

FARM AND RANCH RETIREMENT FUND TAX STUDY

Senate Concurrent Resolution No. 4040 (attached as an appendix) directs the Legislative Council to study the feasibility and desirability of establishing a mechanism to allow farmers and ranchers to shelter a portion of their income in an agricultural real estate asset retirement-type fund. From the text of the resolution and standing committee testimony, it appears that the issue to be addressed is largely a matter of federal law and relates to a perceived inequity in that while other occupations and professions have opportunities for retirement saving through tax deductible contributions and tax-deferred earnings, farmers' and ranchers' earnings are generally forced to be put into their property and operations and upon retirement are not eligible for special tax treatment.

BACKGROUND

Savings plans are available to employees, employers, and self-employed persons which allow pre-tax dollars to be contributed and to grow tax-deferred until retirement. There is a substantial tax benefit to the investor in these types of plans and this allows accumulation of a much larger amount for retirement than would be available without this option. A wide range of options are available for retirement plans including 401k plans, 403(b) plans, 457 plans, IRAs, Roth IRAs, SIMPLE plans, SEP (simplified employee pension) plans, Keogh plans, and others. These plans and their benefits to investors are governed by federal law.

There are also many opportunities to prepare for retirement by taking advantage of tax-deferred or tax-exempt growth in investments made with after-tax

dollars. There are a wide range of choices of such investment vehicles including annuities, insurance, trusts, bonds, stocks, real and personal property, and others.

The threshold requirement for funding these kinds of retirement and investment plans is availability of cash. The reality of family farming and ranching operations is that when (and if) profit is generated it generally must be devoted to retiring debt, repairing or replacing equipment, expanding or upgrading operations, or saving for lean years that might be ahead. For farmers and ranchers, even if cash is available, deposits in a retirement fund represent a substantial risk because in the event of a disaster or in times of depressed commodity prices or poor production, or both, those funds may have to be withdrawn and the owner may incur penalties for withdrawal.

SUGGESTED STUDY APPROACH

North Dakota income tax law is federalized, meaning it is heavily grounded in federal income tax law. Consideration should be given to changes to state law that could assist farmers and ranchers with retirement planning but the most significant aspect of this issue relates to federal law. To analyze potential recommendations for viable and useful changes in state and federal law, advice should be obtained from experts in retirement planning, particularly individuals with experience in advising on retirement issues with respect to farming and ranching operations.

ATTACH:1

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

**SENATE CONCURRENT RESOLUTION NO. 4040
(Senators Wanzek, Christmann, Tomac)
(Representatives Belter, Meyer, Nicholas)**

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a mechanism to allow farmers and ranchers to shelter a portion of their income in an agricultural real estate asset retirement-type fund.

WHEREAS, a safe and secure source of retirement funds to supplement Social Security benefits is essential to a quality retirement; and

WHEREAS, investment in agricultural real estate is the major retirement investment and the source of retirement security for many farmers and ranchers; and

WHEREAS, a safe and secure retirement for the state's farmers and ranchers is essential to the general welfare and prosperity of this state; and

WHEREAS, many farmers and ranchers do not have sufficient disposable income to fund an individual retirement account, a retirement plan for self-employed individuals, or a similar account or plan established pursuant to federal law; and

WHEREAS, at retirement, the net worth of many farmers and ranchers is tied up in nonliquid assets such as land and machinery and thus is not available to fund a quality retirement;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study the feasibility and desirability of establishing a mechanism to allow farmers and ranchers to shelter a portion of their income in an agricultural real estate asset retirement-type fund; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly.