

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1054

Introduced by

Legislative Management

(Taxation Committee)

1 A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code,  
2 relating to assessment of agricultural property; to provide for a legislative management study;  
3 and to provide an effective date.

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

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

7 **57-02-27.2. Valuation and assessment of agricultural lands.**

- 8 1. "True and full value" of agricultural lands must be their agricultural value for the  
9 purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural  
10 value is defined as the "capitalized average annual gross return", except for  
11 ~~inundated~~nonproductive agricultural land. The "annual gross return" must be  
12 determined from crop share rent, cash rent, or a combination thereof reduced by  
13 estimated property taxes and crop marketing expenses incurred by farmland owners  
14 renting their lands on a cash or crop share basis.
- 15 2. For purposes of this section, "annual gross return" for cropland used for growing crops  
16 other than sugar beets and potatoes means thirty percent of annual gross income  
17 produced, "annual gross return" for cropland used for growing sugar beets and  
18 potatoes means twenty percent of annual gross income produced, and "annual gross  
19 return" for land used for grazing farm animals means twenty-five percent of an amount  
20 determined by the department of agribusiness and applied economics of North Dakota  
21 state university to represent the annual gross income potential of the land based upon  
22 the animal unit carrying capacity of the land.
- 23 3. The "average annual gross return" for each county must be determined as follows:

- 1           a. Total the annual gross returns for the ten years immediately preceding the current  
2           year for which data is available and discard the highest and lowest annual gross  
3           returns of the ten.
- 4           b. The department of agribusiness and applied economics of North Dakota state  
5           university shall establish a base year index of prices paid by farmers using  
6           annual statistics on that topic compiled by the national agricultural statistics  
7           service for the seven-year period ending in 1995, discarding the highest and  
8           lowest years' indexes, and averaging the remaining five years' indexes. The  
9           department of agribusiness and applied economics shall gather the national  
10          agricultural statistics service annual index of prices paid by farmers for the ten  
11          years ending with the most recent year used under subdivision a, discard the  
12          highest and lowest years' indexes, average the remaining eight years' indexes,  
13          and divide the resulting amount by the base year index of prices paid by farmers.  
14          This amount must be divided into the amount determined under subdivision a.
- 15          c. Divide the figure arrived at in subdivision b by eight.
- 16      4. To find the "capitalized average annual gross return", the average annual gross return  
17      must be capitalized by a rate that is a ten-year average of the gross agribank  
18      mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under~~  
19      ~~this section may not be less than eight percent for taxable year 2009, seven and~~  
20      ~~seven-tenths percent for taxable year 2010, and seven and four-tenths percent for~~  
21      ~~taxable year 2014.~~ The ten-year average must be computed from the twelve years  
22      ending with the most recent year used under subdivision a of subsection 3, discarding  
23      the highest and lowest years, ~~and the~~. The gross agribank mortgage rate of interest for  
24      each year must be determined in the manner provided in section 20.2032A-4(e)(1) of  
25      the United States treasury department regulations for valuing farm real property for  
26      federal estate tax purposes, except that the interest rate may not be adjusted as  
27      provided in section 20.2032A-4(e)(2).
- 28      5. The department of agribusiness and applied economics of North Dakota state  
29      university shall compute annually an estimate of the average agricultural value per  
30      acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall  
31      compute the average agricultural value per acre [.40 hectare] for cropland; and

1 noncropland, ~~and inundated agricultural land~~ for each county; ~~and shall, and~~ provide  
2 the tax commissioner with this information by December first of each year. Fifty  
3 percent of the annual gross income from irrigated cropland must be considered  
4 additional expense of production and may not be included in computation of the  
5 average agricultural value per acre [.40 hectare] for cropland for the county as  
6 determined by the department of agribusiness and applied economics. Before January  
7 first of each year, the tax commissioner shall provide to each county director of tax  
8 equalization these estimates of agricultural value for each county.

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

20 Application for classification as ~~inundated~~nonproductive agricultural land for  
21 property that was not so classified in the prior year must be made by the owner in  
22 writing to the ~~township assessor or~~ county director of tax equalization by March  
23 thirty-first of each~~the~~ taxable year. ~~If the property was not classified as nonproductive~~  
24 agricultural land in the preceding taxable year, the assessor must confirm that the  
25 property qualifies for that classification by conducting a site inspection of the property  
26 and reporting the conclusion from that inspection to the county board of equalization.  
27 ~~The~~if the property was classified as nonproductive agricultural land in the preceding  
28 taxable year, the owner shall ~~thereafter~~ furnish to the county director of tax  
29 equalization, when requested to do so, any information that is believed will support the  
30 claim to retain nonproductive agricultural land classification for any subsequent year.  
31 Before all or part of a parcel of property may be classified as ~~inundated~~nonproductive

1 agricultural land, the ~~board of county commissioners~~[board of equalization](#) must  
2 approve that classification for that property for the taxable year.

