

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, Chairman, on April 9, 1991, at 7:00 a.m.

**ROLL CALL**

**Members Present:**

Mike Halligan, Chairman (D)  
Dorothy Eck, Vice Chairman (D)  
Robert Brown (R)  
Steve Doherty (D)  
Delwyn Gage (R)  
John Harp (R)  
Francis Koehnke (D)  
Gene Thayer (R)  
Thomas Towe (D)  
Fred Van Valkenburg (D)

**Members Excused:**

Bill Yellowtail (D)

**Staff Present:** Jeff Martin (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** None

**EXECUTIVE ACTION ON HOUSE BILL 793**

**Recommendation and Vote:**

Senator Gage moved HB 793 Be Concurred In.

The motion CARRIED unanimously.

**HEARING ON HOUSE BILL 452**

**Presentation and Opening Statement by Sponsor:**

Rep. Larson, District 65, sponsor, presented the bill as per the attached testimony (Exhibit #1).

Closing by Sponsor:

Rep. Larson said the bill affects only new equipment which would be added to the current company inventory. Competition with another industry in the area is a concern. He noted that is the reason for the local government entity having the final say in granting the exemptions.

EXECUTIVE ACTION ON HOUSE BILL 801Discussion:

Senator Harp expressed concern about doubling the tax on the polluted residential area property such as Anaconda and East Helena.

Ward Shanahan said the bill is obviously directed at ARCO. He said the amendments he proposes would address the fact that as long as ARCO is attempting to comply with the EPA the tax rate should remain at the lower rate.

Senator Harp reminded the committee that if a new business wants to come in and buy the property in question, they cannot get a loan for the purchase because of the superfund designation.

Senator Eck suggested adding "subject to local government approval" to the definition of polluted property.

Senator Thayer felt putting a lien on property other than that affected is really a new and radical proposal and not a good idea.

Mr. Shanahan said under the superfund law companies pay a tax on the property and also bear the cost of refurbishing the property. Anyone who buys the property becomes potentially liable for strictures under the superfund act. ARCO tries to circumvent the superfund strictures by dealing under a remediation contract.

Senator Towe felt the amount of money that might be involved is minimal and would not have much of an impact.

Amendments, Discussion, and Votes:

Senator Doherty moved to amend the term "polluted property" by adding a new "sub (3) except for property classified as residential property".

As a substitute motion, Senator Gage moved to adopt the Shanahan amendments (see attached standing committee report).

Senator Doherty withdrew his motion.

Senator Gage's motion CARRIED.

Recommendation and Vote:

Senator Doherty moved HB 801 Be Concurred In As Amended.

The motion CARRIED with Senator Thayer voting no.

EXECUTIVE ACTION ON HOUSE BILL 787

Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill as per Exhibit #2.

The motion CARRIED.

Recommendation and Vote:

Senator Towe moved HB 787 Be Concurred In As Amended.

The motion CARRIED with Senator Harp voting no.

(Further action on the bill later in these minutes.)

EXECUTIVE ACTION ON HOUSE BILL 753

Amendments, Discussion, and Votes:

Senator Harp moved to amend the bill as per Exhibit #3, the amendments proposed by the Department of Revenue.

The motion CARRIED.

Senator Thayer moved the adoption of amendments #4 which would allow a property tax exemption for property leased by a business incubator.

Senator Eck objected on the grounds that it open the exemption to all non-profit organizations and is too broad an application.

Senator Thayer it offers the option of using vacant buildings by business incubators instead of building new structures in areas where there is usable property standing empty.

The motion CARRIED with Senators Halligan and Eck voting no.

Senator Yellowtail proposed amendments as per Exhibit #5 which would allow for local governing body approval of exemptions. (The amendments would be adjusted to the amendments already adopted.)

Senator Harp moved to adopt the Yellowtail amendments (Exhibit #5).

The motion CARRIED.

Recommendation and Vote:

Senator Harp moved HB 753 Be Concurred In As Amended.

The motion CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 787

Motion:

Senator Harp moved to reconsider action on HB 787.

The motion CARRIED.

Amendments, Discussion, and Votes:

Senator Harp moved to add the Yellowtail amendments (Exhibit #5) to HB 787.

The motion CARRIED.

Recommendation and Vote:

Senator Towe moved HB 787 Be Concurred In As Amended.

The motion CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 550

Recommendation and Vote:

Senator Gage moved HB 550 Be Not Concurred In.

The motion CARRIED with Senators Eck and Towe voting no.

EXECUTIVE ACTION ON HOUSE BILL 334

Amendments, Discussion, and Votes:

Senator Towe moved to strike Sections 1, 3, 4, and 5 and to further amend the title accordingly.

The motion CARRIED.

Recommendation and Vote:

Senator Towe moved HB 334 Be Concurred In As Amended.

