

2025 SENATE FINANCE AND TAXATION

SB 2039

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2039
1/13/2025

Relating to the definition of agricultural property; and to provide an effective date.
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9:00 a.m. Chairman Weber called the meeting to order.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Wallen.

Discussion Topics:

- Application of bill to new construction
- Effect on revenue stream for small townships
- City territorial rights expanding to established agricultural property

9:02 a.m. Senator Myrdal, District 19, introduced SB 2039, testified in favor.

9:04 a.m. Representative Ben Koppelman, District 16, testified in favor.

9:07 a.m. Pete Hanebutt, North Dakota Farm Bureau, testified in favor.

9:13 a.m. Brian Vculek, Northland Potato grower, testified in favor.

9:27 a.m. Tarin Riley, Attorney, testified in favor and submitted testimony #28680.

9:35 a.m. Julia Ellingson, ND Stockman's Association, testified in favor.

9:36 a.m. Matt Gardner, ND League of Cities, Executive Director, testified in opposition and submitted testimony #28582.

9:40 a.m. Dennell Preske, NDAC, testified in opposition.

Additional written testimony:

Loren Estad, Owner, Estad Farm Corp, submitted written testimony #28452.

9:43 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

Testimony in favor of SB2039

January 10, 2025

Loren Estad

Crystal ND

Chairman Headland and committee members.

I am in favor of SB2039 as presented. I have been involved in this exercise to fix the issues on what constitutes ag property and the raising of ag commodities. The language change in this bill addresses the concerns I have had. This will be the 3rd legislative session spend on trying to resolve this issue. I think this bill does that. I have testified numerous times on this issue and would appreciate a DO-PASS recommendation.

The exciting news this week of the Cavindish potato plant expansion at Jamestown of \$150,000,000 along with the announcement of Agristo to build a new \$450,000,000 potato processing plant in Grand Forks accelerates this bills need for passage. Both these plans will involve a major investment by farmers (I estimate \$250,000,000) to update and build new storages to house the increased production requirements. Most of these farmer storage investments will be made in or near our rural small towns, in some cases it may be the only commerce in that town. There will be cases where investments are moved across county lines because the taxing authorities interpret the law differently. Making it more important than ever that the action of this bill be passed this current session.

This bill is not a new exception but is a way to bring clarity and understanding as to how various taxing authorities interpret ag property, and to put inequality issues to rest.

Thank You



SB 2039
Senate Finance and Tax Committee
Senator Weber Chair
January 13, 2025

Chairman Weber and members of the Senate Finance and Tax Committee. For the record, Matt Gardner Executive Director North Dakota League of Cities. I represent the 355 incorporated communities across North Dakota. I stand today in opposition to SB 2039.

This bill would exempt property taxes on potato warehouses and grain elevators that are used by farmers for their personal use. This item has been a topic of discussion for several legislative sessions including this past interim. The League has historically opposed legislation that would exempt these facilities from paying property tax. A long time League policy is to oppose property tax exemptions in general on the basis that adding exemptions increases the share of the property tax responsibility to the remaining non-exempt taxpayers.

From a city perspective, these facilities will still receive the same services provided to the other parcels within the city but will place a larger burden on the other residents and businesses.

During the interim, property tax exemption were reviewed statewide. A legislative memo showed the over 60 property tax exemptions currently in place in the state. The compilation of these exemptions over time has led to a shrinking tax base, shifting more burden to other parcels. Now at a time when we are talking about adopting tax policy that includes capping property tax levies by local political subdivisions, shrinking the tax base even further is going to negatively impact local budgets. Now is not the time to add more property tax exemptions.

I respectfully ask for a Do Not Pass on SB 2039.

Thank you for your time and consideration. I will try to answer any questions.



JOHNSON-GILCHRIST LAW FIRM, PC

ATTORNEYS AND COUNSELORS AT LAW

Paula M. Johnson-Gilchrist

Sean R. Gilchrist

Terin G. Riley

Kiersten M. Molcak

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January 13, 2025

Senate Finance and Taxation Committee
Attn: Chairman Weber
North Dakota Legislative Council
600 East Boulevard Ave
Bismarck, ND 58505

RE: SB2039: A Bil for an Act to amend and reenact subsection 1 of section 57-02-01 of the N.D.C.C., relating to the definition of agricultural property; and to provide an effective date.
January 13, 2025 Senate Bill Hearing

Dear Chairman Weber and other honorable members of the Finance and Taxation Committee:

Please allow this letter to serve as testimony in support of SB2039, which is presently before this committee this legislative session. My name is Terin Riley, and I am appearing before you on behalf of my clients, interested farmers in Pembina County, North Dakota.

I previously appeared before the Interim Committee on several occasions throughout the study which resulted in the unanimous approval of the language presented in SB2039 this past Summer/Fall. It is our position that SB2039 would serve a great justice to the farmers and ranchers of North Dakota, and we remain in support of SB2039, as drafted, and respectfully request that this Committee approve this bill and continue to support and advocate for the protection of equal application under the law for the citizens of the State of North Dakota.

This is the third legislative session in which the issue of N.D.C.C. § 57-02-01 and the statute's applicability and whether the storage of personal commodities before

delivery to the first end point user qualifies the storage structure for tax exemption under the law. As N.D.C.C. § 57-02-01 is currently written, the lack of a definition of what constitutes the continuum of “raising of agricultural crops” has given rise to ambiguity in the law, and left the statute open to personal interpretation, which has resulted in the disparate treatment under the law across the counties. This inequity in application of property taxation has cost my clients a significant amount of time and money to continue to fight at both local and state levels for justice and what is right, which is equal protections and application under the law.

The evolution of N.D.C.C. § 57-02-01 reflects a clear intention of the Legislature to acknowledge that the farming operation is evolving over time, and as such so must the legislation that guides it. The Legislature has already considered that the storage of seeds and plants in a greenhouse for a nursery, as well as the storage of honey in containers are considered to be a part of the agricultural practice of those industries.¹ So too should be the storage of crops and commodities, which may require maintenance and condition in order to preserve the crop and commodity from spoiling, before being delivered to the first end point user. The continuum of raising of agricultural crops does not end the minute the crop is harvested from the field. If that was the intention of the industry, Good Agricultural Practices (“GAP”) policies for sanitary storage and conditioning of the crops before delivery to the first end point users would not be required to be completed and re-certified every year by the farmers. Additional information regarding the GAP Audit process can be accessed at the website: <https://www.ams.usda.gov/services/auditing/gap-ghp/audit>. It is common sense that storage and maintenance of the crops and commodities is a part of the “raising of agricultural crops.”

