

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1517

2005 HOUSE AGRICULTURE

HB 1517

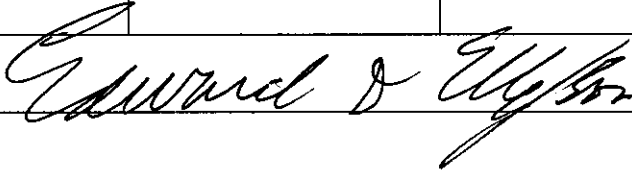
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

House Agriculture Committee

Conference Committee

Hearing Date 2---3---05

Tape Number	Side A	Side B	Meter #
ONE	A		40.5 TO END
ONE		B	00.0 TO 2.8
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on HB 1517.

REPRESENTATIVE VIGESAA: Good after noon. I am pleased to introduce to you today HB1517. This bill would allow for a green house and nursery property to be classified as agriculture property for tax purposes. There are several people here today that will speak to the technical aspect of this bill today.

MARCY DICKINSON: We have an amendment we would like to submit along with the Agriculture Department. The amendment was passed out to committee members.

Marcy Dickinson is a supervisor for assessments and director of the property division.

Basically what the amendment dose it takes the same language as is in the bill and places the part that deals with the farm land under the definition of farm land and the part that deals

With farm buildings under the section of 57-02-08 15 that exempts farm buildings.

The amendment is better for statuary purposes. Please read the attached bill and amendments.

For any building to be exempt as a farm building to be exempt it must be located on agriculture land. A green house in down town Bismarck is not exempt. It only exempts a green house that is on agriculture land. And dose do agriculture things in that green house. It would not exempt some one who imports roses from where ever. It has to be actual production.

REPRESENTATIVE MUELLER: We are specific to a building.

MARCY: I don't see other land is affected at all by this. This only would only exempt the land that the farm building is on. Again read the amendment and bill.

The building has to be growing something that is agriculture.

CHAIRMAN NICHOLAS: Support of 1715.

NEIL HOLLAND: LIVES 6 MILES NORTH OF FARGO. I have had a commercial green house for the past sixteen years. I work with green houses. We urge a Do Pass on 1715.

SANDY CLARK: FARM BUREAU: WE URGE A DO PASS

JEFF WEISPFENNING: DEPUTY AGRICULTURE COMMISSIONER: WE SUPPORT
HB 1517.

[[[PLEASE READ JEFF WEISPFENNING'S WRITTEN TESTIMONY:

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

House Agriculture Committee

Conference Committee

Hearing Date 2---10---05

Tape Number	Side A	Side B	Meter #
TWO	A		9 TO 10.5
Committee Clerk Signature <i>Edward D. Elfton</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee members. We will turn to HB 1517.

The committee had a short discussion on the amendment that had been prepared. Please see minutes from fist hearing on this bill.

CHAIRMAN NICHOLAS: ASKED FIR A MOTION ON THE AMENDMENT.

REPRESENTATIVE BRANDENBURG MADE A MOTION TO ADOPT THE AMENDMENT.

REPRESENTATIVE MUELLER SECONDED THE MOTION.

THE CHAIR ENTERTAINED A MOTION.

REPRESENTATIVE BRANDENBURG MADE A MOTION FOR A DO PASS AS AMENDED.

REPRESENTATIVE BRANDENBURG SECONDED THE MOTION.

Page 2
House Agriculture Committee
Bill/Resolution Number HB 1517
Hearing Date 2----10----05

CHAIRMAN NICHOLAS ASKED THAT THE ROLL BE TAKEN.

THERE WERE 13 YES

0 NO

0 ABSENT

REPRESENTATIVE UGLEM CARRIED HB 1517

THE CHAIR CLOSED ON 1517

FISCAL NOTE
Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1517

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1517 provides that a greenhouse qualifies for a property tax exemption as a farm building, and the land on which it is located qualifies for classification as agricultural land.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect of HB 1517 will be to exempt qualifying structures from property taxes, and to classify the land on which they are located as agricultural, which in most cases will reduce the valuation of and taxes on that land. Any lost property tax revenue caused by HB 1517 will be shifted to other property tax payers in the political subdivision. It is not possible to estimate the amount of this shift because the present valuation of each qualifying structure, the commercial and agricultural value of the land on which it is located, and the mill rate that applies are all unknown.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/02/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1517

Page 1, line 1, after "57-02-01" insert "and subsection 15 of section 57-02-08"

Page 1, line 3, after "purposes" insert "and property exempt from taxation"

Page 1, line 11, after the period insert "Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of the greenhouse."