The motion CARRIED.

HEARING ON HOUSE BILL 914

Presentation and Opening Statement by Sponsor:

Representative Sheila Rice, District 36, said the bill provides for local government to grant a narrow exemption from property taxes a building or land that is sold or donated to a local economic development corporation. The exemption is only in effect when the property is actually under the ownership of the economic development corporation. The exemption is reviewed by the Department of Revenue as well as the local government entity and the economic development corporation must be certified as such by the local government body. The property goes back on the tax rolls when the economic development corporation sells or leases it to another business.

Proponents' Testimony:

Kay Foster, Billings Chamber of Commerce, expressed support from the Billings business community for the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Representative Rice closed.

EXECUTIVE ACTION ON HOUSE BILL 914

Amendments, Discussion, and Votes:

Senator Gage moved the adoption of the DOR amendments with the addition of the Yellowtail amendments as per the attached standing committee report.

The motion CARRIED.

Recommendation and Vote:

Senator Doherty moved HB 914 Be Concurred In As Amended.

The motion CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 868

Amendments, Discussion, and Votes:

Senator Gage moved to amend the bill to apply 40 mills to the gross proceeds of new coal mines begun after December 31, 1988 with distribution based on the previous year's millages.

The motion CARRIED.

Recommendation and Vote:

Senator Gage moved HB 868 Be Concurred In As Amended.

HEARING ON HOUSE BILL 738

Presentation and Opening Statement by Sponsor:

Representative Elliott, District 51, said the bill allows the local community to levy 2 mills for ambulance service if approved by the voters. He said the Plains Hospital will cease providing emergency services unless there is an ambulance service in the community.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties, said this bill is not an I105 buster. An opinion issued by the Attorney General said that a new tax authorized and approved by the voters is exempt from I105 restrictions.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer wondered if Class 1 cities that have private ambulance service would see this bill as providing discriminatory competition.

Representative Elliott said he would have no problem with an amendment which would take Class 1 cities out of the bill.

Closing by Sponsor:

Representative Elliott closed by saying he neglected to include an immediate effective date so that the proposal could be put on the November ballot in those communities which choose to pursue the ambulance service. He said he would appreciate the committee's action to so amend the bill.

EXECUTIVE ACTION ON HOUSE BILL 738Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill by adding an immediate effective date.

Senator Thayer again expressed his concern about competition with private ambulance services.

Senators Towe and Halligan felt the vote of the people would be adequate protection as the two mill levy would protect against mandating a public ambulance service if a private service is already available.

Recommendation and Vote:

Senator Doherty moved HB 738 Be Concurred In As Amended.

The motion CARRIED.

HEARING ON HOUSE JOINT RESOLUTION 24Presentation and Opening Statement by Sponsor:

Representative Ream, District 54, said this is the joint revenue estimating report. The only areas in question were the Revenue Oversight income tax and gas and oil projections. He said HB 558 of the 1989 session gave ROC the responsibility for revenue estimating and preparing the resolution on the estimates. HJR 24 clarifies the duties of ROC in preparing the estimates by December 1 immediately preceding the session. Periodic reports by the ROC during the session are eliminated and the legislative estimate which is based on the ROC report is established as the official estimate base.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.



Questions From Committee Members:

In reply to a question by Senator Thayer, Steve Bender, Office of Budget and Program Planning, said he and Terry Johnson, Legislative Fiscal Analyst's Office, stand by the oil and gas estimates as contained in the resolution. In reference to the income tax, he said the federal tax reform has changed timing and reporting a great deal. Withholding is assuming less importance and is declining. The full impact is not known until April and much of that depends on legislative action yet this month.

Senator Towe asked why the reference to special session reports is eliminated.

Representative Ream said ROC has the responsibility during the interim which would indicate they would prepare the report should there be a special session.

Senator Towe further questioned the oil and gas figures.

Mr. Bender said he used his own figures for preparation of the fiscal note. The fiscal note amount is somewhat lower than the HJR 24 figures. Terry Johnson used his own figures for the resolution. He said the two figures are probably only 1% different.

Closing by Sponsor:

Representative Ream closed.

HEARING ON HOUSE BILL 869Presentation and Opening Statement by Sponsor:

Representative Simpkins, District 39, said the bill clarifies the definition of agricultural products as presented in Exhibit #6 which is the U.S. government definition of ornamental, horticultural, and forestry products. He noted the forestry product definition is already in Montana law, therefore it is not included in the bill. HB 869 includes Montana law and folds in the federal law definitions.

He noted further the bill contains a provision for 10 contiguous acres so that small flower shops cannot qualify.

Proponents' Testimony:

Jane Barry, Executive Director, Montana Association of Nurserymen, presented her testimony in support of the bill (Exhibit #7) and a letter from Lawyer Nursery in support of the bill (Exhibit #7a).

