

**HOUSE BILL NO. 1054**

Introduced by

Legislative Management

(Taxation Committee)

1 A BILL ~~for an Act to amend and reenact subsections 8 and 9 of section 57-02-27.2 of the North~~  
2 ~~Dakota Century Code, relating to establishment and use of modifiers for assessment of~~  
3 ~~agricultural property; and to provide an effective date.~~ for an Act to amend and reenact section  
4 57-02-27.2 of the North Dakota Century Code, relating to assessment of agricultural property;  
5 and to provide an effective date.

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

7 ~~— **SECTION 1. AMENDMENT.** Subsections 8 and 9 of section 57-02-27.2 of the North Dakota~~  
8 ~~Century Code are amended and reenacted as follows:~~

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

20 ~~— a. — Soil type and soil classification data from detailed or general soil surveys.~~

21 ~~— b. — The schedule of modifiers that must be used to adjust agricultural property~~  
22 ~~assessments within the county as approved by the state supervisor of~~  
23 ~~assessments under subsection 9 and the guidelines established by the state~~  
24 ~~supervisor of assessments for application of those modifiers.~~

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

3 ~~\_\_\_\_\_ 9. Before February first of each year, the county director of tax equalization in each~~  
4 ~~county shall provide to all assessors of agricultural property within the county~~  
5 ~~instruction on how to use available soil survey resources, a copy of the schedule of~~  
6 ~~modifiers that must be used to adjust agricultural property assessments within the~~  
7 ~~county, and directions a copy of the current guidelines established by the state~~  
8 ~~supervisor of assessments regarding how those modifiers must be applied by~~  
9 ~~assessors. Before the schedule of modifiers is provided to assessors within the~~  
10 ~~county, the county director of tax equalization shall obtain the approval of the state~~  
11 ~~supervisor of assessments for use of the schedule within the county. Modifiers may be~~  
12 ~~applied to reduce the soil type valuation of an area consisting of at least five~~  
13 ~~contiguous acres of a soil type affected by conditions described for one or more of the~~  
14 ~~allowable modifiers, if the assessor makes a site inspection to confirm the existence of~~  
15 ~~those conditions.~~

16 ~~\_\_\_\_\_ **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after~~  
17 ~~December 31, 2015.~~

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

20 **57-02-27.2. Valuation and assessment of agricultural lands.**

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

1 return" for land used for grazing farm animals means twenty-five percent of an amount  
2 determined by the department of agribusiness and applied economics of North Dakota  
3 state university to represent the annual gross income potential of the land based upon  
4 the animal unit carrying capacity of the land.

- 5 3. The "average annual gross return" for each county must be determined as follows:
- 6 a. Total the annual gross returns for the ten years immediately preceding the current  
7 year for which data is available and discard the highest and lowest annual gross  
8 returns of the ten.
- 9 b. The department of agribusiness and applied economics of North Dakota state  
10 university shall establish a base year index of prices paid by farmers using  
11 annual statistics on that topic compiled by the national agricultural statistics  
12 service for the seven-year period ending in 1995, discarding the highest and  
13 lowest years' indexes, and averaging the remaining five years' indexes. The  
14 department of agribusiness and applied economics shall gather the national  
15 agricultural statistics service annual index of prices paid by farmers for the ten  
16 years ending with the most recent year used under subdivision a, discard the  
17 highest and lowest years' indexes, average the remaining eight years' indexes,  
18 and divide the resulting amount by the base year index of prices paid by farmers.  
19 This amount must be divided into the amount determined under subdivision a.
- 20 c. Divide the figure arrived at in subdivision b by eight.
- 21 4. To find the "capitalized average annual gross return", the average annual gross return  
22 must be capitalized by a rate that is a ten-year average of the gross agribank  
23 mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under~~  
24 ~~this section may not be less than eight percent for taxable year 2009, seven and~~  
25 ~~seven-tenths percent for taxable year 2010, and seven and four-tenths percent for~~  
26 ~~taxable year 2011.~~ The ten-year average must be computed from the twelve years  
27 ending with the most recent year used under subdivision a of subsection 3, discarding  
28 the highest and lowest years, ~~and the~~. The gross agribank mortgage rate of interest for  
29 each year must be determined in the manner provided in section 20.2032A-4(e)(1) of  
30 the United States treasury department regulations for valuing farm real property for

1 federal estate tax purposes, except that the interest rate may not be adjusted as  
2 provided in section 20.2032A-4(e)(2).