Page 2, line 2, insert:

"SECTION 2. AMENDMENT. Subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15. a. All farm structures and improvements located on agricultural lands.

(1) This subsection must be construed to exempt farm buildings and improvements only, and may not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence.

(2) "Farm buildings and improvements" includes a greenhouse or other building primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of already grown horticultural or nursery products is not a farm building or improvement.

~~(2)~~ (3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

~~(3)~~ (4) The following factors may not be considered in application of the exemption under this subsection:

- (a) Whether the farmer grows or purchases feed for animals raised on the farm.
- (b) Whether animals being raised on the farm are owned by the farmer.
- (c) Whether the farm's replacement animals are produced on the farm.

- (d) Whether the farmer is engaged in contract feeding of animals on the farm."

Page 2, remove lines 3 through 12

Page 2, line 13, replace "2." with "3."

Renumber accordingly

House Amendments to HB 1517 - Agriculture Committee 02/11/2005

Page 1, line 1, after "57-02-01" insert "and subdivision a of subsection 15 of section 57-02-08"

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Renumber accordingly

2-10-05

HB 1517

Date:
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE AGRICULTURE COMMITTEE Committee

Check here for Conference Committee

Legislative Council Amendment Number As Amended

Action Taken DO PASS

Motion Made By BRANDENBURG Seconded By KINGSBURY

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER	✓		REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Uglem

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1517: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1517 was placed on the Sixth order on the calendar.

Page 1, line 1, after "57-02-01" insert "and subdivision a of subsection 15 of section 57-02-08"

Page 1, line 3, after "purposes" insert "and property exempt from taxation"

Page 1, line 11, after the period insert "Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of the greenhouse."

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Renumber accordingly

2005 SENATE AGRICULTURE

HB 1517

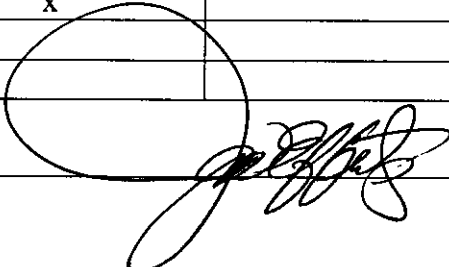
005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

Senate Agriculture Committee

Conference Committee

Hearing Date March 4, 2005

Tape Number	Side A	Side B	Meter #
	x		1363 - 3971
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on HB 1517, a bill relating to classification of greenhouse property as agricultural property for assessment purposes and property exempt from taxation. Representative Vigesaa introduced the bill. The bill was introduced on behalf of a constituent in Griggs County. This bill would allow for certain nursery and greenhouse properties to be classified as agricultural for property tax purposes. There are nursery and greenhouse owners as well as technical experts here today to testify on the bill.

Senator Flakoll asked if the definitions of greenhouses and nurseries are in code.

Representative Vigesaa said he would refer that question to the Agriculture Department representative who will testify today.

Senator Syerson testified in favor of the bill. (meter 1490) There was a recent article in a publication in the eastern part of the state that discussed developing agricultural products produced in greenhouses. It was very applicable to what should transpire and develop in this

state. Agriculture is evolving into a different image that what we are used to. There are other products with good value to our producers and land owners. This bill helps recognize that. This bill recognizes greenhouse operators as agriculture producers.

David Nelson, North Dakota Agriculture Department, testified in favor of the bill. (written testimony) (meter 1638)

Senator Urlacher asked if flowers would be included.

Mr. Nelson said yes, a wide variety of greenhouse crops would include bedding plants and vegetables.

Senator Urlacher asked if the buildings would include homes.

Mr. Nelson said other laws would apply to homes.

Senator Flakoll asked how many greenhouses and nurseries we might be talking about.

Mr. Nelson said he doesn't have real good numbers on this. The census of agriculture in 2002 said there were 39 greenhouses in the state which would include those in both urban and rural areas so he presumes the number affected by this bill would be less than that. (meter 1905)

Senator Flakoll said in Fargo, Shotwells is in one of the most exclusive areas of the city, they have a combination of greenhouse and retail area. Would this change their classification.

Mr. Nelson said because they are in the city, they would not be affected by this bill.

Senator Erbele asked where would the location of the affected greenhouses be?

Mr. Nelson said it would apply to greenhouses in a rural setting.

Senator Flakoll said Shotwells has a greenhouse in the extraterritorial area of Fargo. Would this apply?

Mr. Nelson said he would have to defer that to the tax department.

Senator Flakoll asked what the typical or average value of greenhouses or nurseries in the state.