The North Dakota Supreme Court has provided guidance as to the process necessary to make a tax exemption determination, and provided a two-part inquiry as to determination of: (1) the character of the land – whether the structure to be exempted is located on “Agricultural Property” as defined by N.D.C.C. § 57-02-01; and (2) the nature of the structure – whether the structure is “used” as part of the farm plant.² This language of the Legislature as well as the interpretation of the North Dakota Supreme Court clearly identify that the “use” of the building and the land is pivotal to the interpretation and determination of whether a structure qualifies for the property tax exemption.

Currently, there exists ambiguity in the interpretation of how local auditors are interpreting N.D.C.C. § 57-02-01 when making the determination as to whether land

¹ See North Dakota Office Of State Tax Commissioner Guideline-Property Tax: Exemption Of Farm Buildings And Other Improvements, ¶¶ 10 and 11; (which can be located at <https://www.tax.nd.gov/sites/www/files/documents/guidelines/property-tax/exemption-of-farm-buildings-other-improvements-guideline.pdf>).

² See *Boehm v. Burleigh County*, 130 N.W.2d 170, 173, (N.D. 1964).

qualifies as “Agricultural Property” under the law, before making a determination as to the exemption status for buildings and improvements located on the land under N.D.C.C. § 57-02-08(15). Ambiguity has been experienced in several different ways.

The first ambiguity being that there has been inconsistency in the application of whether or not the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) apply to all determinations of whether land qualifies as “Agricultural Property.” Some auditors have been immediately referencing the seven (7) factors to determine whether or not the land constitutes “Agricultural Property,” without ever determining whether and when the land was platted. However, in statutory interpretation, we must read the plain language of any statute as it has been defined by the Legislature. Courts interpret statutory language by its plain, ordinary, and commonly understood meaning.³ Punctuation and purposeful subdivisions of a statute are to be noted and recognized in interpreting statutes. It is understood and presumed that the Legislature was intentional in the drafting of the language as it was approved.

Pursuant to the plain language of N.D.C.C. § 57-02-01, as currently written, the first inquiry must establish whether the real property at issue is platted or unplatted; and if platted, it must be determined whether it was platted prior to March 30, 1981 or on or after March 30, 1981. If the real property at issue is platted on or after March 30, 1981, then whether four (4) of the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) are met becomes relevant to the inquiry.

However, if the land is unplatted or platted prior to March 30, 1981, then the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) are inapplicable to this initial inquiry. If the land is unplatted or platted prior to March 30, 1981, it is very clear that the Legislature intended that the land “shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals.”⁴ It necessarily follows that the next inquiry to be considered is whether the land is being used for the “raising of agricultural crops or grazing farm animals.” (emphasis added).⁵

The second ambiguity that is being experienced at local levels is in the undefined term of “raising of agricultural crops.” North Dakota Century Code § 57-02-01, as currently written, does not define what constitutes, or is included in the process of “raising of agricultural crops.” The issue directly at hand is whether or not storage and maintenance of the harvested crop before it is delivered to the end point user (first point of sale) is included in the “raising” of the agricultural crop process. It remains our position, that the storage and maintenance of crops to ensure they do not spoil prior to final delivery is an integral part of the continuum of “raising of agricultural crops.” The same

³ See N.D.C.C. § 1-02-02; and *Grand Forks Homes, Inc. v. State ex rel. State Bd. Of Equalization*, 2011 ND 65, ¶ 11, 795 N.W.2d 335, 339.

⁴ See N.D.C.C. § 57-02-01(1).

⁵ See *Id.*

would be true of the containment and storage of live cattle before they are either sold or sent to butcher.

The current issue that is creating disparate application and treatment across differing counties would be alleviated with the added language of SB2039, in such that the language clearly defines what constitutes the “raising of agricultural crops” and at what point the “raising of agricultural crops” is completed. Without the definition of “raising of agricultural crops,” the disparity and ambiguity created by the differing interpretations of the statute will continue, thus resulting in some farmers being taxed at a commercial rate for their land and storage structures, where other farmers in neighboring counties that are similarly situated are taxed as agricultural property and their storage structures are exempt. This disparity in treatment under the law has a significant economic impact on those prejudiced farmers and directly impacts their ability to remain competitive in their individual markets. This inequity under the law cannot be condoned or continue. We are not asking for a new exemption, which has been indicated throughout this process. What we are asking is for equal treatment under the law. It is our position that SB2039 provides for that equal treatment, and we respectfully request your support thereof.

Thank you for your time and consideration regarding these matters, and it is our most sincere hope that you vote in support of SB2039, and continue to support equal application under the law for all of North Dakota’s farmers and ranchers.

Sincerely,

/s/ Terin G. Riley

Terin G. Riley
JOHNSON-GILCHRIST LAW FIRM, P.C.
Attorney for Interested Farmers in Pembina County
terin@whitefishlegal.com

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2039 AM
1/15/2025

Relating to the definition of agricultural property; and to provide an effective date.
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9:00 a.m. Chairman Weber called the meeting to order.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Committee adjournment
- Governor's Address

9:00 a.m. Chairman Weber adjourned the meeting.

Chance Anderson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2039 2:00 p.m.
1/15/2025

Relating to the definition of agricultural property; and to provide an effective date.
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2:24 p.m. Chairman Weber opened the meeting.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Application to new construction
- Exempt farm structures
- Century code definition of a farmer
- Appeals and abatement

2:25 p.m. Shelli Meyers, Supervisor of Assessments, testified neutral.

2:31 p.m. Charles Dendy, General Counsel, Office of State Tax Commissioner, testified neutral.

2:56 p.m. Chairman Weber adjourned the meeting.

Chance Anderson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2039 AM
1/21/2025

Relating to the definition of agricultural property; and to provide an effective date.
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9:12 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- New Construction Application

9:20 a.m. Senator Walen moved a Do Pass.

9:20 a.m. Senator Powers seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	N
Senator Richard Marcellais	N
Senator Dale Patten	N
Senator Michelle Powers	Y
Senator Chuck Walen	Y

Motion failed 3-3-0.

