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House BILL NO. 562

INTRODUCED BY

*Sen. Steve Stitzer* *Sen. HARP Stitzer*  
*Sen. G. Fred Healy* *Sen. Halvin Brundage*

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE AGRICULTURAL SPECIAL ELIGIBILITY CRITERIA FOR SOD, ORNAMENTAL, NURSERY, OR HORTICULTURAL PROPERTY FROM AT LEAST 10 ACRES TO \$5,000 FROM THE PRODUCTION OF THOSE CROPS; AMENDING SECTION 15-7-202, MCA; AND PROVIDING AN APPLICABILITY DATE"

*Sen. Steve Stitzer* *Sen. Barnett* *Sen. Allett*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-7-202, MCA, is amended to read:

**"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land

totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(c) For the purposes of this subsection (1), "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(i) rental or lease of the land as long as the land is actively used for grazing livestock or for other

1 agricultural purposes; and

2 (ii) rental payments made under the federal conservation reserve program or a successor to that  
3 program.

4 (2) Except as provided in subsection (8), contiguous or noncontiguous parcels of land totaling less  
5 than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation,  
6 assessment, and taxation as agricultural each year the parcels meet any of the following qualifications:

7 (a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less  
8 than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

9 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for  
10 independent intervening causes of production failure beyond the control of the producer or marketing delay  
11 for economic advantage, in which case proof of qualification in a prior year will suffice.

12 (3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be  
13 classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk  
14 and recorder in compliance with the Montana Subdivision and Platting Act.

15 (4) Land may not be classified or valued as agricultural if it is subdivided land with stated  
16 restrictions effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only,  
17 "subdivided land" includes parcels of land larger than 20 acres that have been subdivided for commercial  
18 or residential purposes.

19 (5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona  
20 fide agricultural enterprise is not considered a bona fide agricultural operation.

21 (6) The department may not classify land less than 160 acres as agricultural unless the owner has  
22 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for  
23 which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c).  
24 If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued,  
25 assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does  
26 not mean revaluation pursuant to 15-7-111.

27 (7) For the purposes of this part, growing timber is not an agricultural use.

28 (8) Subject to the provisions of subsections (1), (2)(a), and (2)(b), property upon which sod,  
29 ornamental, nursery, or horticultural crops are raised, grown, or produced must ~~consist of at least 10 acres~~  
30 produce and the owner or owner's agent, employee, or lessee shall market products that produce not less

1 than \$5,000 in annual gross income before the property is eligible to be classified as agricultural land.  
2 Improvements devoted to crop production described in this subsection may not be included in class eleven  
3 property."

4  
5 NEW SECTION. Section 2. Applicability. [This act] applies to tax years beginning after December  
6 31, 1995.

7 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0562, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act changing the agricultural special eligibility criteria for sod, ornamental, nursery, or horticultural property from at least 10 acres to \$5,000 from the production of those crops; and providing an applicability date.

ASSUMPTIONS:

1. Under the proposal, some land currently classified as class four (commercial) would be reclassified as class three (agricultural) resulting in a decrease in taxable valuation in FY97 and subsequent fiscal years. Although the Department of Revenue is unable to estimate the total decrease in taxable value due to the proposal, it is believed to be slight.
2. The proposal will require an application and review process for sod, ornamental, nursery, and horticultural land to be classified as agricultural land. Estimated administrative costs are \$1,000 for FY96 and each subsequent fiscal year. This cost includes forms, postage, and gasoline.

FISCAL IMPACT:

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	\$ 1,000	\$ 1,000

Revenues:

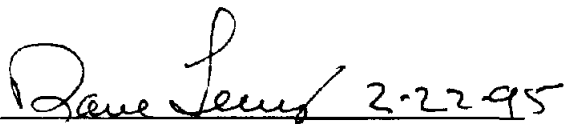
The proposal would result in a slight decrease of property tax revenue in FY97 and subsequent fiscal years.

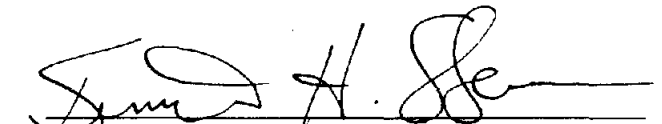
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal would result in a slight decrease in property taxes for local governments in FY97 and subsequent fiscal years.

TECHNICAL NOTES:

1. The amendment to section 1 (8) should be expanded to strike the current law language "Improvements devoted to crop production described in this subsection may not be included in class eleven property". There is no longer a class eleven property.
2. It is unclear how the proposal would treat some nursery land. Some nurseries produce all or most of their products in greenhouses. These structures act as platforms to produce their product. The land does not produce the product nor does it produce the income derived from the product. Is the land eligible for agricultural status? Is the income derived from the greenhouse products included in the \$5,000 income test?

  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

  
 KENNETH WENNEMAR, PRIMARY SPONSOR DATE  
 Fiscal Note for HB0562, as introduced

HB 562

## 1 HOUSE BILL NO. 562

2 INTRODUCED BY WENNEMAR, HARP, SLITER, STANG, JENKINS, GROSFIELD, HEAVY RUNNER,  
3 GALVIN, ELLINGSON, FRANKLIN, BARNETT, ELLIOTT, SOMERVILLE

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7 REQUIRED AT LEAST 10 ACRES ~~TO \$5,000 FROM~~ IN THE PRODUCTION OF THOSE CROPS; AMENDING  
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12 **Section 1.** Section 15-7-202, MCA, is amended to read:

13 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land  
14 totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as  
15 agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

16 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership  
17 are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for  
18 raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in  
19 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner  
20 or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in  
21 annual gross income from the raising of agricultural products produced by the land. The owner of land that  
22 is not presumed to be agricultural land shall verify to the department that the land is used primarily for  
23 raising and marketing agricultural products.

24 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are  
25 eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

26 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set  
27 forth in subsection (1)(b)(i) as defined in this section; and

28 (B) the land is not devoted to a residential, commercial, or industrial use.

29 (c) For the purposes of this subsection (1), "marketing" means the selling of agricultural products  
30 produced by the land and includes but is not limited to:

1 (i) rental or lease of the land as long as the land is actively used for grazing livestock or for other  
2 agricultural purposes; and

3 (ii) rental payments made under the federal conservation reserve program or a successor to that  
4 program.

5 (2) ~~Except as provided in subsection (8), contiguous~~ CONTIGUOUS or noncontiguous parcels of  
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14 (3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be  
15 classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk  
16 and recorder in compliance with the Montana Subdivision and Platting Act.

17 (4) Land may not be classified or valued as agricultural if it is subdivided land with stated  
18 restrictions effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only,  
19 "subdivided land" includes parcels of land larger than 20 acres that have been subdivided for commercial  
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28 not mean revaluation pursuant to 15-7-111.

29 (7) For the purposes of this part, growing timber is not an agricultural use.

30 ~~(8) Subject to the provisions of subsections (1), (2)(a), and (2)(b), property upon which sed,~~

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4 ~~Improvements devoted to crop production described in this subsection may not be included in class eleven~~  
5 ~~property."~~

6

7 NEW SECTION. **Section 2. Applicability.** [This act] applies to tax years beginning after December  
8 31, 1995.

9

-END-

## 1 HOUSE BILL NO. 562

2 INTRODUCED BY WENNEMAR, HARP, SLITER, STANG, JENKINS, GROSFIELD, HEAVY RUNNER,  
3 GALVIN, ELLINGSON, FRANKLIN, BARNETT, ELLIOTT, SOMERVILLE

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29 (c) For the purposes of this subsection (1), "marketing" means the selling of agricultural products  
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