

AMENDMENTS TO LB461

(Amendments to Standing Committee amendments, AM954)

Introduced by Brewer, 43.

1 1. Strike sections 1 to 9 and insert the following new sections:

2 Section 1. Sections 1 to 9 of this act shall be known and may be
3 cited as the Agricultural Valuation Fairness Act.

4 Sec. 2. Pursuant to Article VIII, section 1, subdivisions (4) and
5 (5), of the Constitution of Nebraska, the Legislature finds and declares
6 that:

7 (1) The agricultural industry is a vital part of the economy of this
8 state;

9 (2) The nature of the agricultural industry and commodity prices
10 affect the value of agricultural land and horticultural land;

11 (3) All agricultural land and horticultural land in Nebraska has an
12 actual value as defined in section 77-112 reflecting purposes or uses
13 other than agricultural or horticultural purposes or uses;

14 (4) Market influences to use agricultural land and horticultural
15 land for purposes other than agricultural or horticultural purposes are
16 present throughout the state and cause the prices paid for agricultural
17 land and horticultural land to exceed the value such land has for
18 agricultural or horticultural purposes;

19 (5) The best and most uniform way to exclude any value that
20 agricultural land and horticultural land has for purposes other than
21 agricultural or horticultural purposes is to rely on the income-producing
22 characteristics of the land; and

23 (6) Agricultural land and horticultural land should be assessed at
24 its agricultural-use value using an income approach that complies with
25 professionally accepted mass appraisal techniques.

26 Sec. 3. For purposes of the Agricultural Valuation Fairness Act:

1 (1) Agricultural land and horticultural land means a parcel of land,
2 excluding land associated with a building or enclosed structure located
3 on the parcel, which is primarily used for agricultural or horticultural
4 purposes, including wasteland lying in or adjacent to and in common
5 ownership or management with other agricultural land and horticultural
6 land;

7 (2) Agricultural or horticultural purposes means used for the
8 commercial production of any plant or animal product in a raw or
9 unprocessed state that is derived from the science and art of
10 agriculture, aquaculture, or horticulture. Agricultural or horticultural
11 purposes includes the following uses of land:

12 (a) Land retained or protected for future agricultural or
13 horticultural purposes under a conservation easement approved as required
14 by section 76-2,112 except when the parcel or a portion thereof is being
15 used for purposes other than agricultural or horticultural purposes; and

16 (b) Land enrolled in a federal or state program in which payments
17 are received for removing such land from agricultural or horticultural
18 production;

19 (3) Agricultural-use value means the value of land for agricultural
20 or horticultural purposes or uses without regard to the value of such
21 land for other purposes or uses as determined pursuant to the
22 Agricultural Valuation Fairness Act;

23 (4) Farm home site means land contiguous to a farm site which
24 includes an inhabitable residence and improvements used for residential
25 purposes and which is located outside of urban areas or outside a platted
26 and zoned subdivision;

27 (5) Farm site means the portion of land contiguous to land actively
28 devoted to agriculture which includes improvements that are agricultural
29 or horticultural in nature, including any uninhabitable or unimproved
30 farm home site; and

31 (6) Olympic average means an average that excludes the high and low

1 observations in a sample.

2 Sec. 4. (1) Agricultural land and horticultural land shall be a
3 separate and distinct class of real property for purposes of assessment.

4 (2) For assessments made on or after January 1, 2019, the assessed
5 value of agricultural land and horticultural land shall be determined as
6 follows:

7 (a) The assessed value of agricultural land and horticultural land
8 shall not be uniform and proportionate with all other real property, but
9 the assessed value shall be uniform and proportionate within the class of
10 agricultural land and horticultural land based on the income potential of
11 the land; and

12 (b) Agricultural land and horticultural land shall be valued at its
13 agricultural-use value as determined pursuant to the Agricultural
14 Valuation Fairness Act regardless of any value which such land might have
15 for purposes other than agricultural or horticultural purposes.