9:26 a.m. Senator Patten moved a Do Not Pass.

9:26 a.m. Senator Rummel seconded the motion.

Senators	Vote
Senator Mark F. Weber	N
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	N
Senator Chuck Walen	N

Motion failed 3-3-0.

9:27 a.m. Senator Patten moved a Without Recommendation.

9:27 a.m. Senator Rummel seconded the motion.

Senators	Vote
Senator Mark F. Weber	N
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	N
Senator Chuck Walen	N

Motion failed 3-3-0.

9:28 a.m. Chairman Weber adjourned the meeting.

Chance Anderson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2039 PM
1/21/2025

Relating to the definition of agricultural property; and to provide an effective date.
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2:20 p.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Committee Action

2:25 p.m. Senator Marcellais moved a Do Pass.

2:25 p.m. Senator Walen seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	N
Senator Richard Marcellais	Y
Senator Dale Patten	N
Senator Michelle Powers	Y
Senator Chuck Walen	Y

Motion passed 4-2-0.

Senator Weber will carry the bill.

2:27 p.m. Chairman Weber adjourned the meeting.

Chance Anderson, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2039 ([25.0380.01000](#))

Finance and Taxation Committee (Sen. Weber, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2039 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2025 HOUSE FINANCE AND TAXATION

SB 2039

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2039
3/10/2025

Relating to the definition of agricultural property; and to provide an effective date.
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9:01 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives D. Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, J. Olson, Steiner, Toman

Members Absent: Representative Porter

Discussion Topics:

- Agricultural product storage
- Building taxation
- Types of crops
- End point user

9:01 a.m. Representative Ben Koppelman, District 16, introduced the bill.

9:10 a.m. Senator Janne Myrdal, District 19, testified in favor and introduced Terin Riley.

9:11 a.m. Terin Riley, Attorney for Interested Persons of Pembina County ND, Johnson-Gilchrist Law Firm, P.C., testified in favor and submitted testimony #39852.

9:29 a.m. Pete Hanebutt, ND Farm Bureau, testified in favor.

9:31 a.m. Lesley Icenogle, ND Corn Growers Association, testified in favor and submitted testimony #39862.

9:32 a.m. Perrell Grossman, Legislator Director, ND Soy Bean Growers Association, testified in favor.

9:33 a.m. Bill Woken, Advocate, ND League of Cities, testified in opposition and submitted testimony #39925.

9:38 Donnell Preskey, Government Relations Specialist, ND Association of Counties, testified in opposition.

9:44 a.m. Charlese Dendy, General Counsel, ND Office of State Tax Commissioner, stood for questions.

Additional written testimony:

Jow Hirschfeld, City Assessor, Dickinson, submitted neutral testimony #39575.

David Moquist, O.C. Schulz & Sons, submitted testimony in favor #39595.

Brian Vculek, ND Farmer, submitted testimony in favor #39670.

Paul Houdek, Commissioner, Walsh County, submitted testimony in opposition #39685.

9:52 a.m. Chairman Headland closed the hearing.

Janae Pinks, Committee Clerk

Neutral Testimony for:

House Finance and Taxation Committee

March 10, 2025

Prepared by: Joe Hirschfeld, Assessor for City of Dickinson

Senate Bill 2039

Chairman Headland & members of the House Finance and Taxation Committee:

My name is Joe Hirschfeld and I am the Dickinson City Assessor.

My intent is just to bring awareness to likely scenarios this bill will create.

- As I interpret this bill, it would provide a “farm” exemption to parcels in town that store agriculture products. The old potato warehouse bill continues to grow, adding properties to the exempt list and spreading those tax dollars out to the rest of the taxed properties.
- It allows these properties to fall outside of the 4 of 7 rule in subsection a. in 57-02-01.
 - That is important as: any property that is included as non-farm taxable property using these 7 rules, is now eligible to be farm exempt, if only it stores ag products. So, I “rent” an acre of land from a farmer buddy of mine, and I store one bale of hay in my driveway, I would be considered farm exempt on my house.
 - Any of the annexed land surrounding Dickinson that has been platted for commercial use and is waiting to be constructed upon, would be eligible for this farm exemption if they mow and bale the weeds off and store them on the parcel for “feed”.

These are a couple of examples that expand the possible properties included in this exemption beyond grain bins and warehouses, as some crops are readily storable on vacant land. This bill makes no concessions about how much crop needs to be stored, or how long it can be stored before it has to be sold/used, and could cause further in-equitability in the property tax process.

Respectfully submitted,

JOE HIRSCHFELD
CITY ASSESSOR
ASSESSING

Tel: 701.456.7744 O: 701.456.7734
Joe.Hirschfeld@dickinsongov.com



March 7, 2025

Chairman Headland and members of the House Finance and Taxation Committee,

Re: Senate Bill 2039

SUPPORT Letter

Chairman Craig Headland and Members of the Committee,

This bill defines the “storing of harvested crops” to be clearly included in the process of raising a crop. It is not limited to any one crop but would include all ag commodities stored by a farmer until it is sold to the first end-point user. End point users would include our local elevators, soybean crushing plants, canola plants, ethanol plants, french fry plants, potato chip plants, buyers of fresh potatoes, bean plants, etc. All of these are commercial enterprises paying commercial property taxes that would not exist without the ag producer.

Storing crops as part of the raising process seems like common sense, but needs to be defined so that there is nothing left to interpretation. I believe the intention of the ND Century Code is that Ag property is Ag exempt.

SB 2039 does not affect ag storage on any of the other four property classifications including Railroad lease sites. The Century Code is clear that Railroad lease sites will be classified as commercial. A lot of the questions coming before the committee is confused by this.

The language in this bill will harmonize the application of taxation of ag storage across the whole state and is a common-sense solution to eliminate any ambiguity in the law.

David Moquist
Crystal, ND 58222
C: 701-520-1855

March 8, 2025
Testimony in Favor of SB 2039
House Finance and Taxation Committee

Chairman Headland and members of the Committee:

My name is Brian Vculek and I farm with my family in southeast North Dakota. We farm near Crete and our potato warehouses are located within the city limits of Oakes. I'm writing in support of SB 2039. I own potato warehouses classified as commercial for property tax purposes. My family purchased these facilities from a different potato grower in the early 1990s. We have utilized these facilities since to store potatoes raised by my family. In the early 2000s a new warehouse was built near our facility that we subsequently purchased and still utilize.

