

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - 2nd SPECIAL SESSION**

**COMMITTEE ON PROPERTY TAX**

**Call to Order:** By REP. BEN COHEN, CHAIR, on July 15, 1992, at  
7:00 a.m.

**ROLL CALL**

**Members Present:**

Rep. Ben Cohen, Vice-Chairman (D)  
Rep. Ed Dolezal (D)  
Rep. Orval Ellison (R)  
Rep. Russell Fagg (R)  
Rep. Ed McCaffree (D)  
Rep. Fred Thomas (R)  
Rep. Dave Wanzenried (D)

**Members Excused:**

Rep. Dan Harrington (D)  
Rep. Mark O'Keefe (D)  
Rep. Ted Schye (D)

**Staff Present:** Lee Heiman, Legislative Council  
Billie Jean Hill, Committee Secretary

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

**EXECUTIVE ACTION ON HB 45**

**Discussion:**

REPRESENTATIVE ED MCCAFFREE asked Ken Morrison, Administrator, Property Assessment Division, Department of Revenue (DOR), if there needed to be an amendment which adds corporate income taxes to HB 45. Mr. Morrison said codification instructions put Section 11 into the income tax laws (Chapter 30) but not corporate tax laws (Chapter 31). He is not sure if something is missing or if it is an oversight.

REP. MCCAFFREE drew the Committee's attention to p.6, lines 22

and 23. He said the these lines, as written, means that if a liability is not present, a credit could not be claimed. This was not his intent. He asked if it was true that in order for a tax return to be filed, there had to be an income. Mr. Morrison said there is no rule that states that a tax return can not be filed without the presents of an income. REP. MCCAFFREE said if that was the case, then that language should be stricken.

**CHAIRMAN COHEN** to testimony given at the Taxation Committee hearing on HB 45. **EXHIBIT 1** He asked if Minnesota is looking at an income tax credit for property taxes paid, what do they think the benefit will be. **Dave Woodgerd, Chief Legal Counsel, DOR,** said he is not familiar with Minnesota's laws.

**REPRESENTATIVE ED DOLEZAL** asked if making a residency requirement in order to get the credit would be better than just filing an income tax return. **Mr. Woodgerd** said yes. **Mr. Morrison** said if there is a person from out-of-state who comes to Montana and buys a large piece of property. It is worth his time to file an income tax return to get his money back. But if there is a straight credit to his liability, then he will not. Another issue is the amount of money involved. If a person's return is small, he will not bother filing a return. However, if his return is large, chances are he will.

**CHAIRMAN COHEN** asked if carrybacks and carryforwards could be included in the bill so that if a credit is received, it can be used for the next one to three years against the tax liability. **Mr. Woodgerd** said HB 45 did not have carrybacks and carryforwards. **CHAIRMAN COHEN** asked if this could be done. **REP. MCCAFFREE** said he would not go for that. His intent was to not penalize any resident of Montana. He asked if the bill was unconstitutional. **Mr. Woodgerd** said the problem of constitutionality comes in when this is limiting the credit to Montana residents only. There are many people in Montana who are not taxpayers and there many people outside of Montana who are Montana taxpayers. The best way to handle the problem is to strike "resident" and insert "taxpayers". **REP. MCCAFFREE** said he would like to include taxpayers and corporations in HB 45.

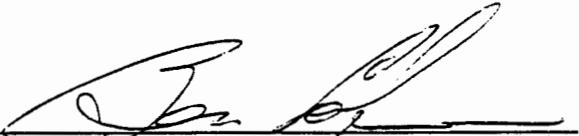
**CHAIRMAN COHEN** asked **Mr. Woodgerd** to explain HB 45 in its entirety. **Mr. Woodgerd** said HB 45 amends the Transfer Act to a Tax Act. It imposes a tax on the transfers of real property. There is a provision to figure value when the value stated is not the true value.

#### EXECUTIVE ACTION HB 45

**Motion:** **REP. MCCAFFREE** moved to recommend that "taxpayers", "corporations", and "carrybacks and carryforwards" be inserted into HB 45. **MOTION CARRIED UNANIMOUSLY**

ADJOURNMENT

Adjournment: 8:00 A.M.

  
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BEN COHEN, Chair

  
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BILLIE JEAN HILL, Secretary

BC/bjh

HOUSE OF REPRESENTATIVES  
PROPERTY TAX SUBCOMMITTEE

ROLL CALL

DATE

July 15, 1992

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

MINNESOTA

Minnesota has three schemes (two operational and one pending) for taxing the nonresidents higher than residents on property tax. The two older methods are plagued with fraud and abuse, so the third is the current trend.

Homestead

A residence is taxed in a different class if the owner occupies that dwelling for 6 months of the year. This system is plagued with the fraud and abuse. Taxpayers claim they occupy more than one residence in order to receive the benefits. In one county, 12,000 cases of this type of fraud were found by comparing the social security numbers of taxpayers. The

Property Tax Refund

This is a system of tables and charts to balance income and property tax burdens. The Minnesota Department of Revenue states this is extremely complex and is sending a booklet to explain. A person would not get an understanding by reading the statutes without the administrative rules and tables. Sixty percent of the filings were found to contain errors or fraud.

Income Tax Credit for Property Tax Paid

This is the modern method. It is being introduced to eliminate the fraud and abuse of the two earlier methods. The big advantage is the ease of auditing.

The income taxpayer receives a credit for the amount of the property taxes paid. The idea is that most nonresidents will not have great enough income tax liability to offset the income tax. The reason is that Minnesota has many summer cottages and they produce no income to the owner.