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AND FOREST PRODUCTS

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**MEMORANDUM**

To: House Committee on Ways and Means  
From: House Committee on Agriculture and Forest Products  
Date: March 16, 2016  
Subject: H.864

H.864 has been referred to your Committee for review.

This bill replaces the requirement that an item be used "directly" or "directly and exclusively" in the production for sale of tangible personal property on farms in order to qualify for a sales and use tax exemption with a new standard that the item be used "predominately." This is the term preferred by the Department of Taxes. The changes also remove the requirement that machinery and equipment be used 96% of the time for farming purposes in order to be exempt. Although "used predominately" generally means anything over 50%, the House Committee on Agriculture and Forest Products considered changes ranging from 51% to as high as the current 96%. A strong majority of our Committee supports a 75% level of use as the revised requirement. However, since the use level is somewhat arbitrary, we welcome your input on the appropriate percentage.

All members of the Agriculture and Forest Products Committee feel many farmers have been inappropriately paying sales and use taxes for some items that are necessary for the business of farming. To make matters worse, the standards have been inconsistently applied. Some suppliers are charging sales tax to farmers on various items and some are not. Sometimes sales tax is paid on items that should be exempt, and vice versa. Moreover, it is extremely unlikely that any Vermont farmer keeps usage records that are detailed enough to confirm that the current 96% standard is being met. The changes proposed by the Committee clarify in statute how taxation policies generally apply to agriculture.

The Agriculture and Forest Products Committee has been working with the Department of Taxes over the past two years to clarify legislative intent regarding agricultural items that are exempt from Vermont's sales and use tax. All members of the Committee are impressed with the efforts of employees of the Department of Taxes to better understand the operation of production agriculture.

The Agriculture and Forest Products Committee understands that a fiscal note is an important tool used by the Ways and Means Committee to determine the financial impact of a change in tax policy. Our

Committee has met with representatives from the both the Department of Taxes and the Joint Fiscal Office in order to estimate the implications of our proposal. Because of the aforementioned inconsistencies and the general lack of reliable data, any fiscal note must be viewed with skepticism. We suspect that this change may be close to revenue neutral, but, similarly, there are no data to support this contention.

Thank you for working with the Agriculture and Forest Products Committee on this important matter.