

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the office of the tax
 2 commissioner and for payment of state reimbursement under the homestead tax credit and
 3 disabled veterans' tax credit; to amend and reenact section 57-01-04 and subdivision b of
 4 subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the salary of
 5 the state tax commissioner and income eligibility for purposes of the farm residence property
 6 tax exemption; to provide an exemption; ~~and~~ to provide for a transfer; and to provide an
 7 effective date.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 10 as may be necessary, are appropriated out of any moneys in the general fund in the state
 11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 12 other income, to the tax commissioner for the purpose of defraying the expenses of the tax
 13 commissioner and paying the state reimbursement under the homestead tax credit and disabled
 14 veterans' tax credit, for the biennium beginning July 1, 2021, and ending June 30, 2023, as
 15 follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$22,867,956	(\$525,154)	\$22,342,802
19 Operating expenses	7,112,460	353,660	7,466,120
20 Capital assets	6,000	0	6,000
21 Homestead tax credit	15,800,000	2,200,000	18,000,000
22 Disabled veterans' tax credit	8,410,200	5,589,800	14,000,000
23 Total all funds	\$54,196,616	\$7,618,306	\$61,814,922
24 Less estimated income	125,000	0	125,000

1	Total general fund	\$54,071,616	\$7,618,306	\$61,689,922
2	Salaries and wages	\$22,867,956	(\$26,024)	\$22,841,932
3	Operating expenses	7,112,460	353,660	7,466,120
4	Capital assets	6,000	0	6,000
5	Homestead tax credit	15,800,000	2,200,000	18,000,000
6	Disabled veterans' tax credit	8,410,200	7,889,800	16,300,000
7	Total all funds	\$54,196,616	\$10,417,436	\$64,614,052
8	Less estimated income	125,000	0	125,000
9	Total general fund	\$54,071,616	\$10,417,436	\$64,489,052
10	Full-time equivalent positions	123.00	(5.00)	118.00

11 **SECTION 2. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,
12 the state tax commissioner may transfer funds between the homestead tax credit and disabled
13 veterans' tax credit line items in section 1 of this Act if one line item does not have sufficient
14 funds available for state reimbursement of eligible tax credits. The state tax commissioner shall
15 notify the office of management and budget and the legislative council of any transfers made
16 pursuant to this section.

17 **SECTION 3. MOTOR VEHICLE FUEL TAX REVENUE TRANSFER.** There is transferred to
18 the general fund in the state treasury out of motor vehicle tax revenue collected pursuant to
19 section 57-43.1-02, the sum of \$1,873,744, for the purpose of reimbursing the general fund for
20 expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the
21 administration of these taxes, for the biennium beginning July 1, 2021, and ending June 30,
22 2023.

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

28 **SECTION 5. AMENDMENT.** Section 57-01-04 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **57-01-04. Salary.**

2 The annual salary of the state tax commissioner is one hundred ~~seventeen~~twenty-one
3 thousand ~~eighty-seven~~eight hundred fourteen dollars through June 30, ~~2020~~2022, and one
4 hundred ~~twenty~~twenty-threetwenty-four thousand ~~fourteen~~sixtwo hundred ~~forty-one~~fifty dollars
5 thereafter.

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

8 b. It is the intent of the legislative assembly that this exemption as applied to a
9 residence must be strictly construed and interpreted to exempt only a residence
10 that is situated on a farm and which is occupied or used by a person who is a
11 farmer and that the exemption may not be applied to property which is occupied
12 or used by a person who is not a farmer. For purposes of this subdivision:

13 (1) "Farm" means a single tract or contiguous tracts of agricultural land
14 containing a minimum of ten acres [4.05 hectares] and for which the farmer,
15 actually farming the land or engaged in the raising of livestock or other
16 similar operations normally associated with farming and ranching, has
17 annual gross income from farming activities which is sixty-six percent or
18 more of annual gross income, including gross income of a spouse if
19 married, during any of the two preceding calendar years.

20 (2) "Farmer" means an individual who normally devotes the major portion of
21 time to the activities of producing products of the soil, with the exception of
22 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming
23 in such products' unmanufactured state and has received annual gross
24 income from farming activities which is sixty-six percent or more of annual
25 gross income, including gross income of a spouse if married, during any of
26 the two preceding calendar years. For purposes of this paragraph, "farmer"
27 includes a:

28 (a) "Beginning farmer", which means an individual who has begun
29 occupancy and operation of a farm within the two preceding calendar
30 years; who normally devotes the major portion of time to the activities
31 of producing products of the soil, poultry, livestock, or dairy farming in

1 such products' unmanufactured state; and who does not have a
2 history of farm income from farm operation for each of the two
3 preceding calendar years.

4 (b) "Retired farmer", which means an individual who is retired because of
5 illness or age and who at the time of retirement owned and occupied
6 as a farmer the residence in which the person lives and for which the
7 exemption is claimed.

8 (c) "Surviving spouse of a farmer", which means the surviving spouse of
9 an individual who is deceased, who at the time of death owned and
10 occupied as a farmer the residence in which the surviving spouse
11 lives and for which the exemption is claimed. The exemption under
12 this subparagraph expires at the end of the fifth taxable year after the
13 taxable year of death of an individual who at the time of death was an
14 active farmer. The exemption under this subparagraph applies for as
15 long as the residence is continuously occupied by the surviving
16 spouse of an individual who at the time of death was a retired farmer.

17 (3) "Gross income" means gross income as defined under the federal Internal
18 Revenue Code and does not include a gain from the sale or exchange of
19 farm machinery as computed for federal income tax purposes. For purposes
20 of this paragraph, "farm machinery" means all vehicular implements and
21 attachment units designed and sold for direct use in planting, cultivating, or
22 harvesting farm products or used in connection with the production of
23 agricultural produce or products, livestock, or poultry on farms which are
24 operated, drawn, or propelled by motor or animal power. "Farm machinery"
25 does not include vehicular implements operated wholly by hand or a motor
26 vehicle that is required to be registered under chapter 57-40.3.

27 (4) "Gross income from farming activities" means gross income from farming as
28 defined for purposes of determining if an individual is a farmer eligible to use
29 the special estimated income tax payment rules for farmers under section
30 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

1 (5) When exemption is claimed under this subdivision for a residence, the
2 occupant of the residence who it is claimed is a farmer shall provide to the
3 assessor for the year or years specified by the assessor a written statement
4 in which it is stated that sixty-six percent or more of the gross income of that
5 occupant, and spouse if married and both spouses occupy the residence,
6 was, or was not, gross income from farming activities. The individual
7 claiming the exemption also shall provide to the assessor, on a form
8 prescribed by the tax commissioner, the necessary income information to
9 demonstrate eligibility. Any income information provided to the assessor
10 regarding eligibility for an exemption claimed under this subdivision is a
11 confidential record.

12 (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional
13 livestock" as defined in section 36-01-00.1.

14 (7) A farmer operating a bed and breakfast facility in the farm residence
15 occupied by that farmer is entitled to the exemption under this section for
16 that residence if the farmer and the residence would qualify for exemption
17 under this section except for the use of the residence as a bed and
18 breakfast facility.

19 **SECTION 7. EFFECTIVE DATE.** Section 6 of this Act is effective for taxable years
20 beginning after December 31, 2021.