Brad Brown, Glacier Nursery, Kalispell, President of Montana Association of Nurserymen, said both the food and ornamental horticultural products are part of agriculture in the state and are regulated by the Department of Agriculture and fall under Montana and federal agriculture tax laws. Horticultural crops are like other crops - they are planted, tended, and harvested. He said Christmas trees are ag crops like other crops and should be classified as such. He noted neighboring states have granted horticultural and ornamental crops ag status and present a serious competition factor. They can sell lower than the Montana producers because they have lower taxes. Because they do not fall under the ag designation in Montana, the ornamental and horticultural products have a much higher taxable value. They need to be defined and designated as ag products.

Tom Selstad, Cascade County, said he is not begging for a tax reduction, rather he just wants to see uniform classification for these products. He noted part of his farm is in sod and part in grain. They are planted, maintained, and harvested in like manner, but classified differently. There are different regulations for wage and hour, machinery taxes, and vehicle licenses. Part is taxed at ag rates and part at commercial. He said this becomes very difficult with the machinery as much of it is used for both crops. He urged the committee to pass the bill as they need to have a uniform set of statutes to apply to their business.

Jim Heisall, Springdale Nursery, Bozeman, said the trend is beginning to go to Montana nursery products rather than those imported from out of state. Only 30-40% are imported currently. He said the nurseries need the help the bill would provide.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage asked what the effect of the taxable value would be under this bill.

Mr. Brown replied it would decrease by 14% - 20%.

Senator Gage asked about the contiguous acre provision.

Mr. Barry said House Taxation wanted some further qualifier than the \$1500 profit amount. He said most nurseries do not have a checkerboard acreage and he felt they could live with the contiguous provision.

Senator Towe felt there might be a discrepancy in the language re the less than 20 acres and the \$1500 provisions.

Representative Simpkins said it is intended that the "over ten acres" and "\$1500" restrictions should both apply and the bill probably needs some clarifying language to tie them both together.

Senator Eck expressed some concern about the tax treatment of the retail outlet portion of the business and truck farming.

Ken Morrison, DOR, said the retail portion would be treated as improvements on ag property if the statute is not changed. Truck farming is treated as agriculture under the less than 20 acres but profits more than \$1500 provisions.

In response to a question by Senator Thayer, Mr. Selstad said he had a \$500 difference in his land taxes five years ago. The state only has 1500 acres in nursery production so it was his opinion the overall impact on tax revenue would be fairly low.

Mr. Heisall said the five acres where his store is located are valued as commercial property and he has no argument with that valuation.

Closing by Sponsor:

Representative Simpkins said these people are concerned about expansion. They do not mind having their retail outlet being classified as commercial, but they do need their ag land classified as ag property.

HEARING ON HOUSE BILL 949

Presentation and Opening Statement by Sponsor:

Representative Tunby, District 24, the bill would allow an income tax deduction for the cost of purchasing long-term care insurance.

Proponents' Testimony:

Hank Hudson, Governor's Office, said the bill would take some pressure of the medicaid program and would encourage planning and purchase of long-term health care insurance. He said the more people that purchase the insurance, the lower the insurance rates and the less impact on medicaid there will be. The bill would authorize convertible policies (from life insurance to long term health care).

Mr. Hudson presented a letter from Mr. Frazier, Project Consultant to the Governor's Health Care Committees, in support of the bill (Exhibit #8).

Larry Akey, Montana Life Underwriters, said this is a legitimate policy concern and the convertible policies are a good approach. He urged the committee to support the bill.

Tom Hopgood, Health Insurance Corporation of Montana, said long term health care insurance is a good and viable product which is badly needed. The bill passed the House overwhelmingly.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Eck asked if the \$115,000 amount in the fiscal note is likely to increase.

Mr. Hudson replied it is hard to gauge how well it will be utilized and determine a cumulative effect.

Denis Adams, DOR, said he did not foresee the amount exceeding \$115,000. The national average is about 1% and he wouldn't expect it to increase in Montana.

Senator Eck expressed further concern about the long range effects. Can only the wealthy afford the insurance and would the impact on medicaid increase as a result?

Mr. Akey replied this is a fairly new product on the market so the long range effects are not known. He said the generation of people in their 30's and 40's are going to put more and more pressure on the health care system in the future. Many policies are being purchased by adult children for long term care of their parents.

Closing by Sponsor:

Representative Tunby closed by noting the Governor has already signed the convertible insurance bill. He said there will be a beneficial impact on the reduction of medicaid costs if this bill is passed.

EXECUTIVE ACTION ON HOUSE BILL 949

Recommendation and Vote:

Senator Towe moved HB 949 Be Concurred In.


The motion CARRIED.

