

Fifty-eighth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1198**

Introduced by

Representatives Herbel, Kingsbury, Nicholas

Senators Fischer, Trenbeath

1 A BILL for an Act to amend and reenact sections 15.1-27-05, 57-02-27.2, and 57-13-04 of the  
2 North Dakota Century Code, relating to determination of net assessed and equalized valuation  
3 of agricultural property for purposes of the school district equalization factor and authority of the  
4 board of county commissioners to determine average agricultural property values per acre for  
5 the county; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 15.1-27-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **15.1-27-05. (Effective through June 30, 2004) School district equalization factor.**

10 To determine the amount of payments due a school district, the superintendent of public  
11 instruction shall add the tuition apportionment payments, per student payments, special  
12 education aid, transportation aid, and teacher compensation payments for which a school  
13 district is eligible and from that total subtract the following:

- 14 1. The product of thirty-two mills times the latest available net assessed and  
15 equalized valuation of property in the district. However, for purposes of  
16 determining net assessed and equalized valuation of agricultural property in the  
17 district under this subsection, the average agricultural value per acre estimated by  
18 the agricultural economics department of North Dakota state university under  
19 subsection 5 of section 57-02-27.2 for cropland, noncropland, and inundated  
20 agricultural land for the county must be applied to the acreage within the district in  
21 each of those categories of agricultural land.
- 22 2. The amount by which the unobligated general fund balance of the district on the  
23 preceding June thirtieth is in excess of seventy-five percent of its actual  
24 expenditures plus twenty thousand dollars.

1           **(Effective after June 30, 2004) School district equalization factor.** To determine the  
2 amount of payments due a school district, the superintendent of public instruction shall add the  
3 tuition apportionment payments, per student payments, special education aid, transportation  
4 aid, and teacher compensation payments for which a school district is eligible and from that  
5 total subtract the following:

- 6           1. The product of thirty-two mills times the latest available net assessed and  
7 equalized valuation of property in the district. However, for purposes of  
8 determining net assessed and equalized valuation of agricultural property in the  
9 district under this subsection, the average agricultural value per acre estimated by  
10 the agricultural economics department of North Dakota state university under  
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12 agricultural land for the county must be applied to the acreage within the district in  
13 each of those categories of agricultural land.
- 14          2. The amount by which the unobligated general fund balance of the district on the  
15 preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus  
16 twenty thousand dollars.

17           **SECTION 2. AMENDMENT.** Section 57-02-27.2 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19           **57-02-27.2. Valuation and assessment of agricultural lands.**

- 20          1. "True and full value" of agricultural lands must be their agricultural value for the  
21 purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural  
22 value ~~is defined as~~ must be based upon the "capitalized average annual gross  
23 return", except for inundated agricultural land. The "annual gross return" must be  
24 ~~determined~~ estimated from crop share rent, cash rent, or a combination thereof  
25 reduced by estimated property taxes and crop marketing expenses incurred by  
26 farmland owners renting their lands on a cash or crop share basis.
- 27          2. For purposes of this section, "annual gross return" for cropland used for growing  
28 crops other than sugar beets and potatoes means thirty percent of annual gross  
29 income produced, "annual gross return" for cropland used for growing sugar beets  
30 and potatoes means twenty percent of annual gross income produced, and  
31 "annual gross return" for land used for grazing farm animals means twenty-five

percent of an amount determined by the agricultural economics department 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~~ estimated as follows:

a. For taxable year 1999, total the annual gross returns for the nine years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the nine. For taxable year 2000 and thereafter, 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 agricultural economics department 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. For taxable year 1999, the agricultural economics department shall gather the national agricultural statistics service annual index of prices paid by farmers for the nine years ending with the most recent year used under subdivision a, discard the highest and lowest years' indexes, average the remaining seven years' indexes, and divide the resulting amount by the base year index of prices paid by farmers. For taxable year 2000 and thereafter, the agricultural economics department 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. For taxable year 1998, divide the figure arrived at in subdivision b by six. For taxable year 1999, divide the figure arrived at in subdivision b by seven. For

taxable year 2000 and thereafter, 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 federal land bank mortgage rate of interest for North Dakota. 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 gross federal land bank 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 paragraph (e)(2) of section 20.2032A-4.

5. The agricultural economics department 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 estimated average agricultural value per acre [.40 hectare] for cropland, noncropland, and inundated agricultural land for each county; and shall 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 agricultural economics department. 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. Based upon these estimates and all other matters that affect the actual value of the agricultural property, the board of county commissioners shall establish the average agricultural value per acre for cropland, noncropland, and inundated agricultural land for the county.

6. For purposes of this section, "inundated agricultural land" means property classified as agricultural property containing a minimum of ten 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 unsuitable for growing crops or grazing farm animals for two consecutive growing seasons or more, and which produced revenue from any source in the most recent prior year which is less than the county average revenue per acre for noncropland calculated by the agricultural economics department of the North Dakota state university. Application for classification as inundated agricultural land must be made in writing to the township assessor or county director of tax equalization by March thirty-first of each year, except that for the year 2001, the written application must be made within ninety days from March 16, 2001. Before all or part of a parcel of property may be classified as inundated agricultural land, the board of county commissioners must approve that classification for that property for the taxable year. The agricultural value of inundated agricultural lands for purposes of this section must be ~~determined~~ estimated by the agricultural economics department 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.

7. Before 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 as determined by the board of county commissioners 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, whenever possible, shall use soil type and soil classification data from detailed and general soil surveys. When such data cannot be used, the county director of tax equalization shall use whatever previous assessment data is best suited to the purpose.
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.

**SECTION 3. AMENDMENT.** Section 57-13-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-13-04. General duties and powers of board.** The state board of equalization shall equalize the valuation and assessment of property throughout the state, and has power to equalize the assessment of property in this state between assessment districts of the same county, and between the different counties of the state except as limited by this section. It shall:

1. Equalize the assessment of real property by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such rate percent as will raise the same to its proper value as provided by law, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and every county in the state in which the board may believe the value too high, such percent as will reduce the same to its proper value as provided by law. However, the determination of the board of county commissioners of average agricultural value per acre under section 57-02-27.2 may not be altered by the state board of equalization. City lots must be equalized in the manner provided for equalizing other real property.
2. In making such equalization, add to or deduct from the aggregate assessed valuation of lands and city lots such percent as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the rate percent of addition or deduction must be even and not fractional.

3. In equalizing individual assessments:

- a. The board may, if it believes an assessment to be too high, reduce the assessment on any separate piece or parcel of real estate if the taxpayer has appealed such assessment to the board either by appearing personally or by a representative before the board or by mail or other communication to the board in which the taxpayer's reasons for asking for the reduction are made known to the board; provided, however, that the board does not have authority to reduce an assessment until the taxpayer has established to the satisfaction of the board that the taxpayer had first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.
- b. The board may, if it believes an assessment to be too low, increase the assessment on any separate piece or parcel of real estate. The secretary of the board shall, by mail sent to the last-known address of the owner to whom the property was assessed, notify such person of the amount of increase made by the board in such assessment.
- c. The percentage of reduction or increase made by the board under this subsection in any assessment must be a whole numbered amount and not a fractional amount.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2002.