Mr. Nelson said there are several greenhouse operators who will testify today and they would be able to answer that question.

Neal Holland, owner and operator of Sheyenne Gardens at Harwood, North Dakota, 6 miles north of Fargo. He was professor of horticulture at NDSU for 32 years and is now professor emeritus. The North Dakota Tax Office declared greenhouses as not a farming or agricultural operation. To qualify, a greenhouse needs to be on 10 acres of land and on land zoned agricultural so Shotwells would not be eligible. Greenhouse production has been declared as non agricultural by the state tax department and the greenhouse operators do not agree with this so the North Dakota Nursery and Greenhouse Association with its 204 members formed a committee to investigate. USDA considers greenhouses to be agricultural because every five years they need to fill out a US Agricultural Census Report. The IRS requires them to use form 943 report for agricultural employees. The land grant institutions consider greenhouse production and horticulture to be agriculture for both teaching and research. The North Dakota Agriculture Commissioner's office licenses nursery operations and nursery operations were declared agriculture a number of years ago as a result of a lawsuit Nick Boehm vs Burleigh County in the 1960's. Nurseries have been considered agriculture since that time, greenhouses have not. There is an effort in Minot to encourage greenhouse production as economic development.

Senator Flakoll asked if he has any concerns that some greenhouses would be exempt and some would not.

Dr. Holland said only farm based greenhouses on land zoned agriculture on 10 acres or more.

Otherwise they are considered to be a commercial business.

Senator Urlacher asked if some products are more directly related to agriculture than others, could he explain some of the products.

Dr. Holland said some propagate woody materials or nursery stock, bedding plants, vegetable plants, potted plants. They are all considered agricultural production by USDA and IRS.

Senator Urlacher asked if we are putting them all in one bundle.

Dr. Holland said yes, some also produce hydroponic tomatoes. Some produce tissue culture baby potato tubers for the state seed department.

Senator Urlacher asked if flowers and trees are included.

Dr. Holland said its still agriculture.

Senator Flakoll asked what the dollar amount of the tax break would be.

Dr. Holland said he doesn't know, the state tax office might know. He distributed a guideline from the state tax department for the exemptions of farm buildings and other improvements (attached).

Dean Hoverson, Highway 200 Greenhouse, Sutton, North Dakota, testified in favor of the bill. (meter 2859) The greenhouses should be considered agriculture because they are raising a crop. They file their income taxes on schedule F, the farm income tax. Minnesota just passed a law that mirrors this bill. South Dakota does not have property tax but their greenhouses come under the Agriculture Department and so does Montana. They would like to be on a level field with the surrounding states.

Senator Flakoll asked about the value of the tax savings.

Mr. Hoverson said in his case it would not be a real big difference. He is a full time farmer. If the greenhouse got big enough to where they produced more income on the greenhouse side than

on the farm side then all his property would be thrown into property tax. This would be a tax situation that would affect them indirectly. It is the principal, greenhouses should never have been treated as commercial, they are farming operations.

Senator Flakoll asked what is the cost of greenhouse buildings.

Mr. Hoverson said with inventory they have \$150,000 invested. They have been at it for 12 years. It started as a hobby. They have sales in excess of \$100,000 per year and 5 part time employees and it has supplemented their farm income. Without inventory they have \$60,000 to \$70,000 in buildings and pay about \$500 in property tax on them. It is not the tax he wants to avoid, it is the other consequences and getting it clarified. The tax department doesn't have a problem with it.

Sandy Clark, North Dakota Farm Bureau, testified in favor of the bill. (meter 3300)

Horticulture meets the federal definition of agriculture. Farms today need to be diversified in any way they can. These greenhouses have become supplemental farm income in some cases. The language in the bill is in 57 02 08 which is the agriculture farm plant language so a greenhouse would have to meet all the other requirements. On lines 19 and 20 it answers the Shotwell question, a building would not qualify if it is used for retail sales. Florists would not be exempt. Senator Flakoll asked if Shotwells might argue that they are more than a florist.

Ms. Clark said greenhouses meet the federal definition of agriculture.

Sonya Stromsvold, Flower House Garden Center, Mohall, North Dakota, testified in favor of the bill. (meter 3683) They started 36 years ago on the family farm by her mother. It has always been a part of their family farm operation. They are dependent on the weather for their crops just like farmers, they apply chemicals that are regulated by the Agriculture Department, nurseries are

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Senate Agriculture Committee
Bill/Resolution Number HB 1517
Hearing Date March 4, 2005

considered agriculture and that is for tree production which are ornamental. They feel they are an agricultural commodity and part of the agriculture industry.

