

2021 SENATE FINANCE AND TAXATION

SB 2041

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2041
1/6/2021

A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use; and to provide an effective date.
--

Chair Bell calls the meeting to order. All members present. [10:30]

Discussion Topics:

- Crop storage facilities
- Potato warehouses
- Commercial storage facilities

Senator Myrdal [10:31], introduces SB 2041 and submits testimony #265.

Representative Damschen [10:36], provides oral testimony in favor of SB 2041.

Pete Hanebutt [10:38], North Dakota Farm Bureau, provides oral testimony in favor of SB 2041.

Additional written testimony: N/A

Chair Bell adjourns the hearing. [10:49]

Joel Crane, Committee Clerk

NORTH DAKOTA SENATE

#265



STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Senator Janne Myrdal

District 10
P.O. Box 153
Edinburg, ND 58227-0153

C: 701-331-0946

jmyrdal@nd.gov

COMMITTEES:

Agriculture
Judiciary

January 5, 2021

2041
~~SB2140~~

Madam chair and members of Tax and Finance committee.

I am Senator Myrdal representing D10 in NE North Dakota, the heart of the Red River Valley Agricultural land. I am here today with SB ^{*2041*}~~2140~~, a simple legislation yet very important issue to AG producers across the state.

Several AG producers in counties I represent have a concern about taxation on their crop storage facilities. ^{*2041*}~~SB2140~~ clarifies, or maybe rectifies the lack of uniformity in regards to taxation of crop storage facilities.

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2041
1/26/2021

A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use; and to provide an effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [9:19]

Discussion Topics:

- Number of structures
- Counties affected

Senator Weber [9:21] motions DO PASS.

Senator J. Roers [9:21] seconds.

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

The motion passes 7-0-0. [9:23]

Senator Meyer will carry.

Chair Bell adjourns the meeting. [9:24]

Joel Crane, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2041: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2041 was placed on the Eleventh order on the calendar.

2021 HOUSE FINANCE AND TAXATION

SB 2041

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2041
3/3/2021

A bill relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use.

Chairman Headland opened the hearing at 9:00am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	AB
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Tax exemption for noncommercial use
- Tax on potato warehouse
- Tax on grain facilities
- Proposed amendment 21.0100.01001

Senator Myrdal introduced the bill (no written testimony).

Representative Monson testified in support (#7218).

Representative Damschen testified in support (no written testimony).

Representative Thomas testified in support and proposed an amendment 21.0100.01001 (#7216 and 7217) and add condominium storage.

Pete Hanebutt, North Dakota Farm Bureau, testified in support (no written testimony).

Brian Vculek, farmer in Crete, North Dakota, testified in support (#7210).

Linda Svihovec, North Dakota Association of Counties, testified in opposition (#7123).

Edward Sevigny, Tax Director for Walsh County, testified in opposition (#7097).

Donald Flaherty, City Council President for Ellendale, North Dakota, testified in opposition (#7160).

Stephanie Dassinger, North Dakota League of Cities, testified in opposition (no written testimony).

Additional written testimony:

David Moquist, O.C. Schulz & Sons, testimony in support #7198.

Lawrence DuBois, Fleming DuBois & Fleming PLLP, testimony in support #7157.

Donavon Johnson, President of Northern Plains Potato Growers Association, testimony in support #7085.

Laverne Doyle, Chairperson for Pembina County Board of County Commissioners, testimony in opposition #7164.

Mikka Willits, Director of Tax Equalization for Pembina County Tax Equalization, testimony in opposition #7163.

Dennis Skorheim, Commission Chair for Walsh County Commission, testimony in opposition #7117.

Chairman Headland closed the hearing at 10:00am.

