

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PROPERTY TAX

Call to Order: By CHAIRMAN COHEN, on March 7, 1991, at 8:08 AM

ROLL CALL

Members Present:

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

Members Excused:

Rep. Orval Ellison (R)
Rep. Dan Harrington (D)
Rep. David Hoffman (R)

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

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

HEARING ON HB 444

REP. WANZENRIED clarified the bill's treatment of limitations on budget growth and presented amendments. Currently there is a funding mechanism based on enrollment that determines how much community colleges receive.

Amendment 4 ties the growth limitation of 5% to enrollment.

Strike "or operating" from the phrase "unrestricted or operating" in lines 1 and 3 of amendment 4.

Mr. Heiman explained amendments. Community colleges work with two budgets: operating and unrestricted. The operating budget is presented to the Board of Regents before the legislature meets; it is split into state's funding and mandatory property tax. The legislature works with this budget in the general appropriations bill, and the community colleges then get a percentage of that operating budget that they can levy against. The unrestricted budget the colleges use is this percentage combined with tuition and any other fund sources. This is the budget prepared after the legislature has completed its funding.

REP. THOMAS asked for clarification of specific costs covered by the operating budget. Mr. Heiman replied the budget is not itemized in that fashion.

REP. COHEN said a recurring problem with community colleges is their inability to raise as much money per student as they are authorized to spend.

REP. THOMAS clarified that the bill grants community colleges an exemption to I-105; however, there is a 5% growth limitation to compensate for that exemption. REP. COHEN replied community colleges requested they be exempted from I-105's restrictions as school districts are. HB 444 frees them from I-105 while placing a 5% cap on annual growth; the school districts also have a cap on the amount they may increase their levies in any given year. REP. WANZENRIED is currently deciding what the cap will be placed on, whether it is the operating budget or the unrestricted budget.

REP. WANZENRIED said he would return to subcommittee with a clearer definition of the operating budget. Further discussion on HB 444 postponed.

HEARING ON HB 147

Mr. Heiman explained amendments. At the time of the transfer, one of the questions was how to determine the amount of tax to be paid. The Department of Revenue suggested the assessed value be used; if there is no assessed value, the amount of consideration paid will determine the value. This should be done only if there is no other way to determine the assessed value. In the majority of cases, properties will have been assessed. The amendments also change the penalty provision; the person filling out the form (not the clerk and recorder, as the bill previously noted) will be legally responsible for any errors on the form. Section 6 allows the local option tax, section 7 pertains to administrative procedures, section 8 discusses standard local government operating procedures regarding notices and hearings, and section 9 explains exemptions from the tax, which are the same as the exemptions to the realty transfer act. Subsection 2 of section 9 requires the form be filled out under oath and the clerk accept it only if it appears valid.

REP. COHEN asked what the procedure is in cases of agricultural or timber land that have assessed values which are not compatible with market values but are instead based on productivity.

Dave Nielsen, Department of Revenue (DOR), said in these cases, assessed value (based on productivity) and not market value would be used. REP. COHEN said this value is much lower than market value in many cases. Mr. Nielsen agreed.

REP. COHEN asked whether the exemptions provided in HB 147 are the same as the exemptions specified in the procedure for filing a realty transfer certificate. Mr. Nielsen said there were

several differences. The exemption for realty transfer certificates goes both ways, whether the transfer is from the United States or to the United States. HB 147 states the exemption only holds with transfers to the United States. DOR also deleted transfers from the states as well as gifts. Trust deeds issued back due to bank foreclosures will also be taxed under HB 147.

REP. COHEN said he found the assessed value procedure problematic. The property may be sold for \$2000/acre, but is not taxed at a corresponding rate. These properties also create problems for planning boards who are trying to generate funds. Using the sales value for agricultural and timber lands under 40 acres would be more equitable than using the assessed value for those properties.

Mr. Nielsen noted one of the problems with using the sales value is verifying the accuracy of the sale price reported for any piece of property. Aside from this, it would be possible to use sales values for certain properties.

Smokey Gremdal, Department of Revenue, said this would require reclassification, which would conflict with the Greenbelt law.

Mr. Nielsen said the problem of false reporting was addressed in section 5 of HB 147, which assigns a maximum \$500 fine or 6 months imprisonment for such action. It matches 45-7-203, MCA, which is a misdemeanor violation for giving false statements to public officials. This facilitates prosecution; under existing law, there are no clear elements to this offense.

The purpose of a realty transfer certificate is to record what has been paid for a piece of property. The cost of the real property and the cost of improvements to the property are recorded separately. For tax purposes, people will sometimes overload one value above the other; therefore, even the numbers on the realty transfer certificates are not completely accurate. HB 147 will not tax the total; it will only tax real property. For example, if someone bought several acres of timberland, and a skid tractor and other equipment were included in the property, that equipment would be excluded from this tax. Structures are classified as improvements to the property, and these will be taxed.

REP. COHEN asked whether the value on the realty transfer certificate could be used for agricultural and timber lands under 40 acres. **Mr. Gremdal** said this would be difficult for DOR to administer, since it uses a different definition of agricultural and residential land than DOR.

REP. O'KEEFE recommended the bill be assigned to a sub-

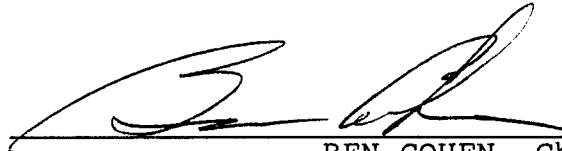
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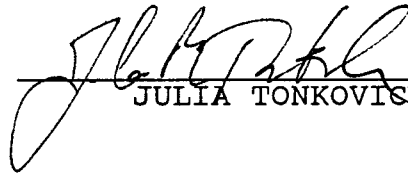
subcommittee. REP. COHEN, REP. O'KEEFE, and REP. FAGG were assigned the bill.

ADJOURNMENT

Adjournment: 8:37 AM



BEN COHEN, Chair



JULIA TONKOVICH, Secretary

BC/jmt

HOUSE OF REPRESENTATIVES
PROPERTY TAX SUBCOMMITTEE

ROLL CALL

DATE

3/07/91

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			