Senator Flakoll asked if sod farms are included.

Dr. Holland said sod is not grown in greenhouses.

Chairman Flakoll closed the hearing on HB 1517.

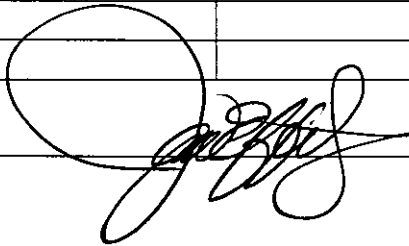
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

Senate Agriculture Committee

Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1	x		783 - 1335
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the discussion on HB 1517.

Senator Flakoll said this is the bill that is looking for a property tax exemption for greenhouses, two people testified on it who would be benefited by the bill.

Senator Klein asked if this would be the land a greenhouse sits on.

Senator Flakoll said the land and the value of the buildings.

Senator Klein asked if this was rural or would it apply to all greenhouses.

Senator Urlacher said they would need to be on agricultural land.

Senator Flakoll said some greenhouses would get it, some would not. There is a list of qualifications on the bill.

Senator Klein said if this is a property tax issue, could they go to the local level to seek it.

Aren't there sometime exemptions the counties do.

Senator Urlacher said yes and cities too.

Senator Flakoll said essentially whatever exemption they get, someone else ends up paying it.

Senator Urlacher said is disrupts competitiveness, some will get it, some will not.

Senator Klein said he was not here for the testimony but he hasn't heard anything that would make him support the bill.

Senator Urlacher said if you look who is on it, it is people who own greenhouses.

Senator Flakoll said we like to give breaks to whomever but it catches up with us eventually.

Senator Erbele said nurseries are now zoned agricultural. Retail facilities would not be eligible.

Some of those who testified did not think there would be a great savings, it is a matter of principal. They raise things in soil and should be agricultural.

Senator Urlacher said they are recognized by the federal government as agricultural.

Senator Taylor said when we mention competition between greenhouses in town and in the country, retail outlets would not be covered, that makes it a little more palatable.

Senator Flakoll said the greenhouse in Harwood would probably get the exemption and the one on the other end of town would not get it because that is extraterritorial.

Senator Urlacher said the driving force is the federal government recognizing them as agricultural.

Senator Flakoll said if they grow small shrubs outside they would pay but if they grow plants in a greenhouse, under this bill they would be exempt.

Senator Taylor said they would be taxed as agricultural property. The land is always taxed, the farm buildings are not.

Chairman Flakoll closed the discussion on HB 1517.

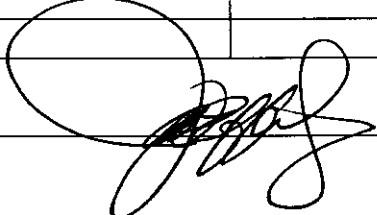
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

Senate Agriculture Committee

Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1		x	3055 - 3695
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the discussion on HB 1517. All members were present.

Senator Erbele said for further discussion he would make a motion.

Senator Erbele moved for a do pass on HB 1517.

Senator Urlacher seconded the motion.

Senator Taylor said he would like to not carry the bill. It will take work on the floor but we are looking at something that is on agricultural land that is growing agricultural plants. It is worthy of a do pass.

Senator Seymour said he disagrees. Only a few people appeared, there certainly was no statewide greenhouse effect.

Senator Klein said we have sat through a lot of tax exemptions and this is probably not a big fiscal effect but he doesn't think he can support it.

Senator Erbele said the federal law recognizes greenhouses as agricultural property. This is one of those things where we can say we are conforming state law to fit federal law.

Senator Urlacher said it has been reviewed by the feds and it has been put in that category and that is his position too. He doesn't like exemptions either but he thinks it is minor.

The motion failed on a roll call vote 3-3-0.

Senator Klein moved a do not pass on HB 1517.

Senator Seymour seconded the motion.

Senator Flakoll said no one will testify in opposition to an exemption because they don't see the direct impact. He sometimes thinks that all exemptions need to be revenue neutral, you have to find something to offset an exemption. The offset in this bill will go to the other tax payers in the political subdivision.

Senator Erbele said some of the idea is to create a greater net income effect so he has greater net income and increases his spending power. Some of these things balance out.

Senator Flakoll said a problem with property tax exemption is you can make yourself property poor and then sue the state.

The motion failed on a roll call vote 3-3-0.

Senator Klein said since he was absent for the hearing, there may be some more information he needs to seek. Maybe the committee should wait a week.