Mary Brucker, Committee Clerk

Testimony in favor of

SB2041

House Finance and Tax Committee

By Rep. David Monson

Mr. Chairman and members of the House Finance and Tax Committee, for the record I am Rep. David Monson from Dist. 10 in far northeastern ND. I am here to testify in favor of SB2041. We put this bill in for a group of farmers in rural areas and communities in our district. We were made aware of a problem of how taxes were being levied in Pembina County and Walsh Counties on their potato warehouses. We (all three legislators from District 10) met several times with a group of about ten to twelve farmers who all had the same complaint; they were being taxed with commercial rates on their potato warehouses despite the fact they were not a commercial enterprise. In other words, they grew the potatoes on their own farms, stored the potatoes in their own warehouses, sold them to a broker on the open market or by contract, and trucked them out as per contract. This is exactly as I do as a grain farmer. I raise my wheat, barley, canola, peas, etc., store them in my grain bins or rented bins, contract or sell on the open market, and then truck them out when delivery is needed. We could see no difference in how a potato farmer used his or her storage vs. how we as grain farmers use our grain storage. The only difference is where they are located. In most cases the grain farmer has his storage on his own farmland, although some do have some on the outskirts of a town by a railroad. We, as grain farmers, get taxed as ag land. These potato farmers own the land their potato storage sits upon, some on land contiguous to their other farmland. Until a few years ago, these potato houses were taxed as ag land. For some reason, they started to be taxed as commercial land despite nothing having changed. They complained to the county tax directors, but in most cases have not had any relief on the issue. At least one of the farmers has employed a lawyer and sued the county. After 5 months no response has been forthcoming. I talked to him over the weekend, and he said nothing has been changed. Thus, the bill is very much needed to reach a resolution. We searched, as did the potato farmers, the present law. I checked with the attorneys in legislative council and even with the attorney general. We can really see no reason the potato warehouses should be taxed as anything other than ag land just as my grain bins are. Some of the warehouses are on railroad right of ways as at one time the only way to economically ship potatoes was by rail, but the farmers expressed that it has been many years since they have shipped their potatoes by rail, not that it should make any difference in my mind. This bill includes grain facilities too, mostly as a precaution, to preempt any attempt to start taxing grain bins that are strictly ag storage as commercial. This bill, if passed, would not blanket all warehouse for potatoes or grain as ag if they are truly a commercial operation.

21.0100.01001

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2041

Introduced by

Senator Myrdal

Representatives Damschen, D. Johnson, Monson

1 A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota
2 Century Code, relating to a commercial property tax exemption for grain elevator ~~and~~
3 condominium grain storage, and potato warehouse property used for personal use; and to
4 provide an effective date.

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

6 **SECTION 1.** A new subsection to section 57-02-08 of the North Dakota Century Code is
7 created and enacted as follows:

8 All warehouses ~~and~~, elevators, and condominium grain storage facilities situated on
9 commercial property used for personal use. For purposes of this subsection:

10 a. "Personal use" means the use of a warehouse ~~or~~, elevator, or condominium grain
11 storage facility to store or process grain or potatoes produced by the owner or
12 owners of the elevator ~~or~~, warehouse, or condominium grain storage facility or an
13 individual related to the owner or owners by blood or marriage. The term does not
14 include the use of an elevator ~~or~~, warehouse, or condominium grain storage
15 facility to store or process grain or potatoes produced by individuals other than
16 the owner or owners of the elevator ~~or~~, warehouse, or condominium grain storage
17 facility or the owner's relatives.

18 b. "Process" means the ordinary handling of grain or potatoes prior to sale. The
19 term does not include processing that results in a value-added physical or
20 chemical change to the grain or potatoes.

21 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
22 December 31, 2020.

21.0100.01001
Title.

Prepared by the Legislative Council staff for
Representative Thomas
February 19, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

Page 1, line 2, replace "and" with ", condominium grain storage, and"

Page 1, line 7, replace "and" with an underscored comma

Page 1, line 7, after "elevators" insert ", and condominium grain storage facilities"

Page 1, line 9, replace the first "or" with an underscored comma

Page 1, line 9, after "elevator" insert ", or condominium grain storage facility"

Page 1, line 10, after "owner" insert "or owners"

Page 1, line 10, replace the second "or" with an underscored comma

Page 1, line 10, after "warehouse" insert ", or condominium grain storage facility"

Page 1, line 11, after "owner" insert "or owners"

Page 1, line 12, replace the first "or" with an underscored comma

Page 1, line 12, after "warehouse" insert ", or condominium grain storage facility"

Page 1, line 13, after "owner" insert "or owners"

Page 1, line 13, replace the first "or" with an underscored comma

Page 1, line 13, after "warehouse" insert ", or condominium grain storage facility"

Renumber accordingly

Honorable Representative Headland and committee members.

I am Brian Vculek from Crete ND. I am a fourth generation Sargent County farmer. I currently produce corn and potatoes.

I support SB 2041.

My family purchased two of the four potato warehouses you see in this picture in late in the 1980's.