ADJOURNMENT

Adjournment At: 11:00 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/9/91

52<sup>nd</sup> LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL			X

Each day attach to minutes.





*The Big Sky Country*

SENATE TRANSACTION

EXHIBIT NO. 1

DATE 4/9/91

BILL NO. HB 452

## MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DON LARSON

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COMMITTEES:

AGRICULTURE  
BUSINESS & INDUSTRY  
HIGHWAYS & TRANSPORTATION

April 4, 1991

### HOUSE BILL 452, An Overview and Summary

Prepared by Representative Don Larson (D-Seeley Lake)

-House Bill 452 will grant property tax relief to Montana businesses that purchase new equipment for the purpose of adding value to a primary produce--wood, agricultural or mineral.

-The basic intention of the legislation is to encourage existing Montana basic industries to re-tool and begin developing new, value-added processes to Montana resources before they leave the state.

-The bill favors small businesses over large.

The business must take a Montana resource and chemically or mechanically transform it, to qualify for the break.

The more people the business hires, the larger the tax break will be. The maximum break will be a reduction from nine percent to three percent on the personal property purchased for the purpose of adding value to a Montana resource.

The State Department of Revenue will approve the business for the break and the local governing body has the final say over whether or not the break should be granted. If the local governing body finds it not in its best interests to allow the break, it will not be granted.

The break will last for seven years and the new employee number is reviewed annually to see if the business continues to qualify for the tax break. If employment falls, so does the tax break.

The bill is designed to not compete with, but rather complement other existing tax incentive measures.

DL/mf



Amendments to House Bill No. 787  
Third Reading Copy

Requested by Department of Revenue  
For the Committee on Taxation

Prepared by Jeff Martin  
April 7, 1991

1. Title, lines 6 and 7.

Strike: "DETERMINED" on line 6 through "EXEMPTION" on line 7

2. Page 1, line 18 through page 2, line 17.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

3. Page 2, line 25.

Following: "after"

Insert: "due"

Following: "notice"

Insert: ", as defined in 76-15-103,"

Following: "hearing."

Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."

4. Page 3.

Following: line 11

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsections

Amendments to House Bill No. 753  
Third Reading Copy

Requested by Department of Revenue  
For the Committee on Taxation

Prepared by Jeff Martin  
April 6, 1991

1. Title, lines 7 and 8.

Strike: "DETERMINED" on line 7 through "EXEMPTION" on line 8

2. Page 1, line 19 through page 2, line 18.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

3. Page 3, line 1.

Following: "after"

Insert: "due"

Following: "notice"

Insert: ", as defined in 76-15-103,"

Following: "hearing."

Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."

4. Page 3.

Following: line 10

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsection

Amendments to House Bill No. 753  
Third Reading Copy

Requested by Department of Revenue (TAYLOR)  
For the Committee on Taxation

Prepared by Jeff Martin  
April 6, 1991

1. Title, lines 7 and 8.  
Strike: "DETERMINED" on line 7 through "EXEMPTION" on line 8
2. Page 1, line 15.  
Following: "owned"  
Insert: "or leased"
3. Page 1, line 19 through page 2, line 18.  
Strike: subsections (2) and (3) in their entirety  
Re-number: subsequent subsections
4. Page 3, line 1.  
Following: "after"  
Insert: "due"  
Following: "notice"  
Insert: ", as defined in 76-15-103,"  
Following: "hearing."  
Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full, or if the property is leased to a business incubator all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval."
5. Page 3, line 9.  
Following: "owns"  
Insert: "leases"
6. Page 3.  
Following: line 10  
Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."  
Re-number: subsequent subsection

EXHIBIT NO. 5  
DATE 4/9/91  
BILL NO. HB 753

Amendments to House Bill No. 753  
Third Reading Copy

Requested by Senator Yellowtail  
For the Committee on Taxation

Prepared by Jeff Martin  
April 6, 1991

1. Title, line 1.  
Strike: "ELIMINATE"  
Insert: "REVISE THE"
2. Page 2, line 1.  
Following: "AFFECTED"  
Insert: "county"  
Following: "TOWN"  
Strike: "OR"  
Insert: ", "
3. Page 2, line 2.  
Following: "GOVERNMENT,"  
Insert: "or school district,"
4. Page 2, line 21.  
Following: "~~county,~~"  
Insert: "county,"  
Following: "~~ex~~"  
Insert: ", "
5. Page 2, line 22.  
Following: "~~district~~"  
Insert: ", or school district"
6. Page 2, lines 23 through 25.  
Strike: "or," on line 23 through "county" on line 25
7. Page 3, lines 15 and 16.  
Strike: "to" on line 15 through "including" on line 16  
Insert: "only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, incorporated city or town, or consolidated government approves the exemption, the exemption applies to"



SENATE TAXATION  
EXHIBIT NO. 7  
DATE 4/9/91  
BILL NO. 40-869

**Montana Association of Nurserymen**  
P.O. BOX 1871 • BOZEMAN, MONTANA 59711-1871  
(406) 586-6042

**RE: TESTIMONY GIVEN IN SUPPORT OF HOUSE BILL #869, BEFORE THE SENATE TAXATION COMMITTEE**

**BY: Jane R. Barry, Executive Director**

In order to understand the importance of House Bill #869, I would like to give a brief overview of the nursery and sod industry in Montana.