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

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

26 Application for classification as ~~inundated~~ nonproductive agricultural land for  
27 property that was not so classified in the prior year must be made by the owner in  
28 writing to the ~~township assessor or~~ county director of tax equalization by March  
29 thirty-first of ~~each~~ the taxable year. The owner shall thereafter furnish to the county  
30 director of tax equalization, when requested to do so, any information that is believed  
31 will support the claim to retain nonproductive agricultural land classification for any

1 subsequent year. Before all or part of a parcel of property may be classified as  
2 ~~inundated nonproductive~~ agricultural land, the board of county commissioners must  
3 approve that classification for that property for the taxable year.

4 \_\_\_\_ The agricultural value of ~~inundated nonproductive~~ agricultural lands for purposes  
5 of this section must be determined ~~by the department of agribusiness and applied-~~  
6 ~~economics of North Dakota state university~~ to be ten percent of the average  
7 agricultural value of noncropland for the county as determined under this section.

8 ~~Valuation of individual parcels of inundated agricultural land may recognize the~~  
9 ~~probability that the property will be suitable for agricultural production as cropland or~~  
10 ~~for grazing farm animals in the future.~~

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

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

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

- 1 a. Soil type and soil classification data from detailed or general soil surveys. It is  
2 presumed that if the soil capability class is 2, 3, or 4, that soil must be valued as  
3 cropland and if the soil capability class is 5, 6, 7, or 8, that soil must be valued as  
4 noncropland. How the property is used by the owner, by itself, does not  
5 overcome this presumption.
- 6 b. The schedule of modifiers that ~~must~~may be used to adjust agricultural property  
7 assessments within the county ~~as approved by the state supervisor of~~  
8 ~~assessments under subsection 9~~and the guidelines established by the state  
9 supervisor of assessments for application of those modifiers.

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

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

- 13 a. Inaccessibility, consisting of topographic conditions making farm machinery  
14 access impracticable.
- 15 b. Nonconformity, consisting of an area of relatively higher productivity soil type  
16 surrounded by nonproductive or lower productivity soil type land, making it  
17 impracticable to utilize the area to its highest productive capacity.
- 18 c. Uncharacteristic salinity, consisting of a greater degree of salinity than is  
19 characteristic of the soil type where it exists, by reason of water seepage,  
20 discharge, or collection.

21 10. Before the second Wednesday in February ~~first~~ of each year, the county director of tax  
22 equalization in each county shall provide to all assessors of agricultural property within  
23 the county instruction on how to use and apply available soil survey resources, a  
24 schedule of modifiers that must be used to adjust agricultural property assessments  
25 within the county and ~~directions~~a copy of the current guidelines established by the  
26 state supervisor of assessments regarding how those modifiers must be applied by  
27 assessors. ~~Before the schedule of modifiers is provided to assessors within the~~  
28 ~~county, the county director of tax equalization shall obtain the approval of the state~~  
29 ~~supervisor of assessments for use of the schedule within the county~~Modifiers may be  
30 applied to reduce the soil type valuation of an area consisting of at least five

1 contiguous acres of a soil type affected by conditions described for one or more of the  
2 allowable modifiers, if the assessor confirms the existence of those conditions.

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

9 ~~10.12.~~ For any county that has not fully implemented use of soil type and soil classification  
10 data from detailed or general soil surveys by February first of any taxable year after  
11 2011, the tax commissioner shall direct the state treasurer to withhold five percent of  
12 that county's allocation each quarter from the state aid distribution fund under section  
13 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax  
14 commissioner certifies to the state treasurer that that county has fully implemented  
15 use of soil type or soil classification data. The amount withheld from the allocation  
16 must be deposited into the agricultural land valuation fund. The amount withheld from  
17 the allocation must be withheld entirely from the portion of the allocation which may be  
18 retained by the county and may not reduce allocations to any political subdivisions  
19 within the county.

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