We installed railroad siding and a truck scale. We later added two more buildings. We approached all of these new projects full well knowing that we would be paying extra property tax as opposed to building across the road on land not in the city limits. But we felt the efficiencies of being near the original investment overruled leaving this site. Thirty-five percent of my potato storage is out of city limits and I pay less than \$100 on that. Last year I paid \$22,700 property tax for the site pictured in the Oakes industrial park. It just happened that the business leaders of Oakes ND years ago had the foresight to annex this property to the city to keep property available for manufacturing. That can still happen, but in the mean time I am paying more tax on an agricultural asset than the most of my fellow growers. Keep in mind all I do with these facilities is store potatoes until the processor is ready to turn them into french fries.

The current law pertains to not only potato warehouses but also grain facilities. About five years ago my wife and I decided to construct new grain bins and a new dryer for our corn production. We considered building near our potato warehouses since we already had a truck scale and rail access there. We chose instead to locate near Crete ND. This site will require building more railroad, but it is not on platted property. By the map you can see the installation of the rail will cut through some agricultural properties that are already quite small to farm. This reduces its value. Also keep in mind all the platted property in these small disappearing villages across North Dakota. Think of all the possible start-up family businesses that will not want to locate on these small platted tracts just because of future tax commitments.

In my opinion our current law is anti-renaissance for rural North Dakota. It certainly has forced me to reconsider the sites I choose to build on.

Please support SB 2041.

Thankyou Chairman Headland and Committee members.

I stand for questions.

Aerial Map

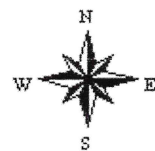


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Map Center: 46° 8' 52.04, -98° 4' 28.91



21-131N-59W
Dickey County
North Dakota



3/1/2021

Maps Provided By:



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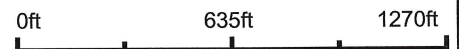
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Aerial Map

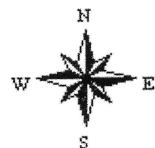


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Map Center: 46° 11' 58.01, -97° 57' 25.69



33-132N-58W
Sargent County
North Dakota



3/1/2021

Maps Provided By:



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Testimony Prepared for the
House Finance & Tax Committee
March 3, 2021
By: Linda Svihovec, NDACo



RE: Oppose Senate Bill 2041

Good morning Chairman Headland and committee members. For the record, my name is Linda Svihovec with the North Dakota Association of Counties. Thank you for the opportunity to speak to you in opposition of Senate Bill 2041 on behalf of North Dakota counties.

Senate Bill 2041 provides a property tax exemption for grain elevators used for personal use to store or process grain or potatoes produced by the owner of the elevator. However, the bill fails to provide language requiring documentation for verification that the ag products stored in the elevator belong to the owner. This becomes problematic as it creates inequity with other warehouse owners that may be next door storing machinery, chemicals, or other ag products.

Senate Bill 2041 is unclear as to how far the exemption eligibility extends by “blood or marriage”. This vague language makes it difficult for a tax assessor to determine whether the facility is taxable or if it qualifies for the exemption. In most North Dakota communities, the term by “blood or marriage” could mean lots of folks.

Senate Bill 2041 adds another exemption to the already lengthy list of exemptions which shift the tax burden to the remaining taxpayers. This is in complete contrast to the efforts of local subdivisions to control property taxes which has been a concern expressed frequently by this committee.

Chairman Headland and committee members, the ND Association of Counties and its members request that you oppose SB2041 in its current form with a DO NOT PASS and to consider the negative implications on local taxpayers with the expansion of unfunded property tax exemptions.

Testimony for Public Hearing
House Finance and Taxation Committee
March 3, 2021
Edward Sevigny, Walsh County Tax Director

Testimony in opposition to S.B. No. 2041 (Committee)

Good Morning Mr. Chairman and members of the House Finance and Taxation Committee. For the record my name is Edward Sevigny and I am the Walsh County Tax Director. I am here today to testify in opposition to Senate Bill 2041. As the Walsh County Tax Director I am responsible for equalizing the values for property tax purposes of 36 Townships and 13 Cities in Walsh County as well as guiding and directing our Local Assessors.

Walsh County:

- Approximately \$2.13 million in True and Full Value throughout the County would be eliminated
- This would reduce the property taxes collected by the County or shift that burden to all other taxpayers
- This would also reduce collections or shift the tax burden for Cities and School Districts

Fairdale City (Walsh County):

- Would lose approximately 14% of their True and Full Value
- All other taxpayers would see an 18% increase in tax bills to collect the same amount of property taxes

Crystal City (Pembina County):

- Would lose approximately 21.6% of their True and Full Value
- All other taxpayers would see a 28% increase in tax bills to collect the same amount of property taxes

Enforcement of bill:

- Many potato warehouse bins could be rented out to others from year to year, how to accurately verify?
- Individuals related to the owner by blood or marriage, how to realistically verify?