Included below is an approximate outline of the roughly 80 acres we own near our warehouses. All areas within the black outline below are assessed commercial, including the tillable acres. No activity aside from our family planting, growing, harvesting, storing, and shipping raw crops occur within the black boundary. We maintain all the gravel driveways and receive no sewer or water service from the City of Oakes. We manage our own garbage but still pay the City's required minimum garbage fee. We manage our own snow and often assist with clearing of roads used to access our property during heavy winter snow events.

I support clarifying the definition of raising an agricultural crop to include the storage of that same crop. Under current law, our storage facility is assessed differently than neighboring potato storage facilities. We have discussed this issue with our County Assessor numerous times. Clarification of the definition for assessors across the state should help provide uniform property tax classification that encourages growth of production agriculture.

I appreciate the work done by the interim committee and the time your committee is giving this issue. I think clarifying the definition of raising an agricultural crop can help create consistency in tax classifications. I would appreciate your support on SB 2039.

Sincerely,

Brian Vculek
Crete, North Dakota



Testimony in opposition to SB 2039
House Finance and Taxation Committee
March 10, 2025
Paul Houdek, Walsh County Commissioner

Chairman Headland and members of the House Finance and Tax Committee, my name is Paul Houdek. I have been a City Assessor for the past 25 years. I am currently the City Assessor for the City of Grafton and a Walsh County Commissioner. **I am here today representing the Walsh County Commission in opposition to SB 2039.**

We have followed this legislation for the past 3 sessions. Many of the same arguments have been made on both sides of the issue.

Approximately **3 million dollars in True and Full Value throughout the County would be eliminated.** This would reduce the property taxes collected by the County, Cities, and School districts and shift that burden to all other taxpayers. This shift includes **approximately \$60,000 of consolidated tax dollars in Walsh County**

This bill would also exempt all new warehouses built within city limits in the future. **There are plans to build a large potato processing plant in Grand Forks.** Without a doubt, new storage facilities will be built within city limits somewhere in the state. That sounds great, new construction is supposed to add to the tax rolls and help spread the tax burden, but if these new facilities are exempt, they will just further drain the local taxing entity's ability to pay for existing services and that burden will be placed on all the taxable parcels within the jurisdiction. I don't think it matters whether it is new construction or an existing building. The problem is the same. **These properties will enjoy the services of a city while passing on the burden of paying for those services to all the other property in the jurisdiction.**

These warehouses bring potatoes into town each fall. Many heavy trucks hammering down the city streets that local tax dollars pay to maintain. **You must remember that if these warehouses are not paying local property taxes, they are not paying for city services. These services are typically more robust than those offered in the townships. Police protection, fire protection, street maintenance, snow removal, water and sewer services, etc., etc.** City services are generally better, and cost more than township services. Comparing the two is comparing apples and oranges. We have no issues with these facilities sitting out in the townships being exempt. When they are within a city and utilizing city services they should be taxed.

There was concern that the current law creates inequities. When we are considering whether a property qualifies for any exemption, we must review the facts on a parcel-by-parcel basis. It is possible for one parcel to qualify for this exemption while other parcels do not based on the facts of

each parcel and the way state law is written. While this bill might help alleviate some perceived equity concerns, whenever you exempt one property you are transferring the burden of those taxes to remaining taxable properties. Property needs to be equalized at the county level. **You could find inequities from county to county on every exemption currently allowed by the ND Century Code. Interpretation of state law can vary from one assessor or one city attorney to the next. That is what local control looks like. One size does not fit all.** Furthermore, while alleviating one perceived equalization problem you are creating another. Under this bill, an ag storage facility within a city would be exempt from taxation while the warehouse that the local implement dealer owns just down the street will be taxed as commercial.

Please vote DO NOT PASS on SB 2039.

Thank you for your consideration. Please call me if you have any questions.

Paul Houdek

Walsh County Commissioner

Grafton ND



JOHNSON-GILCHRIST LAW FIRM, PC

ATTORNEYS AND COUNSELORS AT LAW

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Terin G. Riley

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March 10, 2025

House Finance and Taxation Committee
Attn: Chairman Headland
North Dakota Legislative Council
600 East Boulevard Ave
Bismarck, ND 58505

RE: SB2039: A Bil for an Act to amend and reenact subsection 1 of section 57-02-01 of the N.D.C.C., relating to the definition of agricultural property; and to provide an effective date.
March 10, 2025 House Bill Hearing

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Please allow this letter to serve as testimony in support of SB2039, which is presently before this committee this legislative session. My name is Terin Riley, and I am appearing before you on behalf of my clients, interested farmers in Pembina County, North Dakota.

As many of you know, I previously appeared before the Interim Committee on several occasions throughout the study which resulted in the unanimous approval of the language presented in SB2039 this past Summer of 2023/Fall of 2024. It is our position that SB2039 would serve a great justice to the farmers and ranchers of North Dakota, and we remain in support of SB2039, as drafted, and respectfully request that this Committee approve this bill and continue to support and advocate for the protection of equal application under the law for the citizens of the State of North Dakota.

This is the third legislative session in which the issue of N.D.C.C. § 57-02-01 and the statute's applicability and whether the storage of personal commodities before delivery to the first end point user qualifies the storage structure for tax exemption

under the law. As N.D.C.C. § 57-02-01 is currently written, the lack of a definition of what constitutes the continuum of “raising of agricultural crops” has given rise to ambiguity in the law, and left the statute open to personal interpretation, which has resulted in the disparate treatment under the law across the counties. This inequity in application of property taxation has cost my clients a significant amount of time and money to continue to fight at both local and state levels for justice and what is right, which is equal protections and application under the law.