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

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

- 12 7. Before the second Wednesday in February first of each year, the county director of tax  
13 equalization in each county shall provide to all assessors within the county an estimate  
14 of the average agricultural value of agricultural lands within each assessment district.  
15 The estimate must be based upon the average agricultural value for the county  
16 adjusted by the relative values of lands within each assessment district compared to  
17 the county average. In determining the relative value of lands for each assessment  
18 district compared to the county average, the county director of tax equalization shall  
19 use soil type and soil classification data from detailed and general soil surveys.
- 20 8. Each local assessor shall determine the relative value of each assessment parcel  
21 within the assessor's jurisdiction and shall determine the agricultural value of each  
22 assessment parcel by adjusting the agricultural value estimate for the assessment  
23 district by the relative value of the parcel. ~~Each parcel must then be assessed~~  
24 ~~according to section 57-02-27. If either a local assessor or a township board of~~  
25 ~~equalization develops an agricultural value for the lands in its assessment district~~  
26 ~~differing substantially from the estimate provided by the county director of tax~~  
27 ~~equalization, written evidence to support the change must be provided to the county~~  
28 ~~director of tax equalization.~~ In determining the relative value of each assessment  
29 parcel, the local assessor shall apply the following considerations, [which are listed in](#)  
30 [descending order of significance to the assessment determination:](#)

- 1 a. Soil type and soil classification data from detailed or general soil surveys, using  
2 guidelines established by the state supervisor of assessments for use and  
3 application of the soil survey data. ~~It is presumed that if the soil capability class is~~  
4 ~~2, 3, or 4, that soil must be valued as cropland and if the soil capability class is 5,~~  
5 ~~6, 7, or 8, that soil must be valued as noncropland. How the property is used by~~  
6 ~~the owner, by itself, does not overcome this presumption.~~
- 7 b. The schedule of modifiers that ~~must~~may be used to adjust agricultural property  
8 assessments within the county as ~~approved by the state supervisor of~~  
9 ~~assessments under subsection 9~~and the guidelines established by the state  
10 supervisor of assessments for application of those modifiers.
- 11 c. Actual use of the property for cropland or noncropland purposes by the owner of  
12 the parcel.
- 13 9. Modifiers that may be applied to an agricultural property assessment parcel are:
- 14 a. Inaccessibility, consisting of topographic conditions making farm machinery  
15 access impracticable.
- 16 b. Nonconformity, consisting of an area of relatively higher productivity soil type  
17 surrounded by nonproductive or lower productivity soil type land, making it  
18 impracticable to utilize the area to its highest productive capacity.
- 19 c. Uncharacteristic salinity, consisting of a greater degree of salinity than is  
20 characteristic of the soil type where it exists, by reason of water seepage,  
21 discharge, or collection.
- 22 10. Before the second Wednesday in February first of each year, the county director of tax  
23 equalization in each county shall provide to all assessors of agricultural property within  
24 the county instruction on how to use and apply available soil survey resources, a  
25 schedule of modifiers that must be used to adjust agricultural property assessments  
26 within the county and directionsa copy of the current guidelines established by the  
27 state supervisor of assessments regarding how those modifiers must be applied by  
28 assessors. Before the schedule of modifiers is provided to assessors within the  
29 county, the county director of tax equalization shall obtain the approval of the state  
30 supervisor of assessments for use of the schedule within the countyModifiers may be  
31 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. LEGISLATIVE MANAGEMENT STUDY - AGRICULTURAL PROPERTY**  
21 **ASSESSMENT UNIFORMITY.** During the 2015-16 interim, the legislative management shall  
22 consider studying the most accurate and equitable means of achieving uniformity in agricultural  
23 property assessments. As a basis for this determination, the committee or task force selected to  
24 conduct the study shall gather the best information available to compare and consider each  
25 county's method of assessment of agricultural property, including detailed information for each  
26 county on application of modifiers or other methods of adjusting valuations. The legislative  
27 management shall report its findings and recommendations, together with any legislation  
28 necessary to implement the recommendations, to the sixty-fifth legislative assembly.

29 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
30 December 31, 2015.