Structures built within Incorporated City Limits:

- These structures were built within City Limits to take advantage of roads, railway, utilities, infrastructure, and other amenities not offered on a farm
- Currently no other structures besides Churches or non-profit organizations are offered permanent exemptions within City Limits

This bill would cause a tax shift, especially in small cities, to other property owners. It would also be difficult to administer on a yearly basis and allow these property owners to receive services offered within City Limits that all other taxpayers help pay for through property taxes. Thank you on behalf of Walsh County for allowing me to testify in opposition to Senate Bill 2041.

Matt Thorpe
Mayor

Candace Middlestead
Auditor

ellendal@drtel.net



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City of Ellendale

2021 House Finance and Taxation Committee
Honorable Representative Craig Headland, Chairman
North Dakota State Capitol

March 3, 2021

Dear Representative Headland and Members of the House Finance and Taxation Committee:

My name is Don Flaherty and I am the City Council President for the City of Ellendale. I am writing you today to speak against SB 2041. I believe that the proposed addition to section 57-02-08 to provide a property tax exemption for warehouses and elevators on commercial property for personal use is simply too far reaching and would place an unfair tax burden on other real property owners in small cities with these types of structures.

In both my city and a sister city in my county there is an elevator complex that is privately owned and operated. If this legislation were to pass, those properties would become exempt and create a loss of revenue for small cities that have budgetary pressures. Based on 2020 Mill Rates, for my city that would equate to a loss of \$10,054 and for our sister city a loss of \$1,829. These may seem like negligible amounts but for our city that is a property tax revenue decrease of 2.6% and our sister city a decrease of 17%. That is a large impact.

In addition, these facilities will continue to operate and as their heavy trucks pass in and out of town our roads will continue to deteriorate without a funding mechanism to help offset the cost of repairs. Thus, the burden of those costs is once again shifted to the general population who will reap no benefit from this exemption.

The aspects of this legislation have a much further reach than is commonly understood and would have a huge impact on a number of small cities within the state.

Therefore, I would strongly urge each of you to vote against SB 2041.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Donald W. Flaherty". The signature is stylized and cursive.

Donald W. Flaherty
Ellendale City Council President

March 1, 2021

Rep. Headland, Craig and members of the House Finance and Taxation Committee
Legislative Assembly of North Dakota

Re: Senate Bill 2041
SUPPORT Letter

Representatives Headland, Craig and Members,

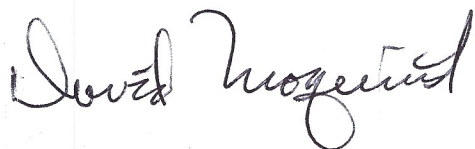
I am writing this letter in **SUPPORT** of SB 2041.

This needs to be clarified because not all storages in the state are being treated equally.

Potatoes and grain should be treated the same. If storage is being used as part of the larger farm unit, it should not be commercial no matter where it is located.

I respectfully request the ND House Finance and Taxation Committee votes to **support SB 2041**.

Sincerely,

A handwritten signature in black ink that reads "David Moquist". The signature is written in a cursive style with a large, looping initial "D".

David Moquist
Crystal, ND

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

Northern Plains
POTATO GROWERS ASSOCIATION



March 1, 2021

Rep. Headland, Craig and Members of the House Finance and Taxation Committee
Legislative Assembly of North Dakota

Re: Senate Bill 2041
SUPPORT Letter

Representatives Headland, Craig and Members,

We are writing this letter of testimony in **SUPPORT of SB 2041** relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use.

The Northern Plains Potato Growers Association (NPPGA) represents 150+ potato growers across ND. As you are aware, potatoes are a perishable crop that must be properly stored in warehouses and buildings to extend their life for timely processing and shipping throughout the winter, spring and summer months. Many of these warehouses are located within town/city boundaries for the express purpose of ease of shipping, safety, transportation, etc. Some buildings are located adjacent to rail lines/spurs to accommodate shipping potatoes across the country.