Chairman Flakoll closed the discussion on HB 1517.

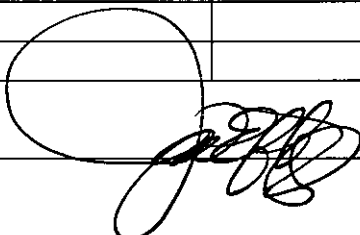
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1517

Senate Agriculture Committee

Conference Committee

Hearing Date March 17, 2005

Tape Number	Side A	Side B	Meter #
1	x		504 - 1329
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the discussion on HB 1517. All members were present.

Senator Flakoll said he had a list of tax exemptions from the tax department.

Senator Klein said he asked for a discussion, Senator Syverson was visiting with him, trying to make a case. He gave him an article on greenhouse tomato plants and it did not convince him.

He is not on board with providing the exemption.

Senator Urlacher talked with Representative Haas, he has a nursery and would not qualify, it is only those that start plants from seed. There is a greenhouse north of Fargo that would qualify.

This is very limited.

Senator Klein said the fact that it is so limited also demonstrates it is not an issue. Perhaps they could work out an exemption with their county.

Senator Urlacher said the county can declare exemptions.

Senator Klein said there are so many exemptions already. Do we do this because one facility needs help.

Senator Erbele said in looking at the list, this would be the lowest of all exemptions.

Senator Flakoll said it would be added to one of the existing exemption classifications.

Senator Klein moved a do not pass on HB 1517.

The motion died for lack of a second.

Senator Erbele moved a do pass on HB 1517.

Senator Taylor seconded the motion.

Senator Seymour said he talked to Senator Syverson yesterday and he is now convinced to support the bill.

Senator Urlacher said it falls within the federal exemption and as much as he dislikes the accumulation of exemptions, this is a minor one.

Senator Taylor said this bill deals with property tax and the list is sales and use tax exemptions.

The farmstead exemption has traditionally been there as an incentive for agriculture where they also pay many property taxes on production land so they can at least exempt the buildings. These are buildings that would expand value added agriculture in the state. They are growing, it is agriculture according to other definitions.

Senator Flakoll asked if it would also include people who grow evergreens.

Senator Taylor said they are already exempt.

Senator Urlacher said only if they are grown from seed. If you compare nurseries that bring in plants for resale, they would not qualify, only if they grow products from seed. These products would be more directly related to agriculture.

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Senate Agriculture Committee

Bill/Resolution Number HB 1517

Hearing Date March 17, 2005

Senator Flakoll said he thinks there are less than 40 locations in the state.

The motion passed on a roll call vote 4-2-0.

Senator Urlacher will carry the bill.

Date: 3/11/05
Roll Call Vote # 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1517

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Erbele Seconded By Sen. Urlacher

Senators	Yes	No	Senators	Yes	No
Senator Flakoll		✓	Senator Seymour		✓
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein		✓			
Senator Urlacher	✓				

Total (Yes) 3 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/11/05
Roll Call Vote # 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1517

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Klein Seconded By Sen. Seymour

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele		✓	Senator Taylor		✓
Senator Klein	✓				
Senator Urlacher		✓			

Total (Yes) 3 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/17/05
Roll Call Vote # 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1517

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen Klein Seconded By Sen Seymour

Senators	Yes	No	Senators	Yes	No
Senator Flakoll			Senator Seymour		
Senator Erbele			Senator Taylor		
Senator Klein					
Senator Urlacher					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/17/05
 Roll Call Vote # 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Eng. 1517

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Erbele Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
Senator Flakoll		✓	Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein		✓			
Senator Urlacher	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Urlacher

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 17, 2005 9:35 a.m.

Module No: SR-49-5230
Carrier: Urlacher
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1517, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1517 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1517

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of
Jeff Weispfenning
Deputy Agriculture Commissioner
HB 1517
House Agriculture Committee
Peace Garden Room
February 3, 2005**

Chairman Nicholas and members of the House Agriculture Committee. I am Jeff Weispfenning, Deputy Agriculture Commissioner. I am here to support HB 1517.

HB1517 would classify the land on which commercial greenhouses are located as agricultural property and provide that the greenhouse and buildings primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots, would be classified as farms structures or improvements and thereby exempt from taxation. The exemption would not apply to greenhouses that are used primarily for display or sale of plants grown elsewhere.

Commercial production greenhouses grow horticultural crops using much more intensive systems than is used to grow traditional crops. They are agricultural operations in every sense of the word. Their success should be encouraged, and thereby promote rural economies through the production and sale of locally grown plants.

