writing, the hearing before such governing body or designated~~
30 ~~committee at any time before the hearing. Any recommendations provided for in~~
31 ~~subsection 2 must be transmitted to the county auditor no more than thirty days after~~

1 the date set for the hearing. The provisions of this subsection do not apply to
2 applications for abatement pursuant to section 57-02-08.2.

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

5 ~~— **Surtax on income.**~~

6 ~~— 1. An additional tax, or surtax, is imposed on the income of every individual, estate, trust,
7 and corporation that is required to file an income tax return pursuant to this chapter.~~

8 ~~The surtax must be placed on the state income tax return as a separate line item
9 entitled "property tax surtax" and paid annually by each taxpayer.~~

10 ~~— 2. The surtax applied to income tax filers must be calculated separately for each county
11 by dividing the total amount certified for the primary residence property tax credit in
12 section 1 of this Act in each county in the previous taxable year by the number of filers
13 in each county in the previous taxable year.~~

14 ~~— 3. For purposes of administering this section, the provisions of this chapter pertaining to
15 the administration of income tax, including the withholding of income taxes, the
16 payment of income taxes, the payment of interest and penalties on income taxes,
17 refunds, attachment of liens for failure to pay the tax, and penalties for failure to
18 comply with the provisions of this chapter, govern the administration of the surtax
19 levied under this section.~~

20 ~~— **SECTION 6. AMENDMENT.** Section 57-55-10 of the North Dakota Century Code is
21 amended and reenacted as follows:~~

22 ~~— **57-55-10. Exemptions -- Exceptions.**~~

23 ~~— 1. A mobile home described in this subsection to the extent herein limited is exempt from
24 taxation under this chapter; provided, that the mobile home shall have a tax permit as
25 provided in section 57-55-06:~~

26 ~~— a. If it is owned and used as living quarters of a military person on active military
27 duty in this state who is a resident of another state.~~

28 ~~— b. If it is owned and occupied by a welfare recipient, provided the mobile home is
29 not permanently attached to the land and classified as real property. For the
30 purposes of this subdivision, "welfare recipient" means any person who is
31 certified to the county director of tax equalization by the county social service~~

1 board as receiving the major portion of income from any state or federal public-
2 assistance program.

3 ~~_____ c. If it is owned and used as living quarters by a disabled veteran or unremarried~~
4 ~~surviving spouse who meets the requirements of subsection 20 of section~~
5 ~~57-02-08 or section 57-02-08.8.~~

6 ~~_____ d. If it is owned and used as living quarters by a permanently and totally disabled~~
7 ~~person or unremarried surviving spouse who meets the requirements of~~
8 ~~subsection 20 of section 57-02-08.~~

9 ~~_____ e. If it is owned and used as the living quarters for a blind person who meets the~~
10 ~~requirements of subsection 22 of section 57-02-08.~~

11 ~~_____ f. If it is owned and used by a person who uses it as living quarters and who~~
12 ~~qualifies for the homestead credit provided in section 57-02-08.1 otherwise would~~
13 ~~qualify for the primary residence property tax credit under section 1 of this Act if~~
14 ~~the property was subject to assessment under chapter 57-02, and the mobile-~~
15 ~~home shall be regarded for the purposes of this exemption as the homestead of~~
16 ~~the person claiming the exemption.~~

17 ~~_____ 2. This chapter does not apply to a mobile home that:~~

18 ~~_____ a. Is used only for the temporary living quarters of the owner or other occupant~~
19 ~~while the person is engaged in recreational or vacation activities, provided the~~
20 ~~unit:~~

21 ~~_____ (1) Displays a current travel trailer license; or~~

22 ~~_____ (2) Is a park model trailer that is used only for seasonal or recreational living~~
23 ~~quarters and not as a primary residence, and which is located in a trailer-~~
24 ~~park or campground, and for which the owner has paid a park model trailer-~~
25 ~~fee under section 39-18-03.2. For purposes of this paragraph, "park model"~~
26 ~~trailer means a recreational vehicle not exceeding forty feet [12.19 meters]~~
27 ~~in length which is primarily designed to provide temporary living quarters for~~
28 ~~recreation, camping, or seasonal use, is built on a single chassis, is~~
29 ~~mounted on wheels, has a gross trailer area not exceeding four hundred-~~
30 ~~square feet [37.16 square meters] of enclosed living space in the setup~~

1 mode, and is certified by the manufacturer as complying with American-
2 national standards institute standard A119.5.

3 ~~b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08,~~
4 provided such mobile home is permanently attached to a foundation.

5 ~~c. Is permanently attached to a foundation and is assessed as real property,~~
6 provided the owner of such mobile home also owns the land on which such
7 mobile home is located or is in possession of the real property under the terms of
8 a lease in recordable form which has a term that continues for at least twenty
9 years after the date of execution with the consent of the lessor of the real
10 property.

11 ~~d. Is owned by a licensed mobile home dealer who holds such mobile home solely~~
12 for the purpose of resale, and provided that such mobile home is not used as
13 living quarters or as the place for the conducting of any business.

14 ~~**SECTION 7. REPEAL.** Subsection 20 of section 57-02-08 of the North Dakota Century~~
15 ~~Code is repealed.~~

16 ~~**SECTION 8. REPEAL.** Subsection 22 of section 57-02-08 of the North Dakota Century~~
17 ~~Code is repealed.~~

18 ~~**SECTION 9. REPEAL.** Subsection 26 of section 57-02-08 of the North Dakota Century~~
19 ~~Code is repealed.~~

20 ~~**SECTION 10. REPEAL.** Sections 57-02-08.1, 57-02-08.2, and 57-02-08.8 of the North~~
21 ~~Dakota Century Code are repealed.~~

22 ~~**SECTION 11. EFFECTIVE DATE.** Section 5 of this Act is effective for taxable years~~
23 ~~beginning after December 31, 2019, and the remainder of this Act is effective for taxable years~~
24 ~~beginning after December 31, 2018.~~

25 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX REVENUE**
26 **REPLACEMENT.** During the 2019-20 interim, the legislative management shall consider
27 studying the feasibility and desirability of providing an alternative funding mechanism for the
28 revenue generated from property tax applied to one or more classifications of property. The
29 study must consider alternative funding mechanisms while avoiding funding mechanisms that
30 could result in further encumbrances being placed on real property. The legislative management

Sixty-sixth
Legislative Assembly

- 1 shall report its findings and recommendations, together with any legislation required to
- 2 implement the recommendations, to the sixty-seventh legislative assembly.