The vast majority of these warehouses are used exclusively to store and ship from the grower's own personal potato crop – there is no commercial activity involving other growers that occurs on the property. This bill is designed to protect and restrict such property from being taxed at a commercial rate when no commercial activity occurs on the property. Identifying a property located within a taxing jurisdiction simply due to its location should not be sufficient to identify it as “commercial” property.

We respectfully request the ND House Finance and Taxation Committee votes to support SB 2041.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Donavon Johnson', with a long horizontal flourish extending to the right.

Donavon Johnson
President

PEMBINA COUNTY BOARD OF COMMISSIONERS
301 DAKOTA ST WEST #1
Cavalier, North Dakota 58220-4100
www.pembinacountynd.gov

Laverne Doyle, Chairman
District #4

Hetty Walker
District #1

Hugh Ralston
District #3

James Benjaminson
District #2

Nichol Rutherford
District #5

March 2, 2021

To: Finance and Taxation Committee

RE: SB 2041

Dear Committee Chair Headland,

Please accept this letter on behalf of the Pembina County Board of County Commissioners expressing opposition to SB 2041 as written.

Historically, absent an exception, land is taxable. In order to benefit from an exemption, it is incumbent on the landowner to provide documentation proving the existence of an exemption. SB 2041 does not address how the exemption will operate in tandem with other century codes or address conflicts with other rules within N.D.C.C. Chapter 57-02.

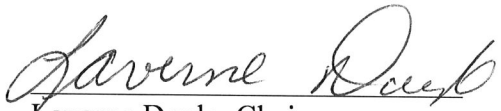
Currently, warehouses and grain elevators located on commercial property within a city are not tax exempt. As written, the newly created definition of "personal use" proposed in SB 2041 creates a tax exemption that would create a substantial loss in revenue for all taxing districts. With decreased valuations, levies increase, and the expenses would likely remain the same or potentially increase as additional commercial enterprises seek to benefit from tax-free property. Without another source of replacement income, the financial burden of expenses due to decreased valuations would fall on the residential property owners of small, rural cities and townships. The deficit would have a detrimental impact on all cities, schools, EMS, and fire districts, and create a lack of funding for the maintenance of infrastructure and roadways in all of our communities across the state. General taxpayers will bear the burden of absorbing the deficit through increased taxation.

As written, SB 2041 does not address conflicts between the new definition and current legislation. The language in SB 2041 appears to be a "blanket" definition, and lacks specificity as to: 1) what level of consanguinity is considered; 2) who is considered a relative by "blood or marriage;" 3) whether a person must be a "farmer" by definition; 4) whether some portion of property for personal use is overcome by a portion used for non-personal use; and 5) how relationships, or use information is to be proven. Potentially,

anyone who claims to be a distant cousin could be tax exempt. In addition, if a warehouse owner uses a portion of the building for grain, but rents a portion of the warehouse to another for a private hauling business, or a portion of the property is used as an office to sell seed, SB 2041 offers no clear distinction as to taxability. Additionally, this revision would have an impact on commercial property tax revenue on railroad property, which has been taxable for at least 50 years.

The Pembina County Board of County Commissioners ask you to consider the unintended consequences created by SB 2041, and the unnecessary and unplanned financial burden it would create for all of the residential property owner citizens in Pembina County, and throughout the state. The Pembina County Board of County Commissioners urge each of you to vote against SB 2041. Thank you for your consideration.

Respectfully,
Rebecca Flanders
Pembina County State's Attorney on behalf of the
Pembina County Board of County Commissioners

A handwritten signature in cursive script, appearing to read "Laverne Doyle".

Laverne Doyle, Chairperson
Pembina County Board of County Commissioners

PEMBINA COUNTY
Director of Tax Equalization
301 DAKOTA STREET WEST #4
CAVALIER, NORTH DAKOTA 58220
PHONE (701) 265-4697
Fax (701) 265-4876
mwillits@nd.gov

March 2, 2021

House Finance and Taxation Committee
Representative Craig Headland, Chairman
600 E. Boulevard Ave.
Bismarck, ND 58505

Dear Committee Chair Headland and Committee members,

My name is Mikka Willits and I am the Director of Tax Equalization for Pembina County. I am writing to encourage you to vote in opposition of Senate Bill 2041. As the Director of Tax Equalization, I am responsible for equalizing the valuations for twenty-four (24) Townships and eleven (11) Cities in Pembina County. I also provide guidance to the state certified local assessors.