The evolution of N.D.C.C. § 57-02-01 reflects a clear intention of the Legislature to acknowledge that the farming operation is evolving over time, and as such so must the legislation that guides it. The Legislature has already considered that the storage of seeds and plants in a greenhouse for a nursery, as well as the storage of honey in containers are considered to be a part of the agricultural practice of those industries.¹ So too should be the storage of crops and commodities, which may require maintenance and conditioning in order to preserve the crop and commodity from spoiling, before being delivered to the first end point user. The continuum of raising of agricultural crops does not end the minute the crop is harvested from the field. If that was the intention of the industry, Good Agricultural Practices (“GAP”) policies for sanitary storage and conditioning of the crops before delivery to the first end point users would not be required to be completed and re-certified every year by the farmers. Additional information regarding the GAP Audit process can be accessed at the website: <https://www.ams.usda.gov/services/auditing/gap-ghp/audit>. It is common sense that storage and maintenance of the crops and commodities is a part of the “raising of agricultural crops.”

The North Dakota Supreme Court has provided guidance as to the process necessary to make a tax exemption determination, and provided a two-part inquiry as to determination of: (1) the character of the land – whether the structure to be exempted is located on “Agricultural Property” as defined by N.D.C.C. § 57-02-01; and (2) the nature of the structure – whether the structure is “used” as part of the farm plant.² This language of the Legislature as well as the interpretation of the North Dakota Supreme Court clearly identify that the “use” of the building and the land is pivotal to the interpretation and determination of whether a structure qualifies for the property tax exemption.

Currently, there exists ambiguity in the interpretation of how local auditors are interpreting N.D.C.C. § 57-02-01 when making the determination as to whether land qualifies as “Agricultural Property” under the law, before making a determination as to

¹ See North Dakota Office Of State Tax Commissioner Guideline-Property Tax: Exemption Of Farm Buildings And Other Improvements, ¶¶ 10 and 11; (which can be located at <https://www.tax.nd.gov/sites/www/files/documents/guidelines/property-tax/exemption-of-farm-buildings-other-improvements-guideline.pdf>).

² See *Boehm v. Burleigh County*, 130 N.W.2d 170, 173, (N.D. 1964).

the exemption status for buildings and improvements located on the land under N.D.C.C. § 57-02-08(15). Ambiguity has been experienced in several different ways.

The first ambiguity being that there has been inconsistency in the application of whether or not the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) apply to all determinations of whether land qualifies as “Agricultural Property.” Some auditors have been immediately referencing the seven (7) factors to determine whether or not the land constitutes “Agricultural Property,” without ever determining whether and when the land has been “platted.” However, in statutory interpretation, we must read the plain language of any statute as it has been defined by the Legislature. Courts interpret statutory language by its plain, ordinary, and commonly understood meaning.³ Punctuation and purposeful subdivisions of a statute are to be noted and recognized in interpreting statutes. It is understood and presumed that the Legislature was intentional in the drafting of the language as it was approved.

Pursuant to the plain language of N.D.C.C. § 57-02-01, as currently written, the first inquiry must establish whether the real property at issue is platted or unplatted; and if platted, it must be determined whether it was platted prior to March 30, 1981 or on or after March 30, 1981. If the real property at issue is platted on or after March 30, 1981, then whether four (4) of the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) are met becomes relevant to the inquiry.

However, if the land is unplatted or platted prior to March 30, 1981, then the seven (7) factors enumerated in N.D.C.C. § 57-02-01(1)(a) are inapplicable to this initial inquiry. If the land is unplatted or platted prior to March 30, 1981, it is very clear that the Legislature intended that the land “shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals.” (emphasis added).⁴ It necessarily follows that the next inquiry to be considered is whether the land is being used for the “raising of agricultural crops or grazing farm animals.” (emphasis added).⁵

The second ambiguity that is being experienced at local levels is in the undefined term of “raising of agricultural crops.” North Dakota Century Code § 57-02-01, as currently written, does not define what constitutes, or is included in the process of “raising of agricultural crops.” The issue directly at hand is whether or not storage and maintenance of the harvested crop before it is delivered to the end point user (first point of sale) is included in the “raising” of the agricultural crop process. It remains our position, that the storage and maintenance of crops to ensure they do not spoil prior to final delivery is an integral part of the continuum of “raising of agricultural crops.” The same

³ See N.D.C.C. § 1-02-02; and *Grand Forks Homes, Inc. v. State ex rel. State Bd. Of Equalization*, 2011 ND 65, ¶ 11, 795 N.W.2d 335, 339.

⁴ See N.D.C.C. § 57-02-01(1).

⁵ See *Id.*

would be true of the containment and storage of live cattle before they are either sold or sent to butcher.

Another matter that must be addressed is that there currently stand several Attorney General Opinions and one letter on this matter, as was presented by Legislative Counsel at the during the Interim Committee process. What is critical to understand, is that the Legislature is not bound by the Attorney General opinions. It is our legislative body that makes the laws. Our judiciary body is who interprets the laws made by the Legislature. If there is known ambiguity in the law, it is up to our esteemed legislators to clarify exactly what was intended so that those of us to are trained to interpret the law, can appropriately advice our clients. Ambiguity in the law leads to individual discretion, and inequal or disparate treatment under the law, and that inequity cannot stand when the very core of tax equalization, is to ensure that the citizens and landowners are taxed and treated equal across the State under the guise of the law.

The current issue that is creating disparate application and treatment across differing counties would be alleviated with the added language of SB2039, in such that the language clearly defines what constitutes the “raising of agricultural crops” and at what point the “raising of agricultural crops” is completed. Without the definition of “raising of agricultural crops,” the disparity and ambiguity created by the differing interpretations of the statute will continue, thus resulting in some farmers being taxed at a commercial rate for their land and storage structures, where other farmers in neighboring counties that are similarly situated are taxed as agricultural property and their storage structures are exempt. This disparity in treatment under the law has a significant economic impact on those prejudiced farmers, and directly impacts their ability to remain competitive in their individual markets. This inequity under the law cannot be condoned or continue. We are not asking for a new exemption, which has been indicated throughout this process. What we are asking is for equal treatment under the law. It is our position that SB2039 provides for that equal treatment, and we respectfully request your support thereof.

Thank you for your time and consideration regarding these matters, and it is our most sincere hope that you vote in support of SB2039, and continue to support equal application under the law for all of North Dakota’s farmers and ranchers.

Sincerely,

/s/ Terin G. Riley

Terin G. Riley
JOHNSON-GILCHRIST LAW FIRM, P.C.
Attorney for Interested Farmers in Pembina County
terin@whitefishlegal.com



Testimony on SB 2039
House Finance and Taxation
March 10, 2025

Chairman Headland and members of the Committee,

For the record, my name is Lesley Icenogle. Thank you for the opportunity to testify on behalf of the North Dakota Corn Growers Association (NDCGA) in support of Senate Bill 2039.