I am submitting as a part of my testimony data from the most recent Census of Agriculture which indicates that there are 47 such farms counted by the most recent census. The data gives you an idea of the scale of these kinds of agricultural operations.

Thank you for the opportunity to testify. I'd be happy to answer any questions.

Table 37. Berries Harvested for Sale: 2002 and 1997

[For meaning of abbreviations and symbols, see introductory text]

Crop	2002		1997	
	Farms	Acres	Farms	Acres
Blackberries	2	(D)	(NA)	(NA)
Raspberries, all	15	10	20	14
Strawberries	9	13	13	31
Other berries	2	(D)	2	(D)

Table 38. Nursery, Greenhouse, Floriculture, Mushrooms, Sod, and Vegetable Seeds Grown for Sale: 2002 and 1997

[For meaning of abbreviations and symbols, see introductory text]

Crops		Under glass or other protection		In the open	
		Farms	Square feet	Farms	Acres
Nursery, greenhouse, floriculture, aquatic plants, mushrooms, flower seeds, vegetable seeds, and sod harvested, total (see text)	2002	47	657,126	43	608
	1997	(NA)	(NA)	(NA)	(NA)
Floriculture crops - bedding/garden plants, cut flowers and cut florist greens, foliage plants, and potted flowering plants, total	2002	39	(D)	9	30
	1997	(NA)	(NA)	(NA)	(NA)
Bedding/garden plants	2002	37	520,348	8	(D)
	1997	(NA)	(NA)	(NA)	(NA)
Cut flowers and cut florist greens	2002	-	-	1	(D)
	1997	(NA)	(NA)	(NA)	(NA)
Foliage plants	2002	4	(D)	-	-
	1997	(NA)	(NA)	(NA)	(NA)
Potted flowering plants	2002	9	53,096	1	(D)
	1997	(NA)	(NA)	(NA)	(NA)
Aquatic plants	2002	1	(D)	-	-
	1997	(NA)	(NA)	(NA)	(NA)
Flower seeds	2002	-	-	1	(D)
	1997	(NA)	(NA)	(NA)	(NA)
Greenhouse vegetables	2002	9	(D)	(X)	(X)
	1997	(NA)	(NA)	(X)	(X)
Nursery stock (see text)	2002	-	-	31	(D)
	1997	(NA)	(NA)	(NA)	(NA)
Sod harvested	2002	(X)	(X)	3	27
	1997	(X)	(X)	(NA)	(NA)
Other nursery and greenhouse crops	2002	-	-	4	(D)
	1997	(NA)	(NA)	(NA)	(NA)

RESPONDENT CONFIDENTIALITY

Keeping with the provisions of Title 7 of the United States Code, no data are published that would disclose information about the operations of an individual farm or ranch. All tabulated data are subjected to an extensive disclosure review prior to publication. Any tabulated item that identifies data reported by a respondent or allows a respondent's data to be accurately estimated or derived, was suppressed and coded with a 'D'. However, the number of farms reporting an item is not considered confidential information and is provided even though other information is withheld.

SPECIAL EFFORTS DIRECTED AT MINORITIES

NASS implemented several activities to improve coverage of minority farm operators. These activities included, but were not limited to:

- Obtaining mail lists from organizations likely to contain names and addresses of minority farm operators; and
- Conducting pre-census promotion activities that targeted women, American Indian and Alaska Native, Black and African American, and Spanish, Hispanic, or Latino origin farm operators.

SPECIAL STUDIES AND CUSTOM TABULATIONS

Special studies such as the 2003 Farm and Ranch Irrigation Survey and 2005 Census of Aquaculture are part of the census program and provide supplemental information to the 2002 Census of Agriculture in the respective subject area. Results are published in print and on the internet.

Custom-designed tabulations may be developed when data are not published elsewhere. These tabulations are developed to individual user specifications on a cost-reimbursable basis and shared with the public. The census Volume 1 on CD-ROM is an alternative data source that should be investigated before requesting a custom tabulation.