Commercial properties located within the incorporated city limits are taxable. In review of SB 2041, it appears the adoption of this bill would decrease the taxable valuations located within our local jurisdictions. A decrease in valuation causes an increase in mill levies. Without a supplement for decreased valuations, the financial burden will fall back on the remaining taxpayers. It will also have a detrimental funding impact on our schools, EMS, fire districts, local jurisdictions and the maintenance of infrastructure. I am concerned this reassignment of taxation is an unintended consequence of the bill at hand.

For your consideration, below is a small sampling of the potential impact on rural communities:

Pembina County:

- Approximately \$6.37 million in True and Full Valuation throughout the county would be eliminated and the financial deficit will fall on all the other taxpayers.
- Funding for schools, EMS, fire districts, etc., will be impacted.

Hensel/Canton City:

- Approximately 16.3% of their True and Full Valuations would be eliminated.
- Taxpayers may see an increase of 19.52% to collect the same amount of property taxes.

Crystal City:

- Approximately 21.5% of their True and Full Valuations would be eliminated.
- Taxpayers may see an increase of 27.45% to collect the same amount of property taxes.

Larger jurisdictions may not see as high of an impact, but impacted nonetheless.

Under the proposed definition of “personal use,” enforcement would be difficult, if not impossible. It would be impractical to believe one could track property for the purpose of “personal use.” Many business entities have more than one individual involved and some may even have silent partners. Entities may change status annually, and some may involve additional businesses within the same improvement. For instance, warehouses and elevators may be leased, loaned, bartered, or used for a temporary purpose other than originally stated. As to the inclusion of “relationship” under SB 2041, what method of proof would be required to prove relation by “blood or marriage” and how far back in the genealogy are we to review? What if there was a divorce? The property owner has the responsibility of providing documentation when seeking a tax exemption, so what documentation could be shown to prove a family relationship?

Improvements within the city limits benefit from the use of roads, railways, utilities, infrastructure, and offer other advantages in the community. Many other business opportunities may arise when similar types of parcels are located within the same area. Examples may be that of leasing, brokering, transportation, fertilizer and seed sales.

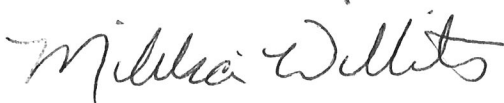
Other than religious and non-profit organizations, no other improvements located within the city limits have a comparable permanent exemption as proposed in SB 2041. Consistency and fairness in taxation is the foundation of equalization.

As written, this bill would cause the unintended consequence of a tax increase to local jurisdictions and the taxpayers of Pembina County. At the same time, commercial properties within city limits would continue to enjoy the use of the infrastructure, utilities and other amenities, though now at the expense of the other taxpayers.

In consultation with Walsh County Director of Tax Equalization, Ed Sevigny, it was determined we are in agreement as to the detriment SB 2041 would cause each of our neighboring communities. As such, Mr. Sevigny may provide testimony, discussion, and information related to both Pembina and Walsh Counties. If you have further questions, please feel free to reach out to me. My contact information is noted above.

I strongly urge you to oppose SB 2041 as it will cause a tax increase and financial burden on taxpayers in Pembina County. Thank you for your time and consideration.

Respectfully submitted,



Mikka Willits
Pembina County Director of Tax Equalization

WALSH COUNTY
600 COOPER AVE.
GRAFTON, ND 58237

Dennis Skorheim, Chair

Commissioner Ernie Barta
Commissioner Lawrence Burianek

Commissioner Kristy Brintnell
Commissioner Karen Anderson

March 2, 2021

House Finance and Taxation Committee
600 E. Boulevard Ave.
Bismarck, ND 58505

Committee members:

The Walsh County Commission is writing in opposition to Senate Bill 2041. We feel this bill would unfairly shift the property tax burden to all other property owners in Walsh County and other taxing entities.

The loss of tax revenue that would be realized should this bill pass could be devastating to our County, local Cities, both large and small, School Districts, Park Districts, and all other taxing entities. Tax revenue lost due to an exemption for grain storage facilities or potato warehouses will have to be made up in other ways if our local taxing entities are going to maintain infrastructure and services to the people of Walsh County.

As written, this bill would be extremely difficult to properly enforce. The term "personal use" and family relations would be very hard to determine for Local Assessors and the Tax Director's Office.

Please consider this our formal opposition to Senate Bill 2041.

