

HOUSE BILL NO. 1446

Introduced by

Representatives Magrum, Ertelt, Kading, B. Koppelman, Simons, Toman

Senators Clemens, Heitkamp

1 A BILL for an Act to create and enact a new section to chapter 21-10 and a new section to
2 chapter 57-02 of the North Dakota Century Code, relating to the transfer of legacy fund
3 earnings to a property tax relief fund and a property tax credit for property used as a primary
4 residence; to provide a continuing appropriation; to provide for a transfer; to provide an
5 exemption; to provide an effective date; and to declare an emergency.

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

7 **SECTION 1.** A new section to chapter 21-10 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Legacy property tax relief fund - State treasurer - Transfer of legacy fund earnings -**
10 **Continuing appropriation.**

11 1. There is created in the state treasury the legacy property tax relief fund. The fund
12 consists of legacy fund earnings transferred to the fund pursuant to subsection 2 and
13 interest upon money in the fund. All money in the fund is appropriated to the state
14 treasurer on a continuing basis for the purpose of allocations to counties and the state
15 medical center fund pursuant to section 2 of this Act.

16 2. Legacy fund earnings transferred to the general fund at the end of each biennium in
17 accordance with section 26 of article X of the Constitution of North Dakota must be
18 transferred immediately by the state treasurer to the legacy property tax relief fund.

19 **SECTION 2.** A new section to chapter 57-02 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Primary residence property tax credit - Certification - Distribution.**

22 1. An individual is entitled to receive a reduction equal to the taxable valuation of the
23 individual's primary residence as provided in this section. A reduction under this
24 section applies regardless of whether the individual is the head of a family.

- 1 2. An estate or trust, or a corporation or passthrough entity that owns residential property
2 used as part of a farming or ranching operation is entitled to a reduction as provided in
3 subsection 1 if that residential property is not exempt from property taxes as a farm
4 residence and is occupied as a primary residence, as of the assessment date of the
5 taxable year, by an individual who is a beneficiary of the estate or trust or who holds
6 an ownership interest in the corporation or passthrough entity. Either the occupant or
7 the entity that owns the residence may be the applicant for purposes of this subsection
8 and the definition of primary residence under subsection 13. An estate, trust,
9 corporation, or passthrough entity may not claim a reduction for more than one
10 property under this subsection.
- 11 3. The reduction under subsection 1 or 2 continues to apply if the individual does not
12 reside in the primary residence because the individual's absence is due to
13 confinement in a nursing home, hospital, or other care facility, for as long as that
14 confinement lasts and the portion of the primary residence previously occupied by the
15 individual is not rented to another individual.
- 16 4. Individuals residing together who are co-owners of the property but who are not
17 spouses or dependents are each entitled to a percentage of a full reduction under
18 subsection 1 or 2 equal to their ownership interests in the property.
- 19 5. The owner of a parcel of commercial property is entitled to receive a reduction equal to
20 the taxable valuation attributable to the portion of commercial property occupied by the
21 owner as the owner's primary residence. If a parcel of commercial property is owned
22 in whole or in part by a corporation or passthrough entity, the reduction under this
23 subsection applies to that property only if each individual having an ownership interest
24 in the corporation or passthrough entity resides in a primary residence eligible for the
25 reduction under subsection 1 or 2.
- 26 6. To claim a reduction under this section, an applicant must sign and file with the
27 assessor, by August first of the year for which a reduction is claimed, a claim form
28 containing a verified statement of facts establishing the applicant's eligibility as of
29 February first of that year.
- 30 7. The assessor shall attach the statement filed under subsection 6 to the assessment
31 sheet and shall show the reduction on the assessment sheet.

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

1 of the taxable year and which is not exempt from property taxes as a farm
2 residence.

3 14. Before April first of each year, the county auditor of each county shall certify to the tax
4 commissioner, on forms prescribed by the tax commissioner, the full name of each
5 individual for whom the reduction under this section was allowed for the preceding
6 year, the legal description of the property, the taxable value of the property, the dollar
7 amount of each reduction in taxable value allowed, and the total of the tax mill rates
8 for the preceding year of all taxing districts in which the property was contained,
9 exclusive of any state mill rates, and any other information prescribed by the tax
10 commissioner.

11 15. By June first of each year, the tax commissioner shall review the certifications under
12 subsection 14, make any required corrections, and certify to the state treasurer for
13 payment to each county the sum of the amounts computed by multiplying the
14 reduction allowed for each qualifying property in the county for the preceding year by
15 the total of the tax mill rates for the preceding year of all taxing districts in which the
16 property was contained. If the aggregate amount of credits claimed under this section
17 exceeds the amount of funds available in a taxable year, the tax commissioner shall
18 prorate the credits among the claimants when calculating the amount to certify to the
19 state treasurer for payment to each county. In reviewing certifications, the tax
20 commissioner may refer to any income tax return information or other information
21 available to the tax commissioner.

22 16. By June twenty-fifth of each year, the state treasurer shall distribute moneys in the
23 legacy property tax relief fund to counties in the amounts certified by the tax
24 commissioner under subsection 15.

25 17. Upon receipt of the payment from the state treasurer, the county treasurer shall
26 apportion and distribute the payment without delay to the county and to the taxing
27 districts of the county on the same basis the general real estate tax for the preceding
28 year is apportioned and distributed.

29 18. The tax commissioner shall certify annually to the state treasurer for deposit in the
30 state medical center fund the amount computed by multiplying one mill times the

1 reduction allowed under this section for the preceding year for all eligible property in
2 the state.

3 19. Supplemental certifications by the county auditor and the tax commissioner and
4 supplemental payments by the state treasurer may be made after the dates prescribed
5 in this section to make any corrections necessary because of errors or approval of any
6 application for equalization or abatement filed by an individual or entity because all or
7 part of the reduction under this section was not allowed.

8 **SECTION 3. EXEMPTION - TRANSFER OF LEGACY FUND EARNINGS.** Notwithstanding
9 subsection 2 of section 1 of this Act, any legacy fund earnings exceeding \$164,370,000 which
10 are transferred to the general fund during the biennium beginning July 1, 2019, and ending
11 June 30, 2021, in accordance with section 26 of article X of the Constitution of North Dakota
12 must be transferred immediately by the state treasurer to the legacy property tax relief fund.

13 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act is effective for taxable years
14 beginning after December 31, 2020. Sections 1 and 3 of this Act become effective on June 1,
15 2021.

16 **SECTION 5. EMERGENCY.** Sections 1 and 3 of this Act are declared to be an emergency
17 measure.