All special studies and custom tabulations are subject to a thorough disclosure review prior to release to prevent the disclosure of any individual respondent data. Requests for custom tabulations can be submitted via the internet from the NASS home page, by mail, or by e-mail to:

Associate Administrator
National Agricultural Statistics Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250
or
HQ AA@nass.usda.gov

ABBREVIATIONS AND SYMBOLS

The following abbreviations and symbols are used throughout the tables:

- Represents zero.
- (D) Withheld to avoid disclosing data for individual farms.
- (H) Standard error or relative standard error of estimate is greater than or equal to 99.95 percent.
- (IC) Independent city
- (L) Standard error or relative standard error of estimate is less than .05 percent.
- (NA) Not available or not published. Some historic data are not published because they are not comparable, electronic files are unavailable, or re-summarizing could compromise respondent confidentiality.
- (X) Not applicable
- (Z) Less than half of the unit shown
- cwt Hundredweight
- sq ft Square feet

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-2240

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of
David Nelson
State Entomologist
HB 1517
Senate Agriculture Committee
Roosevelt Park Room
March 4, 2005**

Chairman Flakoll and members of the Senate Agriculture Committee. I am Dave Nelson, State Entomologist with the North Dakota Department of Agriculture. I am here to support HB 1517.

HB 1517 would classify land on which commercial greenhouses are located as agricultural property. It would also provide that greenhouses and buildings used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis as a showroom for the retail sale of horticultural or nursery products, would be classified as farm structures or improvements. They would thereby be exempt from taxation as are other farm structures and improvements. The exemption would not apply to greenhouses or buildings used primarily for display and sale of already grown horticultural or nursery products.

Commercial production greenhouses grow horticultural crops using much more intensive systems than are used to grow traditional crops. They are agricultural operations in every sense of the word. Their success should be encouraged, and thereby promote rural economics through the production and sale of locally grown plants.

I would be happy to answer any questions.

JUSTIFICATION FOR HOUSE BILL 1517

A Property Tax Guideline issued by the Office of the State Tax Commissioner dated December 2003 stated:

Line 10. A commercial greenhouse is not a farming operation.

This determination was based on an unemployment compensation ruling (ND 1941 – Unemployment Compensation Division x Valker's Greenhouses) (A letter from Rick Clayburgh to Neal Holland, dated April 19, 2004).

The North Dakota Nursery and Greenhouse Association (204 members) named a committee to explore why greenhouse production was not considered to be agriculture. The committee members were Dean Hoverson, Sutton, Willis Wagar, Valley City and Neal Holland, Harwood.

USDA considers greenhouse production to be agriculture since every five years we must complete the agriculture census which asks for data on greenhouse production.

Federal IRS requires the reporting of greenhouse labor on form 943 - Agriculture Employees.

Land Grant Institutions (such as NDSU) have greenhouse activities – research and teaching located in the College of Agriculture.

ND Commissioner of Agriculture Office is where the licensing of nurseries is handled. They used to have registry of greenhouses and become involved when production problems arise.

GREENHOUSE OPERATIONS AND THEIR PRODUCTION SHOULD BE CONSIDERED AS AGRICULTURE. To do otherwise doesn't help rural economic development. Agriculture is both production and marketing. Greenhouse businesses do this since much of the production is sold directly to the consumer.

Thank you.

from Neal Holland

NEW



Guideline

Property Tax Exemption of Farm Buildings and Other Improvements

North Dakota Century Code § 57-02-08(15)

Rick Clayburgh
Tax Commissioner

December 2003

General Provisions

1. Farm buildings and improvements located on agricultural lands are exempt from taxation provided they are used as part of a farm plant.

The land must be used for raising agricultural crops or grazing farm animals and used as part of a farm plant. A farm plant is the entire farm enterprise operated as an economic unit. If the unit contains less than 10 acres of land, the taxing authority, in determining whether the unit is a farm, must consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

2. A residence or other building located on agricultural land is exempt if used both in a farming and in a nonfarming activity, provided the primary or dominant use of it is in farming.
3. Buildings and other improvements located on agricultural land in unplatted areas within the boundaries of an incorporated city are exempt, provided the buildings are used for agricultural purposes and are part of a farm plant.
4. A residence or other building located on platted land within the boundaries of an incorporated city or upon railroad operating property is not exempt as a farm building. An outlot (a lot included within the boundaries of an original or subdivision plat) is platted land.
5. Any building located on a farm and occupied or used by someone not engaged in farming is not exempt. (See number 7)
6. A vacant farm residence or building located on agricultural land is exempt, provided it was exempt as part of a farm plant or as a farm residence when it was last used. A vacant farm residence or building which was taxable because of a non-qualifying use should remain taxable until its active use has changed.
7. Buildings located on agricultural land used by a farmer to provide housing for that farmer's workers are exempt, provided they are used as part of a farm plant. (See number 5)
8. Buildings and other improvements primarily used to feed chickens, turkeys or other poultry, cattle, pigs or other livestock are exempt if the enterprise is located on agricultural land.