The Montana Department of Agriculture requires all owners of nurseries and sod farms in Montana to have a Montana Nursery license. The Plant Industry Division of the Montana Department of Agriculture regulates the nursery and sod industry in this state. Therefore, nurseries and sod farms are agricultural in the eyes of the Montana Department of Agriculture, but not in the written codes of the state of Montana.

While the nursery and sod industry in Montana is relatively new, figures derived from a joint Plant Industry Division / Montana Association of Nurserymen survey conducted of 605 applicants for nursery licenses for 1988-89, gives us the following picture of the industry:

The nursery and sod industry in Montana employs approximately 2,400 people throughout the year. This number includes 360 family members on no salary basis, over 1,500 part-time positions, and the remainder (approximately 540) are full-time employees. Wages averaged approximately \$4.74 per hour for starting full-time employees and totaled in excess of \$11.8 million during 1988; other expenditures for services totaled \$209,900.

Gross sales receipts from nursery and sod products and landscaping services totaled over \$14.9 million.

Montana firms reported that approximately 30 percent of the nursery and sod products sold were grown by them and 30 percent were purchased from other firms in Montana. (Nursery stock grown in Montana for more than one year is considered "Grown in Montana").

In 1988, approximately 1,500 acres of land were used in nursery and sod operations in Montana.

The state's nursery and sod firms, in 1988, had a market value of approximately \$28.8 million.

When considering the merits of House Bill #869, it is necessary to look at the nursery and sod industry of Montana with regard to both federal and state law.

Under federal law, the nursery and sod industry is recognized with an agriculture classification. IRS recognizes nurseries and sod farms as agricultural. USDA categorizes nurseries and sod farms as agriculture by virtue of their growing of perishable commodities. It may be difficult for this committee to perceive of a tree or shrub as being a "perishable" commodity. I would, however, remind you of the devastating effect to the trees and the shrubs in your yard as a result of the state-wide hail storm of 1987, and again with the "Arctic Express" freeze of 1988.

*(testimony continued on back of page)*

**(Barry - testimony continued)**

The Federal Insecticide, Fungicide, and Rodenticide Act of 1986 (FIFRA) classifies nurseries and sod farms as agricultural with regard to availability and use of chemicals.

Under the Federal codes, Christmas Tree farms already have an agricultural status. Just before our testimony before the House Taxation Committee took place, I found out how this came about. In early 1940, a note was sent to the United States Department of Agriculture notifying them that Christmas Tree Farms should be included as an agricultural entity. No hearings ... no explanation ... just do it. And the Department of Agriculture complied with this instruction, since the note was from then President, Franklin Delano Roosevelt ... a Christmas Tree farmer.

The Montana Code does not include nurseries and sod farms in its description of agriculture. This is not surprising when you consider that there was no nursery and sod industry in Montana when these codes were written.

Our attempt with House Bill #869, is to bring Montana and Federal codes into agreement, to legally give protection at the state level that the nursery and sod industry has on the federal level.

We will offer the testimony of two nursery owners and one sod farm owner who are able to answer your questions about ownership and operation of these types of firms. Roy Bjomson, Administrator of the Plant Industry Division of the Montana Department of Agriculture is here to answer questions regarding his Division's role in the regulation of the nursery and sod industry in Montana.

We appreciate the time given by this committee today to hear our testimony. We hope that you will look favorably at the merits of House Bill #869, and that you will give your approval to its passage.

Thank you.



*Jane R. Barry*  
EXECUTIVE DIRECTOR

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things, a food, feed, or fiber commodity, livestock, poultry, fruit, vegetable, tobacco, or forestry, ornamental, nursery, or horticultural commodity or product raised, grown, or produced for a commercial purpose."

The House Report (H. Rpt. 99-695, July 18, 1986 at 30) states:

"The term 'agricultural producer' would include the producers of, among other things, food, feed, and fiber commodities, livestock and poultry, fruits and vegetables, tobacco, and forestry, ornamental, nursery, and horticultural crops raised, grown, or produced for commercial purposes.