We need clarification of the statute as it currently stands to ensure producers across the state are assessed consistently. NDCGA has been contacted by a handful of producers negatively impacted by the classification of their grain storage facilities.

We appreciate the work done by the Taxation Committee during the interim. Production of corn does not stop at the field. Access to markets often requires storage of corn by the farmer who produced the crop. We support clarifying that the storage of agricultural crops is part of raising that crop.

NDCGA urges a "Do Pass" recommendation on SB 2039 to promote uniform tax classification for agricultural producers across the state. Thank you for your consideration.

Testimony in Opposition to Senate Bill 2039
March 10, 2025
House Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning, Mr. Chairman and members of the House Finance and Taxation Committee. For the record, my name is Bill Wocken. I am appearing today on behalf of the North Dakota League of Cities in opposition to Senate Bill 2039.

As you have heard, this bill deals with the storage of harvested crops. It allows the storage facility to be exempt from taxation without regard to where the storage occurs. The League of Cities has no objection to the exemption of storage facilities on the production acreage (farm) but we do have deep concerns for the exemption of these storage facilities when they are away from the production acreage.

This question was addressed by the late Attorney General Wayne Stenehjem in his letter opinion 2002-L-31 dated May 24, 2002 which is attached to my testimony. To summarize the opinion I will quote from the third to last paragraph in the opinion. "A review of the above-quoted statutory provisions reveals that a structure qualifies for the farm structure exemption only if it is located on agricultural lands."

For some cities this new exemption could have the effect of removing large amounts of taxable valuation from city tax roles at a time when it seems certain that city property tax collections will be capped. In Grafton, for example, agricultural product storage accounts for over \$1.5 million dollars in valuation. This will have a huge impact on local government and K-12 education.

Mr. Chairman and committee members, the League of Cities does not oppose exemption of crop storage facilities if that storage can be accommodated outside cities.

We do have a technical concern with the bill as well. On Page 1, Line 11 the proposed exemption is to apply to storage of the crops between the time of harvest and the time they are delivered to the "first end-point user". We are unsure who that first end-point user is or where they are located. The term is not defined as far as we are able to determine. The term "user" makes us wonder if we are talking about a series of storage structures since the term "end-point user" seems to us to suggest someone who uses the product, not someone who simply stores it. We think the term needs definition.

Mr. Chairman and committee members, for the previously stated reasons we respectfully request a Do Not Pass recommendation for Senate Bill 2039.

LETTER OPINION
2002-L-31

May 24, 2002

Mr. Nicholas B. Hall
Grafton City Attorney
PO Box 578
Grafton, ND 58237-0578

Dear Mr. Hall:

Thank you for your inquiry regarding the property tax exemption for farm structures and improvements located on agricultural lands. You state in your letter that there are several properties in the city of Grafton that were former railroad lease sites which are now privately owned by farmers or farm groups and have potato warehouses located upon them. You express concern that a literal reading of the statutory definition of agricultural property creates inequities in the application of the exemption and would like to know whether any administrative discretion may be used when applying these exemption provisions.

Section 57-02-08(15), N.D.C.C., creating the property tax exemption for farm structures and improvements, provides, in pertinent part, as follows:

- 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) 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.

In 1979, the North Dakota Supreme Court recognized that there was an administratively created de facto classification for property taxation purposes. The Supreme Court recognized that classification must be done under legislative authority and held that it would not ". . . countenance de facto classification of property in North Dakota for purposes of taxation." Soo Line R. Co. v. State, 286 N.W.2d 459, 465 (N.D. 1979).

Responding to this decision, the 1981 Legislative Assembly created five classes of property for the purpose of property taxation: (1) "agricultural property"; (2) "residential property"; (3) "centrally assessed property"; (4) "railroad property"; and (5) "commercial property." 1981 N.D. Sess. Laws ch. 564, § 5. Section 57-02-01(1), N.D.C.C., defines "agricultural property" and provides in pertinent part:

"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. 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. Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

....

In your letter, you state that there are approximately twenty warehouses or other farm related structures which are fully taxed because they are structures located on platted property within the city of Grafton. There are five potato warehouse structures which have benefited from exemptions for several years, primarily because they are located upon unplatted city property. Presumably this occurred when the assessing officials applied the facts to the relevant provisions of N.D.C.C. §§ 57-02-01(1) and 57-02-08(15) even though "the five structures in the City of Grafton are on property which has been assessed as commercial continuously and prior to March 30, 1981." City officials believe the apparent disparate treatment of these warehouses creates inequities and would like to know the limits of their discretion when applying the provisions of these statutes.

LETTER OPINION 2002-L-31

May 24, 2002

Page 3

"[C]ities are creatures of statute and all power and authority must be derived from the legislature." Bigwood v. City of Wahpeton, 565 N.W.2d 498, 501 (N.D. 1997). As previously stated, the North Dakota Supreme Court in Soo Line, supra, held that the classification of property for taxation purposes is the prerogative of the Legislative Assembly.

A review of the above-quoted statutory provisions reveals that a structure qualifies for the farm structure exemption only if it is located on agricultural lands. N.D.C.C. § 57-02-08(15)(a). The term "agricultural property" applies to lands used for raising agricultural crops or grazing farm animals. N.D.C.C. § 57-02-01(1). It is my opinion that if a structure is located on unplatted land in a city that is not used for raising crops or grazing farm animals, and the land is properly assessed as commercial property, the structure does not qualify for the agricultural exemption under N.D.C.C. § 57-02-08(15).

If it is determined that these warehouses should be subject to property taxation, it would become the burden of the property owner to establish the exempt status of the property. North Dakota Soc. for Crippled Children & Adults v. Murphy, 94 N.W.2d 343 (N.D. 1959).

To the extent that this opinion conflicts with the July 25, 1990, letter opinion to Douglas Manbeck, Nelson County State's Attorney, the Manbeck opinion is overruled.

Sincerely,

Wayne Stenehjem
Attorney General

rww/pg

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2039
3/17/2025

Relating to the definition of agricultural property; and to provide an effective date.
--

3:10 p.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives D. Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, J. Olson, Steiner, Toman

Members Absent: Representative Porter

Discussion Topics:

- Local Decisions
- Farm plant area
- Tax shift to Community

3:17 p.m. Representative Grueneich proposed an amendment LC #25.0380.01002, testimony #42506.