Sincerely,



Dennis Skorheim, Chairman
Walsh County Commission
Grafton ND 58237

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2041
3/23/2021
AM

A bill relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use.
--

Chairman Headland opened the discussion at 11:18am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Proposed amendment 21.0100.01005

Chairman Headland proposed an amendment 21.0100.01005 (#10547).

Committee will reconvene after the floor session and have someone from the Tax Department explain the amendment.

Chairman Headland closed the discussion at 11:18am.

Mary Brucker, Committee Clerk

21.0100.01005
Title.

Prepared by the Legislative Council staff for
Representative Headland
March 17, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

- (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
 - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code.
 - (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654] and includes a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
 - (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
 - (6) For purposes of this ~~section~~ subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
 - (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption

under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR GRAIN ELEVATORS AND POTATO WAREHOUSES. During the 2021-22 interim, the legislative management shall consider studying the provision of a property tax exemption for privately owned grain elevators, potato warehouses, and other farm structures classified as commercial property. The study must include consideration of the definition of agricultural property and the impact of providing the exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2041
3/23/2021
PM

A bill relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use.

Chairman Headland opened up for discussion at 2:46pm.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	AB
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	AB
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Proposed amendment 21.0100.01005

Joe Becker, North Dakota Office of State Tax Commissioner's Office, explained the proposed amendment 21.0100.01005 (#10547).

Chairman Headland closed the discussion at 3:10pm.

Mary Brucker, Committee Clerk

21.0100.01005
Title.

Prepared by the Legislative Council staff for
Representative Headland
March 17, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

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 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

- (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
 - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code.
 - (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654] and includes a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
 - (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
 - (6) For purposes of this ~~section~~ subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
 - (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption

under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

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SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2041
3/24/2021

A bill relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use.
--

Chairman Headland opened up for discussion at 10:08am.

Discussion Topics:

- Proposed amendment #10646
- Committee decision

Dee Wald, General Counsel for the North Dakota Tax Commissioner's Office, explained the proposed amendment (#10646).

Representative Ertelt suggested an additional verbal amendment to add language on page three after "consider studying" insert "the farm home property tax exemption."

Dee Wald, General Counsel for the North Dakota Tax Commissioner's Office, answered questions from the committee.

Committee decided against adding the additional language suggested by Representative Ertelt.

Representative B. Koppelman made a motion to adopt amendment which includes taking out the gain from the sale of agriculture property and remove it from the definition of gross income, change the study on page 3 to reference all agriculture products, and in the study indicate a corporation can farm if they have family ties all the way down to second cousins (#10646).

Representative Dockter seconded the motion.

Voice vote-motion carried.

Representative B. Koppelman made a motion for a DO PASS AS AMENDED.

Representative Dockter seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y

Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	AB

Motion carried 13-0-1

Representative B. Koppelman is the bill carrier.

Chairman Headland closed the discussion at 10:25am.

Mary Brucker, Committee Clerk

March 24, 2021

AF
3/24/21
1 of 3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

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3/24/21
243

under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

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303

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCTS STORAGE. During the 2021-22 interim, the legislative management shall consider studying the provision of a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2041: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2041 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

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at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
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defined in section 10-06.1-12. The study must include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

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Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subdivision b to subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study of the property tax on grain elevator and potato warehouse property used for personal use; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b to subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:

- (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.
 - (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
 - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this subsection, "farm machinery" means all vehicular implements and attachment units, designed, and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
- (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated

income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

- (5) When exemption is claimed under this subdivision subsection for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
- (6) For purposes of this ~~subdivision~~ subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY – PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCT STORAGE. During the 2021-2023 interim, the legislative management shall consider studying a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must also include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021.”

Renumber accordingly

2021 CONFERENCE COMMITTEE

SB 2041

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2041
4/9/2021
Conference Committee

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

Chair Weber calls the meeting to order. Senators Weber, Meyer Kannianen and Representatives B. Koppelman, D. Anderson, M. Nelson are present. [11:00]

Discussion Topics:

- Agriculture storage tax exemption study
- Non-farm income
- Farm residency tax exempt status
- Potato warehouse property taxes

Committee Discussion [11:00]

Chair Weber adjourns the meeting. [11:09]

Joel Crane, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2041
4/13/2021
Conference Committee

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

Chair Weber calls the meeting to order. Senators Weber, Meyer, Kannianen and Representatives B. Koppelman, D. Anderson, M. Nelson are present. [11:01]

Discussion Topics:

- Land and building tax assessments
- Property tax study
- Potato facility property taxation
- Land and building valuation
- Agriculture property classification

Committee discussion [11:01]

Emily Thompson [11:13] Code Reviser – Legislative Council provides information orally.

