

**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 potato~~  
3 ~~warehouse property used for personal use; and to provide an effective date.~~ for an Act to amend  
4 and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century  
5 Code, relating to income eligibility for purposes of the farm residence property tax exemption; to  
6 provide for a legislative management study; and to provide an effective date.

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

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

10 ~~All warehouses and elevators situated on commercial property used for personal use.~~

11 ~~For purposes of this subsection:~~

12 ~~a. "Personal use" means the use of a warehouse or elevator to store or process~~  
13 ~~grain or potatoes produced by the owner of the elevator or warehouse or an~~  
14 ~~individual related to the owner by blood or marriage. The term does not include~~  
15 ~~the use of an elevator or warehouse to store or process grain or potatoes~~  
16 ~~produced by individuals other than the owner of the elevator or warehouse or the~~  
17 ~~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.~~

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

1           b. It is the intent of the legislative assembly that this exemption as applied to a  
2           residence must be strictly construed and interpreted to exempt only a residence  
3           that is situated on a farm and which is occupied or used by a person who is a  
4           farmer and that the exemption may not be applied to property which is occupied  
5           or used by a person who is not a farmer. For purposes of this subdivision:

6           (1) "Farm" means a single tract or contiguous tracts of agricultural land  
7           containing a minimum of ten acres [4.05 hectares] and for which the farmer,  
8           actually farming the land or engaged in the raising of livestock or other  
9           similar operations normally associated with farming and ranching, has  
10          annual gross income from farming activities which is sixty-six percent or  
11          more of annual gross income, including gross income of a spouse if  
12          married, during any of the two preceding calendar years.

13          (2) "Farmer" means an individual who normally devotes the major portion of  
14          time to the activities of producing products of the soil, with the exception of  
15          marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming  
16          in such products' unmanufactured state and has received annual gross  
17          income from farming activities which is sixty-six percent or more of annual  
18          gross income, including gross income of a spouse if married, during any of  
19          the two preceding calendar years. For purposes of this paragraph, "farmer"  
20          includes a:

21          (a) "Beginning farmer", which means an individual who has begun  
22          occupancy and operation of a farm within the two preceding calendar  
23          years; who normally devotes the major portion of time to the activities  
24          of producing products of the soil, poultry, livestock, or dairy farming in  
25          such products' unmanufactured state; and who does not have a  
26          history of farm income from farm operation for each of the two  
27          preceding calendar years.

28          (b) "Retired farmer", which means an individual who is retired because of  
29          illness or age and who at the time of retirement owned and occupied  
30          as a farmer the residence in which the person lives and for which the  
31          exemption is claimed.

1 (c) "Surviving spouse of a farmer", which means the surviving spouse of  
2 an individual who is deceased, who at the time of death owned and  
3 occupied as a farmer the residence in which the surviving spouse  
4 lives and for which the exemption is claimed. The exemption under  
5 this subparagraph expires at the end of the fifth taxable year after the  
6 taxable year of death of an individual who at the time of death was an  
7 active farmer. The exemption under this subparagraph applies for as  
8 long as the residence is continuously occupied by the surviving  
9 spouse of an individual who at the time of death was a retired farmer.

10 (3) "Gross income" means gross income as defined under the federal Internal  
11 Revenue Code and does not include a gain from the sale or exchange of  
12 farm machinery as computed for federal income tax purposes. For purposes  
13 of this paragraph, "farm machinery" means all vehicular implements and  
14 attachment units designed and sold for direct use in planting, cultivating, or  
15 harvesting farm products or used in connection with the production of  
16 agricultural produce or products, livestock, or poultry on farms, which are  
17 operated, drawn, or propelled by motor or animal power. "Farm machinery"  
18 does not include vehicular implements operated wholly by hand or a motor  
19 vehicle that is required to be registered under chapter 57-40.3.

20 (4) "Gross income from farming activities" means gross income from farming as  
21 defined for purposes of determining if an individual is a farmer eligible to use  
22 the special estimated income tax payment rules for farmers under section  
23 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

24 (5) When exemption is claimed under this subdivision for a residence, the  
25 occupant of the residence who it is claimed is a farmer shall provide to the  
26 assessor for the year or years specified by the assessor a written statement  
27 in which it is stated that sixty-six percent or more of the gross income of that  
28 occupant, and spouse if married and both spouses occupy the residence,  
29 was, or was not, gross income from farming activities. The individual  
30 claiming the exemption also shall provide to the assessor, on a form  
31 prescribed by the tax commissioner, the necessary income information to

1 demonstrate eligibility. Any income information provided to the assessor  
2 regarding eligibility for an exemption claimed under this subdivision is a  
3 confidential record.

4 (6) For purposes of this ~~section~~ subsection, "livestock" includes "nontraditional  
5 livestock" as defined in section 36-01-00.1.

6 (7) A farmer operating a bed and breakfast facility in the farm residence  
7 occupied by that farmer is entitled to the exemption under this section for  
8 that residence if the farmer and the residence would qualify for exemption  
9 under this section except for the use of the residence as a bed and  
10 breakfast facility.

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

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