16 (3) The eligibility of land for agricultural-use value shall be
17 determined each year as of January 1. If land so qualified becomes
18 disqualified on or before December 31 of that year, it shall continue to
19 receive agricultural-use value until January 1 of the year following.

20 Sec. 5. (1) The county assessor shall use an income-approach
21 calculation to determine the agricultural-use value for each assessment
22 year beginning on or after January 1, 2019. The income-approach
23 calculation shall be consistent with the Agricultural Valuation Fairness
24 Act and any rules and regulations adopted and promulgated by the Tax
25 Commissioner and shall comply with professionally accepted mass appraisal
26 techniques.

27 (2) For purposes of assessing agricultural land and horticultural
28 land using the income approach, agricultural land and horticultural land
29 shall be divided into classes and subclasses of real property under
30 section 77-103.01, including, but not limited to, irrigated cropland,
31 dryland cropland, grassland used for grazing, grassland used for haying,

1 wasteland, nurseries, feedlots, and orchards, so that the categories
2 reflect uses appropriate for the valuation of such land according to law.
3 Classes shall be inventoried by subclasses of real property based on soil
4 classification indices developed by the Natural Resources Conservation
5 Service of the United States Department of Agriculture. Nothing in this
6 section shall be construed to limit the classes and subclasses of real
7 property that may be used by county assessors or the Tax Equalization and
8 Review Commission to achieve more uniform and proportionate valuations.

9 Sec. 6. (1) The Agricultural Land Valuation Committee is created.
10 The committee's purpose shall be to develop income and expense estimates
11 for all agricultural land and horticultural land in Nebraska and
12 capitalization rates necessary to produce uniform and proportionate
13 assessed valuations. The committee shall meet in November of each year
14 and at the call of the chairperson thereafter. The committee shall
15 consist of the following five persons:

16 (a) The Tax Commissioner or a designee from his or her staff who
17 shall serve as the chairperson of the committee;

18 (b) A representative of the agricultural and horticultural industry
19 appointed by the Tax Commissioner. The appointment shall be based on
20 recommendations made by not less than three industry groups designated by
21 the Tax Commissioner;

22 (c) A county assessor appointed by the Tax Commissioner. The county
23 assessor shall be skilled in the valuation of agricultural land and
24 horticultural land and shall hold a certificate issued under section
25 77-422;

26 (d) An appraiser from the private sector appointed by the Tax
27 Commissioner. Such appraiser shall hold either a valid credential as a
28 certified general real property appraiser under the Real Property
29 Appraiser Act or an MAI designation from the Appraisal Institute; and

30 (e) A representative from the faculty of one of the research
31 universities in the state specializing in agricultural economics

1 appointed by the Tax Commissioner.

2 (2) Agricultural land and horticultural land shall be valued based
3 on the agricultural-use value, reflected in a capitalized income approach
4 developed pursuant to the Agricultural Valuation Fairness Act, using
5 professionally accepted mass appraisal techniques. The assessed values of
6 agricultural land and horticultural land shall be determined on the basis
7 of the land's value in use for agricultural or horticultural purposes by
8 capitalizing the net income by a rate that reflects the agricultural-use
9 value in the ordinary course of trade.

10 (3) The Agricultural Land Valuation Committee shall meet in November
11 2018 and shall establish an initial income capitalization rate that shall
12 achieve an aggregate agricultural-use value of between fifty-five to
13 sixty-five percent of the 2018 assessed value which used the comparable
14 sales method. Comparable sales shall not be used to assess the value of
15 agricultural land and horticultural land after 2018.

16 (4) Each November for each of the succeeding four years, the
17 Agricultural Land Valuation Committee, in coordination with county
18 assessors, shall establish an annual income and capitalization rate for
19 each county for the following year which shall reduce aggregate
20 agricultural-use value in each county by an additional ten percent until
21 the aggregate agricultural-use value has been reduced to thirty percent
22 of the 2018 assessed value.