3:28 p.m. Representative Motschenbacher moved to adopt amendment LC #25.0380.01002.

3:28 p.m. Representative Hagert seconded the motion.

3:28 p.m. Voice Vote - motion failed.

3:29 p.m. Roll Call Vote - Amendment LC#25.0380.01002.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	N
Representative Jeremy Olson	Y
Representative Todd Porter	AB
Representative Vicky Steiner	N
Representative Nathan Toman	N
Representative Austin Foss	Y
Representative Zachary Ista	Y

3:29 p.m. Roll Call Vote - passed 10-3-1.

3:29 p.m. Representative J. Olson moved a Do Pass as Amended.

3:29 p.m. Representative Motschenbacher seconded the motion.

Representatives	Vote
Representative Craig Headland	N
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Jason Dockter	N
Representative Ty Dressler	N
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	N
Representative Jeremy Olson	Y
Representative Todd Porter	AB
Representative Vicky Steiner	N
Representative Nathan Toman	N
Representative Austin Foss	N
Representative Zachary Ista	N

3:31 p.m. Motion failed 3-10-1.

3:34 p.m. Representative Grueneich suggested to amend the bill to only include potato storage.

3:36 p.m. Representative Dockter moved a Do Not Pass as Amended.

3:36 p.m. Representative D. Anderson seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	N
Representative Mike Motschenbacher	N
Representative Dennis Nehring	N
Representative Jeremy Olson	N
Representative Todd Porter	AB
Representative Vicky Steiner	N

Representative Nathan Toman	Y
Representative Austin Foss	Y
Representative Zachary Ista	Y

3:37 p.m. Motion passed 8-5-1.

3:37 p.m. Representative Hagert will carry the bill. 3:38 p.m.

Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

Bill reconsidered on 03/25/25

CO
3/17/25
1064

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2039

Introduced by

Legislative Management

(Taxation Committee)

A BILL for an Act to amend and reenact subsection 1 of section 57-02-01 and subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of agricultural property and the farm structure and improvements property tax exemption; 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. a. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, ~~except~~ as provided in this subsection.

For platted lands:

- (1) 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. ~~For purposes of this subsection, "raising agricultural crops" includes the storage of harvested crops until the crop is delivered to the first end-point user. The existence of any of the conditions in subdivision a may not be used as a basis to exclude property used to raise agricultural crops from being classified as agricultural property. 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.~~

2044

~~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. (2) Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

~~(1)~~(a) The land is platted by the owner.

~~(2)~~(b) Public improvements, including sewer, water, or streets, are in place.

~~(3)~~(c) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise~~grow~~ crops or graze farm animals.

~~(4)~~(d) Property is zoned other than agricultural.

~~(5)~~(e) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.

~~(6)~~(f) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.

~~(7)~~(g) The property sells for more than four times the county average true and full agricultural value.

b. For purposes of this subsection:

(1) "Raising agricultural crops" includes the storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first end-point user.

(2) 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.

(3) 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.

(4) Agricultural property includes land on which a qualifying agricultural storage structure is situated. The existence of any of the conditions in paragraph 2 of subdivision a may not be used as a basis to exclude land on which a qualifying agricultural storage structure is situated from being classified as agricultural property. For purposes of this paragraph, "qualifying agricultural storage structure" means a structure used exclusively for storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first end-point user.

(5) The time limitations contained in this subsection 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.

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:

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 used primarily 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 grown horticultural or nursery products is not a farm building or improvement.

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming; any structure or improvement, except a structure owned by a farmer and used exclusively for storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first

end-point user, located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, 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.

- (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.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, ~~2024~~2025.

25.0380.01002
Title.

Prepared by the Legislative Council
staff for Representative Grueneich
March 14, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2039

Introduced by

Legislative Management

(Taxation Committee)

A BILL for an Act to amend and reenact subsection 1 of section 57-02-01 and subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of agricultural property and the farm structure and improvements property tax exemption; 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. a. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, ~~except as provided in this subsection.~~ For platted lands:

(1) 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. ~~For purposes of this subsection, "raising agricultural crops" includes the storage of harvested crops until the crop is delivered to the first end-point user. The existence of any of the conditions in subdivision a may not be used as a basis to exclude property used to raise agricultural crops from being classified as agricultural property. 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.~~

~~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. ~~(2)~~ Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

~~(1)~~(a) The land is platted by the owner.

~~(2)~~(b) Public improvements, including sewer, water, or streets, are in place.

~~(3)~~(c) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to ~~raise~~grow crops or graze farm animals.

~~(4)~~(d) Property is zoned other than agricultural.

~~(5)~~(e) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.

~~(6)~~(f) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.

~~(7)~~(g) The property sells for more than four times the county average true and full agricultural value.

b. For purposes of this subsection:

(1) "Raising agricultural crops" includes the storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first end-point user.

(2) 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.

(3) 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.

(4) Agricultural property includes land on which a qualifying agricultural storage structure is situated. The existence of any of the conditions in paragraph 2 of subdivision a may not be used as a basis to exclude land on which a qualifying agricultural storage structure is situated from being classified as agricultural property. For purposes of this paragraph, "qualifying agricultural storage structure" means a structure used exclusively for storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first end-point user.

(5) The time limitations contained in this subsection 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.

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:

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 used primarily 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 grown horticultural or nursery products is not a farm building or improvement.

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming; any structure or improvement, except a structure owned by a farmer and used exclusively for storage of harvested agricultural commodities produced by a farmer or a direct relative of the farmer until the agricultural commodity is delivered to the first

end-point user, located on platted land within the corporate limits of a city, or any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, 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.

(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.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, ~~2024~~2025.

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2039
3/25/2025

Relating to the definition of agricultural property; and to provide an effective date.
--

9:00 a.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives D. Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, J. Olson, Porter, Steiner

Members Absent: Representative Toman

Discussion Topics:

- Committee Action

9:00 a.m. Representative Docker moved to Reconsider the bill.

9:01 a.m. Representative J. Olson seconded the motion.

9:01 a.m. Voice Vote, motion passed.

9:01 a.m. Representative Hagert introduced amendment LC #25.0380.01004, testimony #43732.

