

Senate Bill No. 2041

I, Lawrence D. DuBois, senior partner of Fleming, DuBois, and Fleming P.L.L.P., hereby submit this information on behalf of concern for my community and clients whom I have represented in the past regarding these exact issues, and hereby respectfully presents the following information to this honorable committee for your consideration.

Senate Bill No. 2041 should be adopted as currently written for the for the following reasons:

The statute, as currently written, has caused great conflict and confusion throughout neighboring Counties as to whether or not these properties are considered tax exempt as apart of the farmers' greater farm plants, which has resulted in inconsistent enforcement between neighboring Counties and across the State of North Dakota. This inconsistent enforcement has caused great disparity and prejudicial treatment of farmers who own these types of properties in Counties that have interpreted the statutes to find these properties non-exempt, and ultimately tax the buildings as commercial properties vs. Counties who have determined that these are part of the farm plant and therefore the buildings are tax exempt. The economic impact on our farmers is disturbing. This disparate treatment ultimately has created an issue where neighboring farmers are unable to remain competitive in the farming market given the increase in costs of having to pay taxes on grain and potato warehouses, which their competitors just eight (8) miles down the road are not required to pay. The reality is that this kind of disparity is crippling our farmers. These same farmers who we depend on for our food, livelihood, employment, and industry. Imagine a County where the farmers are burdened with a \$30,000.00 tax increase from the prior year, an increase which their competitors are not required to pay for the same type of building they own just eight (8) miles away.

Further, the language provided in the current bill before this committee is consistent with the current language in the statute. This Bill does not seek to clarify language within the current statute, it seeks to state plainly and clearly, that these types of buildings, when utilized within the parameters presented in the Bill, are tax exempt, period. Given this current language, there is no ambiguity as to whether or not these types of buildings are exempt, and without ambiguity, the law will allow for consistent interpretation and enforcement, which fosters equal protection under the law. Under the current language, whether a building is exempt from taxation will no longer depend on what type of land the building is situated on. Instead, it will depend on the use of the building, which is arguably what the legislature intended when adopting the farm plant exemption currently in the statutes.

Adopting Senate Bill No. 2041, will provide clarification and consistency across the State, and will allow our farmers to remain competitive to those in neighboring Counties. With every farmer on the same playing field, if you will, it will allow free market and competition in our local economies; will stabilize the costs of produce which is passed on to the consumers; will continue to allow farmers to employ workers, provide food to their communities, continue to support local industry with the purchase of farm equipment and commodities; and will contribute to the tax basis that our communities and State rely on.

To ignore these issues would create a great injustice and disparate treatment under the law

against farmers that own grain or potato warehouses in Counties that interpret the current statutes differently and conclude that the buildings are taxable, than Counties within immediate proximity that interpret the statutes to conclude that the buildings are tax exempt as apart of the greater farm plant. A farming operation does not exist as one single action, but rather is a continuum from the tilling of the soil, seeding of the land, growing the crop, harvesting the crop, and the necessary storage of the agricultural crop to complete the process of raising the crop that is then sold by the farmer. The land and farm structures utilized for appropriate storage of the agricultural crop are just as important as the a land upon which the crop is planted and harvested. These buildings would be exempt if they were sitting within the farm yard, despite that the use is the same. Gone are the days where family farming operations were in one location. The legislature acknowledged this advancement in the farming community by adopting legislation that exempts grain bins that may be located off site of the farm operation, so long as they are utilized in the greater farm plant. What this Bill proposes is to continue this recognition of the ever changing farming operation, and allow the farmers who are utilizing these grain and potato warehouses for own personal use to exempt these buildings as apart of their farm plant despite the classification of land that the building is situated on.

By passing this Bill, the plain and clear language will of the legislation will correct the inconsistency and prejudicial treatment that is threatening the security of our farming community, and will allow equal protections under the law.

Thank you for your time and consideration regarding this matter, it is greatly appreciated.

Sincerely,



Lawrence D. DuBois