Kim Vietmeier [11:23] State Supervisor of Assessments, Office of the Tax Commissioner, provides information orally.

Chair Weber adjourns the meeting. [11:29]

Joel Crane, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2041
4/15/2021
Conference Committee

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

Chair Weber calls the meeting to order. Senators Weber, Meyer, Kannianen and Representatives B. Koppelman, D. Anderson, M. Nelson are present. [10:00]

Discussion Topics:

- Greenhouses and potato warehouse exemptions
- Agriculture property taxation

Committee Discussion [10:01]

Senator Kannianen [10:06] moved House recede from House Amendments and further amend [LC 21.0100.01009].

Senator Meyer Seconds

Motion fails 3-3-0

Senator Meyer [10:07] moved Senate accede to House Amendments
Representative B Koppelman seconds

Motion passes 5-1-0

Senator Meyer and **Representative B. Koppelman** carries

Chair Weber adjourns the meeting. [10:07]

Joel Crane, Committee Clerk

PROPOSED AMENDMENTS TO SENATE BILL NO. 2041

That the House recede from its amendments as printed on pages 1079-1081 of the Senate Journal and pages 1283-1285 of the House Journal and that Senate Bill No. 2041 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 57-02-01 and subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of agricultural property and income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-02-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, except lands platted and assessed as agricultural property prior to March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals. 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. Notwithstanding the existence of any of the conditions provided in subdivision a, agricultural property includes land on which buildings used for storing potatoes or grains are located when that storage involves an agricultural commodity produced by the owner of the building. The time limitations contained in this section may not be construed to prevent property that was assessed as other than agricultural property from being assessed as agricultural property if the property otherwise qualifies under this subsection.
 - a. Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:
 - (1) The land is platted by the owner.
 - (2) Public improvements, including sewer, water, or streets, are in place.
 - (3) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops or graze farm animals.
 - (4) Property is zoned other than agricultural.

- (5) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
 - (6) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.
 - (7) The property sells for more than four times the county average true and full agricultural value.
- b. Land that was assessed as agricultural property at the time the land was put to use for extraction of oil, natural gas, or subsurface minerals as defined in section 38-12-01 must continue to be assessed as agricultural property if the remainder of the surface owner's parcel of property on which the subsurface mineral activity is occurring continues to qualify for assessment as agricultural property under this subsection.

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

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
- (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

- (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
 - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
 - (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].
 - (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
 - (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
 - (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption

under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCTS STORAGE. During the 2021-22 interim, the legislative management shall consider studying the provision of a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2020. Section 2 of this Act is effective for taxable years beginning after December 31, 2021."

Renumber accordingly

**2021 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2041

Senate Finance and Taxation Committee

- Action Taken** **SENATE accede to House Amendments**
 SENATE accede to House Amendments and further amend
 HOUSE recede from House amendments
 HOUSE recede from House amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Kannianen Seconded by: Representative Meyer

Senators					Representatives				
			Yes	No				Yes	No
Chair Weber			Y		B. Koppelman				N
Meyer			Y		D. Anderson				N
Kannianen			Y		M. Nelson				N
Total Senate Vote			3		Total Rep. Vote				3

3

Vote Count Yes: 3 No: 3 Absent: 0

Senate Carrier N/A House Carrier N/A

LC Number 21.0100 . 01009 of amendment

LC Number 21.0100 . 02000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment – relating to the definition of agricultural property and income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

**2021 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2041

Senate Finance and Taxation Committee

- Action Taken** **SENATE accede to House Amendments**
 SENATE accede to House Amendments and further amend
 HOUSE recede from House amendments
 HOUSE recede from House amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Meyer Seconded by: Representative B. Koppelman

Senators					Representatives				
			Yes	No				Yes	No
Chair Weber				N	B. Koppelman			Y	
Meyer			Y		D. Anderson			Y	
Kannianen			Y		M. Nelson			Y	
Total Senate Vote			2	1	Total Rep. Vote			3	0

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Meyer House Carrier B. Koppelman

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2041, as engrossed: Your conference committee (Sens. Weber, Meyer, Kannianen and Reps. B. Koppelman, D. Anderson, M. Nelson) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1283-1285 and place SB 2041 on the Seventh order.

Engrossed SB 2041 was placed on the Seventh order of business on the calendar.