Prepared by the Legislative Council staff for
Representative Headland
January 26, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1054

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to assessment of agricultural property; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

57-02-27.2. Valuation and assessment of agricultural lands.

1. "True and full value" of agricultural lands must be their agricultural value for the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural value is defined as the "capitalized average annual gross return", except for ~~inundated~~nonproductive agricultural land. The "annual gross return" must be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis.

2. For purposes of this section, "annual gross return" for cropland used for growing crops other than sugar beets and potatoes means thirty percent of annual gross income produced, "annual gross return" for cropland used for growing sugar beets and potatoes means twenty percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means twenty-five percent of an amount determined by the department of agribusiness and applied economics of North Dakota state university to represent the annual gross income potential of the land based upon the animal unit carrying capacity of the land.

3. The "average annual gross return" for each county must be determined as follows:

   a. Total the annual gross returns for the ten years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the ten.

   b. The department of agribusiness and applied economics of North Dakota state university shall establish a base year index of prices paid by farmers using annual statistics on that topic compiled by the national agricultural statistics service for the seven-year period ending in 1995, discarding the highest and lowest years' indexes, and averaging the remaining five years' indexes. The department of agribusiness and applied economics shall gather the national agricultural statistics service annual index of prices paid by farmers for the ten years ending with the most recent year used under subdivision a, discard the highest and lowest years' indexes, average

the remaining eight years' indexes, and divide the resulting amount by the base year index of prices paid by farmers. This amount must be divided into the amount determined under subdivision a.

c. Divide the figure arrived at in subdivision b by eight.

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota~~, but the rate used for capitalization under this section may not be less than eight percent for taxable year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011~~. The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years~~, and the~~. The gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).

5. The department of agribusiness and applied economics of North Dakota state university shall compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall compute the average agricultural value per acre [.40 hectare] for cropland~~,~~ and noncropland~~, and inundated agricultural land~~ for each county~~; and shall~~, and provide the tax commissioner with this information by December first of each year. Fifty percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of the average agricultural value per acre [.40 hectare] for cropland for the county as determined by the department of agribusiness and applied economics. Before January first of each year, the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.

6. ~~For purposes of this section, "inundated agricultural land" means property classified as agricultural property containing~~The county director of tax equalization may classify agricultural land as nonproductive agricultural land if it consists of a minimum of ~~ten~~five contiguous acres ~~if the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county, which is inundated to an extent making it~~and is unsuitable for growing crops or grazing farm animals for two consecutive growing seasons or more~~,~~ and ~~which produced~~did not produce revenue from any source in the most recent prior year which is ~~less~~more than fifty percent of the county average revenue per acre for noncropland calculated by the department of agribusiness and applied economics of North Dakota state university. Land may not be classified as nonproductive agricultural land solely because it is wooded.

Application for classification as ~~inundated~~nonproductive agricultural land for property that was not so classified in the prior year must be made by the owner in writing to the ~~township assessor or~~ county director of tax equalization by March thirty-first of ~~each~~the taxable year. The owner shall

thereafter furnish to the county director of tax equalization, when requested to do so, any information that is believed will support the claim to retain nonproductive agricultural land classification for any subsequent year. Before all or part of a parcel of property may be classified as ~~inundated~~nonproductive agricultural land, the board of county commissioners must approve that classification for that property for the taxable year.

The agricultural value of ~~inundated~~nonproductive agricultural lands for purposes of this section must be determined ~~by the department of agribusiness and applied economics of North Dakota state university~~ to be ten percent of the average agricultural value of noncropland for the county as determined under this section. ~~Valuation of individual parcels of inundated agricultural land may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future.~~

Determinations made under this subsection may be appealed through the ~~informal~~ equalization process and ~~formal~~ abatement process provided for in this title.

7. Before the second Wednesday in February ~~first~~ of each year, the county director of tax equalization in each county shall provide to all assessors within the county an estimate of the average agricultural value of agricultural lands within each assessment district. The estimate must be based upon the average agricultural value for the county adjusted by the relative values of lands within each assessment district compared to the county average. In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall use soil type and soil classification data from detailed and general soil surveys.

8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. ~~Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization.~~ In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations~~, which are listed in descending order of significance to the assessment determination~~:

   a. Soil type and soil classification data from detailed or general soil surveys. It is presumed that if the soil capability class is 2, 3, or 4, that soil must be valued as cropland and if the soil capability class is 5, 6, 7, or 8, that soil must be valued as noncropland. How the property is used by the owner, by itself, does not overcome this presumption.

   b. The schedule of modifiers that ~~must~~may be used to adjust agricultural property assessments within the county ~~as approved by the state~~

~~supervisor of assessments under subsection 9~~and the guidelines established by the state supervisor of assessments for application of those modifiers.

~~c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.~~

9. Modifiers that may be applied to an agricultural property assessment parcel are:

   a. Inaccessibility, consisting of topographic conditions making farm machinery access impracticable.

   b. Nonconformity, consisting of an area of relatively higher productivity soil type surrounded by nonproductive or lower productivity soil type land, making it impracticable to utilize the area to its highest productive capacity.

   c. Uncharacteristic salinity, consisting of a greater degree of salinity than is characteristic of the soil type where it exists, by reason of water seepage, discharge, or collection.

10. Before the second Wednesday in February ~~first~~ of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county instruction on how to use and apply available soil survey resources, a schedule of modifiers that must be used to adjust agricultural property assessments within the county and ~~directions~~a copy of the current guidelines established by the state supervisor of assessments regarding how those modifiers must be applied by assessors. ~~Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county~~Modifiers may be applied to reduce the soil type valuation of an area consisting of at least five contiguous acres of a soil type affected by conditions described for one or more of the allowable modifiers, if the assessor confirms the existence of those conditions.

11. An agricultural property owner may challenge any aspect of the agricultural property assessment determined for a parcel of that person's property, including the soil survey determinations, the application or nonapplication of modifiers, and the application or nonapplication of nonproductive status. The owner must present the evidence and argument supporting the challenge to the assessor or through the equalization or abatement process provided for in this title.

~~10.~~12. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys by February first of any taxable year after 2011, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each quarter from the state aid distribution fund under section 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax commissioner certifies to the state treasurer that that county has fully implemented use of soil type or soil classification data. The amount withheld from the allocation must be deposited into the agricultural land valuation fund. The amount withheld from the allocation must be withheld entirely from the portion of

the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2015."

Renumber accordingly