Worker Protection Standards for Pesticides

The EPA published proposed rules on the subject of worker protection in the use of pesticides on July 8, 1988 (Fed. Register Volume 53, Number 131 at page 25970). Section 170.5 specifically states that an "Agricultural plant means any agricultural, ornamental, or forestry plant or part thereof. Agricultural plants include, but are not limited to, food, feed and fiber plants, trees, turf, flowers, shrubs, and seedlings."

In the same proposed rule, the EPA also chose to define a nursery. Nursery means "any property that is not enclosed with non-porous covering and that is used, in whole or in part, for the production of agricultural plants which will be used in their entirety in another location." (Proposed Rules, Title 40 Code of Federal Regulations Part 170, Section 170.5)

Underground Storage Tanks (UST)

The EPA has specifically included nurseries in the definition of farms for the purposes of an exemption from certain regulations pertaining to underground storage tanks. The rules state:

"(a) a farm tank is a tank located on a tract of land devoted to the production of crops or raising of animals, including fish. To be exempt from UST jurisdiction, a farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations. "Farm" does not include laboratories where animals are raised, land used to grow timber, and pesticide aviation operations. Moreover, this definition does not include retail stores or garden centers where the product of nursery farms is marketed, but not produced. This definition, as promulgated, is unchanged from the proposal." (Federal Register, Vol., 53, No. 185 at 37117, summarizing Title 40 Code of Federal Regulations, Part 280, Section 280.12).



# LAWYER NURSERY, INC.

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EXHIBIT NO. 79  
DATE 4/9/91  
BILL NO. HB 869

Statement In Support  
of  
House Bill #869

April 9, 1991

To: Senate Taxation Committee

I am appearing here today to express my support for House Bill no. 869 entitled: "An Act to amend the definition of "agricultural" in relation to tax laws to include sod, ornamental, nursery, and horticultural crops....."

Lawyer Nursery is one of the largest agricultural enterprises in western Montana. What started as a family wheat farm in the 1950's has evolved into a large wholesale nursery growing more than 250 species of tree and shrub seedlings and producing over 16 million plants on 350 acres. We market our crops, mainly to other wholesale nurseries, and we ship to all 50 states, Canada, Mexico and more than 20 foreign countries.

Our business clearly demonstrates that, contrary to many economic, social, and political analysts, there is a bright future in Agriculture in Montana. That future is in specialized crops with highly technical cultural practices, more complex operational and management requirements and independent responsibility for one's own sales and marketing. Such crops are exemplified by horticultural crops including nursery stock and sod.

Because our business is not within the public's historical perception of agriculture and because our operations are not simple, people find our business difficult to define and understand. This includes our local tax appraiser and other regulatory authorities. We frequently find ourselves trying to convince various people in State and County government that we are "agricultural".

Please consider the following.....

- We till the soil by means of plowing, disking, cultivating
- We sow seeds or transplant small rooted plants into our fields
- We grow our crops in fields or to a limited extent in greenhouses
- We harvest our crops with specialized equipment similar to a potato harvester



---We store, sort, pack and ship our own products

In summary we perform all the operations one would associate with a farm.

Our products are used for establishing windbreaks, shelterbelts, for erosion control, for ornamental landscaping, for fruit production, reforestation and many other uses. They are, in general, agricultural products that serve to benefit our environment and our society. They provide essential social benefits comparable to more traditional food and fiber crops.

At the present time some of our facilities are taxed as agricultural and some as commercial properties. It is my opinion that these designations are often arbitrary and inconsistent. House Bill 869 will remove and clarify Montana Law so that our correct designation is "agricultural".

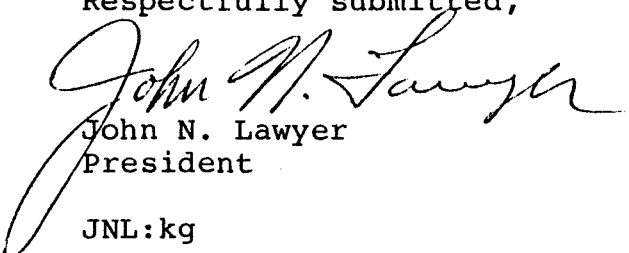
Virtually all other states and the Federal Government clearly define nursery and sod production operations as agricultural. As examples I cite two nearby states, Oregon and Washington.

Nursery and Greenhouse crops comprise one of the largest segments of agriculture in Oregon. It is a major contributor to the state's economy. Wholesale nurseries in Oregon are defined as "farms" under Oregon Law and have all the tax benefits historically afforded to agriculture.

Lawyer Nursery also owns and operates a 120 acre nursery near Olympia, Washington. It is comparable in all respects to our Montana nursery operations. Under Washington Law we are clearly defined and taxed as an "agricultural" enterprise. We would like the same treatment here in Montana.

I have studied HB 869 and strongly support its passage. As members of the Senate Committee on Taxation, I urge your support in achieving passage of this Bill in this Session.

