

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON PROPERTY TAX**

**Call to Order:** By **CHAIRMAN COHEN** on March 21, 1991, at 7:30 AM

**ROLL CALL**

**Members Present:**

Rep. Ben Cohen, Chairman (D)  
Rep. Ed Dolezal (D)  
Rep. Orval Ellison (R)  
Rep. Russell Fagg (R)  
Rep. Dave Hoffman (R)  
Rep. Ed McCaffree (D)  
Rep. Mark O'Keefe (D)  
Rep. Ted Schye (D)  
Rep. Fred Thomas (R)  
Rep. Dave Wanzenried (D)

**Staff Present:** Lee Heiman, Legislative Council  
Julia Tonkovich, Committee Secretary

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

**DISCUSSION ON HB 869**

**Mr. Heiman** said HB 869 puts all nurseries, sod farms, ornamental plant farms, etc., into the definition of "agricultural" for tax purposes. It also qualifies agricultural programs (sponsored by Extension Services) to be taxed at an agricultural rate. As long as the nursery buildings are taxed at the proper rate, the bill shouldn't do too much damage to any county's property tax base.

**REP. FAGG** asked for clarification of the phrase "land having no purpose other than to serve as a platform for an activity of an agricultural nature has no productive value..."

**Mr. Heiman** said this means the land is only used as a foundation for a building which is used to grow plants above ground. If the land upon which a structure is built has no roots in it, the land cannot be considered agricultural.

**REP. MCCAFFREE** said if someone is making living off the land, the legislature should give him or her agricultural status. Some people do not grow anything on their land, but because they have a large amount of acreage, they are given agricultural status.

**REP. FAGG** agreed.

REP. O'KEEFE asked what classification a greenhouse lot has, if the plants in the lot are grown in the ground, not in pots. Some nurseries plant their products in the ground, and deliver them to homes with the topsoil intact. This is a retail method, not an agricultural method. However, some nurseries supply plants wholesale to other nurseries. There should be a separate classification for nursery suppliers. Otherwise, the county will lose a good deal of its property tax base. Mr. Heiman said under this bill, if the land produces over \$1500 worth of goods, it would be classified as agricultural land. The bill could be altered to say that sod, ornamental nursery and horticultural crops that are raised, grown or produced for wholesale purposes (or other than retail purposes) would be classified as agricultural.

REP. COHEN asked how the proposed amendments will change the present agricultural classification. Ken Morrison, Department of Revenue (DOR), said sod farms under 20 acres do not currently qualify for agricultural status. This bill will allow them to qualify. Any land parcel over 20 acres is classified as agricultural, regardless of what is happening on the land. REP. COHEN said there is a nursery near Plains which has 105.8 acres and is classified as commercial land. REP. O'KEEFE said there are several sod farms in the Flathead area that are also classified as commercial land. Mr. Morrison conceded the error.

REP. COHEN said he had never had a complaint from a sod farmer about high tax rates or improper classification, and wondered why the reclassification was necessary and who proposed it to the sponsor. The sponsor should have provided information about the economic impact this legislation will have on different counties.

REP. MCCAFFREE said he agreed with REP. O'KEEFE; the committee should amend the bill to limit reclassification to primarily wholesale nurseries. The retail nurseries should be left as commercial operations. Mr. Morrison asked what the classification would be for a business which had both wholesale and retail operations. REP. O'KEEFE said if there are buildings used for production on the land, then the entire facility is classified as commercial.

Mr. Heiman said he can amend the bill to read that a facility which sells goods raised, grown or produced directly from the land for wholesale purposes would qualify for agricultural status. Sod farmers who deal only through retail outlets would qualify; those farms that let people pick up the sod directly from the farm would not.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND the amendments to the full committee. Motion passed 4 to 1.

Motion/Vote: REP. FAGG moved the subcommittee DO RECOMMEND HB 869 as amended to the full committee. Motion passed 4 to 1.

DISCUSSION ON HB 929

Motion/Vote: REP. FAGG moved the committee hold HB 929, saying a boat tax is not a pressing matter in comparison to the issues other bills address. Motion carried unanimously.

DISCUSSION ON HB 884

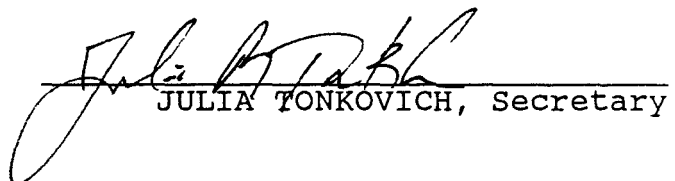
REP. DOLEZAL said the erroneous assessment of property value is a widespread problem in Great Falls; REP. RICE would like to give some sort of credit or refund only to those property owners who have been overassessed. REP. COHEN said the problem is not exclusive to Great Falls, and asked whether the city or the state will provide the rebate. When commissioners decide to lower the mill levy, some people are required to pay higher property taxes, and some lower. Will those who paid lower taxes need to compensate? The bill cannot uphold an inconsistent policy.

Motion/Vote: REP. FAGG moved the subcommittee hold HB 884. Motion passed unanimously.

ADJOURNMENT

Adjournment: 7:50 AM

  
BEN COHEN, Chair

  
JULIA TONKOVICH, Secretary

BC/jmt

**HOUSE OF REPRESENTATIVES**  
**PROPERTY TAX SUBCOMMITTEE**

ROLL CALL

DATE

3/21/91

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIR	X		
REP. ED DOLEZAL	X		
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. DAVID HOFFMAN	X		
REP. ED MCCAFFREE	X		
REP. MARK O'KEEFE	X		
REP. TED SCHYE	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		
REP. DAN HARRINGTON, CHAIRMAN			

EXHIBIT 1

EXHIBIT

DATE

3/21/90

March 18, 1991

HB 869

## HOUSE BILL 869

### Department of Revenue's Responses to Ag Land Questions

**What State Tax Appeal Board Case addressed the issue of tax classification of land used for sod farming?**

Selstad vs DOR dealt exclusively with sod farms. The Board ruled that the growing of sod for transport and resale constituted a commercial enterprise and was not an agriculture practice. It was the opinion of the Board that the sod was a commercial commodity or a "good" in the same category as crushed rock and wood chips used for decorative landscaping purposes. The 1987 request for agriculture classification was denied.

**What is the department's policy on the classification of land less than 20 acres used for supporting a nursery?**

The department's position is that the legislature intended to restrict agricultural land classification to cases where qualifying production and income is from the land. If the land has no purpose other than to serve as a platform for an activity of an agricultural nature, it has no true "productive value" as required in the determination of agricultural land classification.

**How is the Plum Creek nursery in Lake County classified?**

The nursery is near Pablo and is comprised of 34.507 acres classified as industrial land.

**How is the Lawyer Nursery in Sanders County classified?**

The nursery is near Plains and is comprised of 105.8 acres which is classified as commercial land.

In addition to this acreage, Lawyer Nursery has approximately 102 acres that is classified as follows:

- 50 acres of non-irrigated farmland;
- 9 acres of grazing land;
- 24 acres of irrigated farmland; and
- 19 acres of timberland.

Ex. 1

3/21/91

HB 869

**How is the nursery in Ravalli County classified?**

Roger Roy has a 2 acre raspberry farm near Corvallis that is classified as agricultural due to the income generated from the operation.

The Humphrey's Nursery near Hamilton is classified as commercial land.