23 (5) Thereafter, the income and capitalization rate shall remain
24 fixed for three years. The eight-year Olympic average commodity price and
25 the eight-year Olympic average crop yield per soil classification index
26 from the Natural Resources Conservation Service shall be the only
27 variables considered by the county assessor when establishing an income-
28 based value for a parcel of agricultural land and horticultural land in
29 the county.

30 (6) Every third November thereafter, in coordination with county
31 assessors, the Agricultural Land Valuation Committee shall review and may

1 change income and capitalization rates for agricultural land and
2 horticultural land based on information available to the committee from
3 the United States Department of Agriculture, the Natural Resources
4 Conservation Service, the University of Nebraska Institute of Agriculture
5 and Natural Resources, the Nebraska Investment Finance Authority, the
6 Department of Revenue, and any other sources determined necessary by the
7 committee. The Department of Revenue shall electronically publish notice
8 of the committee's meetings no less than thirty days in advance.

9 (7) At the call of the chairperson, the Agricultural Land Valuation
10 Committee may review income and capitalization rates, and upon a four-
11 fifths vote of the committee, may change income and capitalization rates
12 to address unusual and exceptional circumstances that affect commodity
13 prices or crop yields.

14 (8) Gross income shall be determined by multiplying the eight-year
15 Olympic average yield for each county by the eight-year Olympic average
16 commodity price for each major crop type harvested in each county.

17 (9) For irrigated cropland, dryland cropland, and grassland used for
18 haying, the average yield information shall be determined based on the
19 eight prior years published by the United States Department of
20 Agriculture for those commodities appropriate for each Natural Resources
21 Conservation Service soil index, with the highest and lowest yields for
22 that period excluded. The average commodity price shall be based on an
23 average of the most recent eight years, excluding the highest and lowest
24 prices of that period.

25 (10) For grassland used for grazing, the average yield shall be
26 based on the carrying capacity in terms of animal-unit months and the
27 current rental value per animal-unit month for each Natural Resources
28 Conservation Service soil index. Carrying capacity, by Natural Resources
29 Conservation Service soil index, shall be based on productivity estimates
30 published by the Natural Resources Conservation Service of the United
31 States Department of Agriculture or other state or federal agencies as

1 determined by the committee. Rental values per animal-unit month shall be
2 based on an average of the most recent eight years, excluding the highest
3 and lowest values of that period.

4 (11) The gross income shall be established as a dollar-per-acre
5 value by weighting the major crop types harvested in each county by the
6 number of acres harvested in the previous year. Such crops may include
7 continuous cropland wheat, summer fallow wheat, corn for grain, dry
8 beans, sorghum for grain, sugar beets, soybeans for beans, oats, and
9 alfalfa. Additional crop information appropriate for predominant crops in
10 a county or for a Natural Resources Conservation Service soil index shall
11 also be included when available.

12 (12) Land uses such as accretion land, wasteland, orchards,
13 vineyards, nurseries, and other agricultural land uses without sufficient
14 income information available shall be valued using a professionally
15 accepted mass appraisal technique that produces an assessment that
16 complies with the percentages provided in this section.

17 (13) Expenses shall be determined by the committee to reflect
18 average expenses associated for each land use based on information from
19 the United States Department of Agriculture, the University of Nebraska
20 Institute of Agriculture and Natural Resources, landowner surveys made
21 available to the committee, or other sources that yield reliable
22 information. The committee may also use the typical landowner share,
23 which reflects the proportion of the gross receipts received by the
24 landowner in the normal course of farm operation, and typical leasing
25 arrangements as determined from surveys conducted by the Property Tax
26 Administrator or as published by other state or federal agencies.

27 Sec. 7. The Agricultural Land Valuation Committee shall determine
28 value for each Natural Resources Conservation Service soil index in each
29 county by dividing the income determined for each parcel under section 6
30 of this act by a capitalization rate established by the committee. The
31 committee shall establish the capitalization rates to be applied to each

1 class or subclass of agricultural land and horticultural land within each
2 county. The committee shall issue a report of the values established for
3 each Natural Resources Conservation Service soil index to each county
4 assessor in Nebraska no later than January 1 of each year.