"Livestock" includes "nontraditional livestock", that is, any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries, or an animal that is physically altered to limit movement and facilitate capture. [N.D.C.C. § 36-01-00.1].

24876

9. Beekeeping is an agricultural pursuit. It includes extraction and storing of honey in containers. Buildings and improvements used in connection with a beekeeping operation are exempt. [N.D.C.C. § 4-12.2-25].

Processing honey is a commercial operation. Buildings and improvements used in connection with commercial honey operations are not exempt. Processing honey is any procedure, including filtering or clarifying, which changes the natural state of honey. Morel v. Thompson, 225 NW 2d 584 (N.D. 1975).

10. A commercial greenhouse is not a farming operation. Buildings and improvements used in connection with the operation are not exempt.

A commercial nursery is a farming operation; buildings and improvements used in the operation of a commercial nursery are exempt. Boehm v. Burleigh County, 130 NW 2d 170 (N.D. 1964).

11. The exemption is not limited to a single set of farm buildings. If a farmer has more than one set of farm buildings, all are exempt if the buildings are used as part of the farm plant.

Farm Residence Exemption

12. A residence is exempt if it is situated on a farm and is occupied or used by an individual who is a farmer. It need not be owned by the farmer.

The term **farm** means a single tract or contiguous tracts of agricultural land containing a minimum of 10 acres which are normally used for farming or ranching.

The term **farmer** means an individual who normally devotes the major portion of the individual's time to the activities of producing unmanufactured products of the soil, poultry, livestock or dairy products. The farmer and spouse, if married, must have received more than fifty percent of their combined annual net income from farming activities in any one year of the three preceding calendar years, whether one or both are farmers. The term also includes an individual who is a retired farmer or beginning farmer.

13. A retired farmer is an individual who quit farming because of illness or age and has not merely changed occupations. The local assessment officials have the responsibility to determine whether a farmer retired because of illness or age.
14. A beginning farmer is an individual who: 1) began occupancy and operation of a farm within the three preceding calendar years; 2) normally devotes the major portion of time to farming activities and; 3) had no farm income or loss in at least one of the prior three years.
15. A residence occupied by the surviving spouse of a farmer is not exempt unless the surviving spouse is a farmer as defined in number 12 and the residence is located on a farm.

However, a residence occupied by the surviving spouse of a retired farmer continues to be exempt provided the surviving spouse also qualified as a farmer at the time of retirement.

16. A residence located on a tract of agricultural land containing 10 acres or more, occupied by a farmer who also farms other noncontiguous land, qualifies for the exemption even though the particular tract of land upon which the residence is located does not produce 50 percent or more of the farmer's net income.

17. A residence is not exempt if it is located on a tract or contiguous tracts of agricultural land, whether owned or rented, containing less than 10 acres.
18. A residence located on a tract or contiguous tracts of agricultural land containing 10 acres or more is not exempt if it is occupied or used by an individual who is not a farmer.
19. A residence is exempt if it is situated on a farm and remains occupied by the retired farmer who **owned and occupied** it as a farmer at the time of retirement.
20. If the agricultural land acreage owned by the retired farmer diminishes to less than 10 acres after retirement, the residence may continue to be exempt, provided that the residence qualified for the exemption at the time the farmer retired.
21. A residence situated on a farm and occupied by a farmer is not exempt if the farmer and spouse had non-farm income exceeding \$40,000 in each of the three preceding calendar years. This provision does not apply to a retired farmer or beginning farmer.
- *22. "Net income from farming activities" includes income from producing products of the soil or raising farm animals. It is the taxable farm income for income tax purposes (including CRP payments), minus income from custom work, plus taxable capital gains from the sale of agricultural products, plus the basis deducted in calculating capital gains, plus interest and depreciation expenses incurred in the farming operation. Interest expense includes such items as mortgages on the farm land, buildings, equipment, etc.

Note: "Net income from farming activities" does **not** include income from cash rent; mineral leases or royalties; wages or salaries; interest income from a contract for deed payment from sale of farm land; interest, the principal of which may have been derived from farm income; or any other income not specifically defined as farm income for income tax purposes.
23. An assessor may require the occupant of the residence to sign a statement showing the facts required for the exemption. If an assessor requires a statement from the occupant of **any** farm residence, equity and fairness dictate that the assessor should require a statement from the occupant of **every** farm residence.
24. If a farmer operates a bed and breakfast facility in the farm residence occupied by that farmer, the residence is exempt provided the farmer and the residence meet the other qualifications for the exemption.

* Indicates significant change since last revised