9:03 a.m. Megan Gordon, Legislative Counsel, stood for questions.

9:15 a.m. Representative Dockter moved to remove amendment #25.0380.01002.

9:16 a.m. Representative Hagert seconded the motion.

9:16 a.m. Voice Vote, motion passed.

9:17 a.m. Representative Dockter moved to adopt amendment # 25.0380.01004.

9:17 a.m. Representative D. Anderson seconded the motion.

9:28 a.m. Pete Hanebutt, Lobbyist, ND Farm Bureau, stood for questions.

9:33 a.m. Shelli Myers, State Supervisor of Assessments, ND Office of State Tax Commissioner, answered questions.

9:37 a.m. Voice Vote, motion passed.

9:37 a.m. Representative Grueneich moved to further amend page 2, line 6, to change 4 to 5.

9:38 a.m. Representative Hagert seconded the motion.

Representatives	Vote
Representative Craig Headland	N
Representative Jared Hagert	Y
Representative Dick Anderson	N
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	N
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	N
Representative Nathan Toman	AB
Representative Austin Foss	N
Representative Zachary Ista	N

9:45 a.m. Motion passed 7-6-1.

9:46 a.m. Representative Grueneich moved Do Pass as amended.

9:46 a.m. Representative Motschenbacher seconded the motion.

9:47 a.m. Representative Grueneich withdrew the motion.

9:48 a.m. Representative Grueneich moved to remove the previous amendment.

9:48 a.m. Representative Hagert seconded the motion.

9:49 a.m. Voice vote, motion passed.

9:49 a.m. Representative Grueneich moved Do Pass as Amended.

9:49 a.m. Representative Steiner seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y

Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	AB
Representative Austin Foss	N
Representative Zachary Ista	N

9:49 a.m. Motion passed 11-2-1.

9:49 a.m. Representative Hagert will carry the bill.

9:51 a.m. Chairman Headland adjourned the meeting.

Krystal Eberle for Janae Pinks, Committee Clerk

CO
3/25/25
10fy

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2039

Introduced by

Legislative Management

(Taxation Committee)

1 A BILL for an Act to amend and reenact subsection 1 of section 57-02-01 and subdivision a of
2 subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of
3 agricultural property and the farm structure and improvements property tax exemption; and to
4 provide an effective date.

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

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

- 8 1. a. "Agricultural property" means platted or unplatted lands used for raising
9 agricultural crops or grazing farm animals, ~~except~~ as provided in this subsection.

10 For platted lands:

11 (1) Lands platted and assessed as agricultural property prior to March 30,
12 1981, shall continue to be assessed as agricultural property until put to a
13 use other than raising agricultural crops or grazing farm animals. ~~For~~
14 ~~purposes of this subsection, "raising agricultural crops" includes the storage~~
15 ~~of harvested crops until the crop is delivered to the first end point user. The~~
16 ~~existence of any of the conditions in subdivision a may not be used as a~~
17 ~~basis to exclude property used to raise agricultural crops from being~~
18 ~~classified as agricultural property. Agricultural property includes land on~~
19 ~~which a greenhouse or other building is located if the land is used for a~~
20 ~~nursery or other purpose associated with the operation of the greenhouse.~~

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~~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. (2) Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

~~(1)~~ (a) The land is platted by the owner.

~~(2)~~ (b) Public improvements, including sewer, water, or streets, are in place.

~~(3)~~ (c) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to ~~raise~~grow crops or graze farm animals.

~~(4)~~ (d) Property is zoned other than agricultural.

~~(5)~~ (e) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.

~~(6)~~ (f) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.

~~(7)~~ (g) The property sells for more than four times the county average true and full agricultural value.

b. For purposes of this subsection:

(1) "Raising agricultural crops" includes the storage of harvested crops produced by a farmer or a direct relative of the farmer until the crop is delivered to the first end-point user.

(2) The existence of any of the conditions in paragraph 2 of subdivision a may not be used as a basis to exclude unplatted land used to raise agricultural crops or land platted and assessed as agricultural property prior to March 30, 1981, used to raise agricultural crops from being classified as agricultural property.

(3) 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.

(4) 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.

(5) The time limitations contained in this subsection 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.

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:

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 used primarily 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 grown horticultural or nursery products is not a farm building or improvement.

(3) (a) The following structures and improvements are not exempt under this subsection:

[1] Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, ~~any~~

[2] Any structure or improvement located on platted land within the corporate limits of a city, ~~any~~ except a structure owned by a farmer, used exclusively for storage of harvested crops produced by the farmer or a direct relative of the farmer until the crop is

4 of 4

- 1 delivered to the first end-point user, and affixed to land platted
2 and assessed as agricultural property prior to March 30, 1981;
3 [3] Any structure or improvement used by a manufacturing facility as
4 defined in section 19-24.1-01, ~~or any;~~ and
5 [4] Any structure or improvement located on railroad operating
6 property subject to assessment under chapter 57-05 ~~is not~~
7 ~~exempt under this subsection.~~
8 (b) For purposes of this paragraph, "business other than farming"
9 includes processing to produce a value-added physical or chemical
10 change in an agricultural commodity beyond the ordinary handling of
11 that commodity by a farmer prior to sale.
12 (4) The following factors may not be considered in application of the exemption
13 under this subsection:
14 (a) Whether the farmer grows or purchases feed for animals raised on the
15 farm.
16 (b) Whether animals being raised on the farm are owned by the farmer.
17 (c) Whether the farm's replacement animals are produced on the farm.
18 (d) Whether the farmer is engaged in contract feeding of animals on the
19 farm.

20 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
21 December 31, ~~2024~~2025.

**REPORT OF STANDING COMMITTEE
SB 2039**

Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS** ([25.0380.01004](#)) and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2039 was placed on the Sixth order on the calendar.

25.0380.01004
Title.

Prepared by the Legislative Council
staff for Representative Hagert
March 24, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

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- ~~(5)~~(e) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
- ~~(6)~~(f) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.
- ~~(7)~~(g) The property sells for more than four times the county average true and full agricultural value.

b. For purposes of this subsection:

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(b) 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.

(4) The following factors may not be considered in application of the exemption
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- (d) Whether the farmer is engaged in contract feeding of animals on the
farm.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after
December 31, ~~2024~~2025.