

April 12, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1006

That the Senate recede from its amendments as printed on pages 1418-1421 of the House Journal and pages 1104-1107 of the Senate Journal and that Engrossed House Bill No. 1006 be amended as follows:

Page 1, line 3, after "57-01-04" insert ", subdivision b of subsection 15 of section 57-02-08, subsection 4 of section 57-38-01.28, and subdivision t of subsection 2 of section 57-38-30.3"

Page 1, line 4, after "commissioner" insert ", income eligibility for purposes of the farm residence property tax exemption, the marriage penalty credit, and an income tax exclusion for social security benefits"

Page 1, line 5, remove "and"

Page 1, line 5, after "transfer" insert "; and to provide an effective date"

Page 1, replace lines 16 through 23 with:

"Salaries and wages	\$22,867,956	(\$26,024)	\$22,841,932
Operating expenses	7,112,460	353,660	7,466,120
Capital assets	6,000	0	6,000
Homestead tax credit	15,800,000	2,200,000	18,000,000
Disabled veterans' tax credit	<u>8,410,200</u>	<u>7,889,800</u>	<u>16,300,000</u>
Total all funds	\$54,196,616	\$10,417,436	\$64,614,052
Less estimated income	<u>125,000</u>	<u>0</u>	<u>125,000</u>
Total general fund	\$54,071,616	\$10,417,436	\$64,489,052"

Page 2, after line 12, insert:

**"SECTION 4. STATEWIDE LITIGATION FUNDING POOL - PAYMENT OF TAX COMMISSIONER LITIGATION-RELATED EXPENSES.** The tax commissioner may submit litigation-related expenses to the attorney general which the attorney general shall pay from the statewide litigation funding pool for litigation expenses incurred by the tax commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 2, line 18, replace "twenty-three" with "twenty-four"

Page 2, line 18, replace "six" with "two"

Page 2, line 18, replace "forty-one" with "fifty"

Page 2, after line 18, insert:

**"SECTION 6. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption

may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

- (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
- (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
  - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.
  - (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
  - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the

production of agricultural produce or products, livestock, or poultry on farms which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.

- (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].
- (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
- (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

**SECTION 7. AMENDMENT.** Subsection 4 of section 57-38-01.28 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section:
  - a. "Qualifying income" means the sum of the following, to the extent included in North Dakota taxable income:
    - (1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code; and
    - (2) Income received from a retirement pension, profit-sharing, stock bonus, or annuity plan; ~~and~~
    - (3) ~~Social security benefits as defined in section 86(d)(1) of the Internal Revenue Code to the extent included in North Dakota taxable income.~~
  - b. "Qualifying income of the lesser-earning spouse" means the qualifying income of the spouse with the lesser amount of qualifying income for the taxable year minus the sum of:

- (1) The amount for one exemption under section 151(d) of the Internal Revenue Code; and
- (2) One-half of the amount of the standard deduction under section 63(c)(2)(A)(4) of the Internal Revenue Code.

**SECTION 8. AMENDMENT.** Subdivision t of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- t. For taxpayers with federal adjusted gross income of ~~fifty~~fiftyseveny-five thousand dollars or less, or one hundred ~~fifty~~ thousand dollars or less if married filing jointly, reduced by an amount equal to social security benefits included in a taxpayer's federal adjusted gross income under section 86 of the Internal Revenue Code.

**SECTION 9. AMENDMENT.** Subdivision t of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- t. ~~For taxpayers with federal adjusted gross income of seventy five thousand dollars or less, or one hundred fifty thousand dollars or less if married filing jointly, reduced~~Reduced by ~~an~~the amount equal to ~~of~~ social security benefits included in a taxpayer's federal adjusted gross income under section 86 of the Internal Revenue Code.

**SECTION 10. EFFECTIVE DATE.** Section 8 of this Act is effective for taxable years beginning after December 31, 2020. Section 6 of this Act is effective for taxable years beginning after December 31, 2021. Sections 7 and 9 of this Act are effective for taxable years beginning after December 31, 2022."

Renumber accordingly