5 Sec. 8. (1) The county assessor shall implement the values
6 determined by the Agricultural Land Valuation Committee under the
7 Agricultural Valuation Fairness Act. The resulting assessed values for
8 the class of agricultural land and horticultural land shall be reported
9 on the abstract of real property pursuant to section 77-1514.

10 (2) If a county assessor, based on the facts and circumstances,
11 believes that the values for a Natural Resources Conservation Service
12 soil index as determined by the committee result in values that are not
13 uniform and proportionate within the class of agricultural land and
14 horticultural land, the county assessor may petition the Tax
15 Commissioner, on or before February 1, for an alternative value to be
16 applied to that Natural Resources Conservation Service soil index. The
17 county assessor shall show that the use of the committee's income or
18 capitalization rate results in agricultural-use values that are not
19 uniform and proportionate. The Tax Commissioner shall issue a written
20 order to the county assessor no later than March 1.

21 (3) If the Property Tax Administrator, based on the facts and
22 circumstances, believes that any agricultural-use value as implemented by
23 the county assessor does not comply with the requirements of the
24 Agricultural Valuation Fairness Act, the Property Tax Administrator may
25 petition the Tax Commissioner, on or before April 1, for an order to
26 adjust the agricultural-use value to achieve compliance with the act. The
27 Tax Commissioner shall issue a written order to the Property Tax
28 Administrator no later than May 1.

29 (4) Upon receipt of a petition by either the county assessor or the
30 Property Tax Administrator under this section, the Tax Commissioner shall
31 set a date for hearing and shall give notice thereof to the county

1 assessor or Property Tax Administrator, as applicable. The hearing shall
2 be held at least five days following the mailing of such notice. At the
3 hearing, the county assessor, the Property Tax Administrator, or the
4 legal representative of the county assessor or Property Tax Administrator
5 may appear and show cause why the class or subclass of agricultural land
6 and horticultural land in the county should or should not be adjusted. At
7 the hearing, the Tax Commissioner may receive testimony from any
8 interested person. The Tax Commissioner's order may be appealed within
9 thirty days after the date of the order to the Tax Equalization and
10 Review Commission in accordance with section 77-5013.

11 (5) If, after the implementation of the orders described in
12 subsections (2) and (3) of this section, the Tax Commissioner finds that
13 the aggregate agricultural-use value of the entire class of agricultural
14 land and horticultural land either (a) does not comply with the
15 Agricultural Valuation Fairness Act or (b) exceeds the prior year's
16 aggregate agricultural-use value of the entire class of agricultural land
17 and horticultural land by more than three and one-half percent, the Tax
18 Commissioner shall issue an order to each county in the state to
19 uniformly adjust the capitalization rate to comply with the requirements
20 of this subsection.

21 (6) On or before June 5 of each year, the county assessor of any
22 county adjusted by an order of the Tax Commissioner shall recertify the
23 county abstract of assessment to the Property Tax Administrator. The
24 Property Tax Administrator shall audit the records of the county assessor
25 to determine whether the orders were implemented.

26 Sec. 9. The Tax Commissioner may adopt and promulgate rules and
27 regulations as necessary to carry out the Agricultural Valuation Fairness
28 Act.

29 2. On page 11, line 25, strike "land capability group" and insert
30 "Natural Resources Conservation Service soil indices".

31 3. On page 12, line 3, after "at" insert "one hundred percent of";

1 and in line 4 after "value" insert "for tax years prior to 2019, ninety
2 percent of its actual value for tax year 2019, eighty percent of its
3 actual value for tax year 2020, seventy percent of its actual value for
4 tax year 2021, sixty percent of its actual value for tax year 2022, and
5 fifty percent of its actual value for tax year 2023 and each tax year
6 thereafter. For all classes of real property subject to taxation, the
7 value shall not increase by more than three and one-half percent from the
8 prior year".

9 4. On page 53, line 4, strike "2018" and insert "2019".