Respectfully submitted,



John N. Lawyer  
President

JNL:kg

April 8, 1991

To: Members of the Senate Taxation Committee  
Senator Mike Halligan, Chairman

From: Bob Frazier, Project Consultant to the Governor's  
Health Care Committees *Bob Frazier/AM*

Re: Testimony for HB949  
Sponsor, Representative Rolf Tunby

Although I am not able to be present, I would like to go on record in support of HB949. The bill is a recommendation of the Long Term Care Strategies Committee and has broad implications for addressing the future of long term care in Montana. There are two points that I would like to draw your attention to that I believe this bill addresses. They are:

- Long term care needs will continue to increase well into the middle of the next century. As a state, we need to begin to address this growing problem and to encourage people to plan for their long term care needs. Although I believe it is difficult to get people to plan for their "out years", this bill provides an important incentive to get people to do so. Its major focus will be for persons in their 30's, 40's and 50's.
- There is a need to educate middle aged Montanans about planning for long term care. This bill can help to draw Montanans' attention toward long term care planning. It is in the state's best interest to encourage the education and planning that can result from this legislation.

Thank you for your attention to this legislation. If you have questions of me, I would be glad to appear before the committee in the future.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8 day of April, 1991.

Name: Helen Dawson

Address: 1805 Josophyn # 103, Helena

Telephone Number: 442-5608

Representing whom?

Self & other retirees

Appearing on which proposal?

996

Do you: Support?  Amend?  Oppose?

Comments:


Very unfair to lower  
taxpayers as there are  
thousands who pay little  
or no Federal tax &  
the rest of us have  
no loopholes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 793 (third reading copy -- blue), respectfully report that House Bill No. 793 be concurred in.

Signed:   
Mike Halligan, Chairman

LB 4/9/91  
Amd. Coord.

SR 4/9 8:00  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 801 (third reading copy -- blue), respectfully report that House Bill No. 801 be amended and as so amended be concurred in:

1. Title, lines 8 and 9.

Strike: "ALL" on line 8 through "OF" on line 9

2. Title, line 10.

Following: "PROPERTY"

Insert: "ASSESSED"

3. Page 2, line 20.

Following: "because of"

Insert: "unaddressed"

4. Page 2, line 24.

Following: "property"

Insert: "that is not or has not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions or that is not subject to a federal or state order requiring response action"

5. Page 6, line 14.

Strike: "have been"

6. Page 6, line 15.

Following: "(I)"

Insert: "have been"

7. Page 6, line 17.

Strike: "AND"

8. Page 6, line 18.

Following: "(II)"

Insert: "are"

9. Page 6, line 20.

Following: "AMENDED"

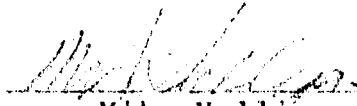
Insert: "; and

(iii) are not or have not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions or are not subject to a federal or state order requiring response action"

10. Page 13, lines 7 through 9.

Strike: "all" on line 7 through "due" on line 9

Insert: "the class twenty-one property assessed"

Signed:   
Mike Halligan, Chairman

LB 11/11  
Amd. Coord.

SP 4/10 11:30  
Sec. of Senate

exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval."

9. Page 3, line 9.

Following: "owns"

Insert: "or leases"

10. Page 3.

Following: line 10

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsection

11. Page 3, lines 15 and 16.

Strike: "to" on line 15 through "including" on line 16

Insert: "only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to"

Signed: \_\_\_\_\_

Mike Halligan, Chairman

APR 11 1991  
Amd. Coord.

SB 411 91 9:50  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
April 11, 1991

HR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 753 (third reading copy -- blue), respectfully report that House Bill No. 753 be amended and as so amended be concurred in:

1. Title, line 5.

Strike: "ELIMINATE"

Insert: "REVISE"

2. Title, lines 7 and 8.

Strike: "DETERMINED" on line 7 through "EXEMPTION" on line 8

3. Page 1, line 15.

Following: "owned"

Insert: "or leased"

4. Page 1, line 19 through page 2, line 18.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

5. Page 2, line 21.

Following: "~~county~~,"

Insert: "county,"

Strike: "or"

Insert: ", "

6. Page 2, line 22.

Following: "~~district~~"

Insert: ", or school district"

7. Page 2, lines 23 through 25.

Strike: "or," on line 23 through "county" on line 25

8. Page 3, line 1.

Following: "after"

Insert: "due"

Following: "notice"

Insert: ", as defined in 76-15-103,"

Following: "hearing."

Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax



SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
April 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 787 (third reading copy -- blue), respectfully report that House Bill No. 787 be amended and as so amended be concurred in:

1. Title, line 4.

Strike: "ELIMINATE"

Insert: "REVISE"

2. Title, lines 6 and 7.

Strike: "DETERMINED" on line 6 through "EXEMPTION" on line 7

3. Page 1, line 18 through page 2, line 17.

Strike: subsections (2) and (3) in their entirety

Re-number: subsequent subsections

4. Page 2, line 20.

Following: "county;"

Insert: "county,"

Strike: "or"

Insert: ","

5. Page 2, line 21.

Following: "town"

Insert: ", or school district"

6. Page 2, lines 21 through 24.

Strike: "or" on line 21 through "county" on line 24

7. Page 2, line 25.

Following: "after"

Insert: "due"

Following: "notice"

Insert: ", as defined in 76-15-103,"

Following: "hearing."

Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."

8. Page 3.

Following: line 11

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Re-number: subsequent subsections

9. Page 3, lines 16 and 17.

Strike: "to" on line 16 through "including" on line 17

Insert: "only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to"

Signed: \_\_\_\_\_  
Mike Balligan, Chairman

191 4 11 91  
Amd. Coord.


CP 4 11 91 2:20  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 550 (third reading copy -- blue), respectfully report that House Bill No. 550 be not concurred in.

Signed:   
Mike Halligan, Chairman

LB 4/9/91  
Amd. Coord.

SL 4/9/91  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 334 (third reading copy -- blue), respectfully report that House Bill No. 334 be amended and as so amended be concurred in:

1. Title, line 4.

Following: "THE"

Insert: "PER CAPITA"

2. Title, lines 5 through 13.

Strike: ";" on line 5 through "STATE;" on line 13

Insert: "BY"

3. Title, line 15.

Strike: "SECTIONS"

Insert: "SECTION"

4. Title, line 16.

Strike: "15-24-922, AND 15-24-926,"

5. Page 1, line 21 through page 3, line 11.


Strike: section 1 in its entirety

Re-number: subsequent sections

6. Page 4, line 2 through page 5, line 24.

Strike: sections 3 through 5 in their entirety

Re-number: subsequent sections

Signed: 

Mike Halligan, Chairman

LB 4/9/91  
Amd. Coord.

SB 4/10 11:30  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 914 (third reading copy -- blue), respectfully report that House Bill No. 914 be amended and as so amended be concurred in:

1. Page 1, line 22 through page 2, line 20.  
Strike: subsections (2) and (3) in their entirety  
Renumber: subsequent subsection
2. Page 3, line 8.  
Following: "affected"  
Insert: "county, consolidated government,"
3. Page 3, lines 9 through 11.  
Following: "town" on line 9  
Insert: ", "  
Strike: ", if" on line 9 through "county" on line 11  
Insert: "school district in which the building and land are located"
4. Page 3, line 12.  
Following: "after"  
Insert: "due"  
Following: "notice"  
Insert: ", as defined in 76-15-103,"  
Following: "hearing."  
Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."
5. Page 3.  
Following: line 20  
Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."  
Renumber: subsequent subsections
6. Page 3, line 22.  
Following: "applies"  
Insert: "only"
7. Page 3, lines 22 through 24.  
Strike: "in" on line 22 through "The" on line 24

Insert: "by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the"

Signed:   
Mike Halligan, Chairman

LB 4/10/11  
Amd. Coord.

SP 4/12 2:35  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 868 (third reading copy -- blue), respectfully report that House Bill No. 868 be amended and as so amended be concurred in:

1. Page 4, lines 17 and 18.

Following: "1988"

Insert: ", "

Strike: "i" on line 17 through "counties" on line 18

2. Page 4, line 19.

Strike: "and"

Insert: ", "

Following: "county"

Insert: ", and school district"

3. Page 4, line 21 through page 5, line 6.

Strike: "in the taxing" on page 4, line 21 through "district" on page 5, line 6

Signed: \_\_\_\_\_

Mike Halligan, Chairman

LB 4/9/91

Amd. Coord.

SR 4/10 11:30

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 738 (third reading copy -- blue), respectfully report that House Bill No. 738 be amended and as so amended be concurred in:

1. Title, line 9.

Strike: "AND"

2. Title, line 10.

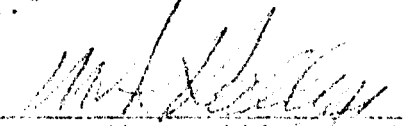
Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 8.

Following: line 21

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

Signed: 

Mike Halligan, Chairman

LB 4/9/91  
Amd. Coord.

SLB 4/10 11:30  
Sec. of Senate

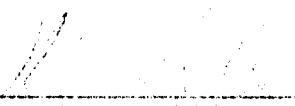


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 949 (third reading copy -- blue), respectfully report that House Bill No. 949 be concurred in.

Signed:   
Mike Halligan, Chairman

4/9/91  
Amd. Coord.

SB 4/9 2:00  
Sec. of Senate