MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PROPERTY TAX

Call to Order: By **CHAIRMAN COHEN**, on March 14, 1991, at 8:05 AM

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. Mark O'Keefe (D)
- Rep. Ted Schye (D)
- Rep. Fred Thomas (R)
- Rep. Dave Wanzenried (D)

Members Excused:
- Rep. David Hoffman (R)
- Rep. Ted Schye (D)

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 452

REP. DON LARSON explained the bill, which is a tax incentive for new industry. The bill grants a five-year property tax exemption to new or expanding industries for any value-added process that adds five or more jobs to the economy. The bill needs some work. **Gregg Groepper, Office of Public Instruction (OPI),** assisted with amendments. OPI was concerned that mining companies could purchase a new piece of equipment that adds five new jobs to their operation, and be granted a large tax holiday under this plan. The Montana Association of Counties (MACO) wants to ensure the participation of local government. MACO wants the state government property tax division to review the eligibility of the company applying, and leave the decision of whether or not to grant the tax exemption to the jurisdiction of the city or county commissioners.

The criteria are value and jobs. A larger break should be given to companies who provide more new jobs, and a smaller break to those who provide less.

REP. COHEN distributed **Jeff Martin's** and **Gregg Groepper's** Feb. 7 amendments.

REP. ELLISON said he was opposed to exempting these businesses from statewide mill levies.

Evan Barrett, Butte Economic Development Corporation, clarified the bill is for new and expanding industries. There is currently an exemption for new industry. There are currently new industry incentives of a three year, 3% break at the state level, and a five year, 50% break in local option taxes, which is then scaled up to 100% payment over the next five years. These are given to any new industry, whether they be value-adding or not.

Mr. Barrett said to make this bill consistent with current economic and tax policy, the bill should grant these exemptions to existing industries that wish to expand and add value to their operations. They should be given incentive just as new businesses are. Small, growing companies should be treated as well as larger companies are; this may mean dealing on a percentage basis instead of a numerical basis when considering new jobs. Base jobs should be calculated against the new jobs to give a percentage, which would allow a scale-up of the incentive base upon the increasing percentage of jobs created by the new process. A process that doubles the workforce would bring the company down to the 3% level. A process that increases jobs by 80% would give the company a 4% break, etc. For recapturing purposes, however, the number of jobs added as well as the percentage should be recorded.

Mr. Barrett said the quality of jobs added should also be determined. The Board of Investments has determined a "quality job" in Montana is worth $17,300/year. Jobs with salaries lower than that are rated at .75 or .50 (etc.) jobs; jobs with salaries higher than that are scaled accordingly as 1.50 or 1.75 (etc.) jobs. There is a 2-job cap. If an employee is paid $100,000/year, s/he is still valued at 2 jobs. If job quality is included in the criteria for tax breaks, this would circumvent any "slave-labor" problems that may arise from companies that wish to add new jobs but don't want to pay higher salaries.

REP. COHEN asked whether information-based industries would be included in this bill. These companies do not add value to the state in terms of raw materials, but they do bring in money from outside the state. **Mr. Barrett** said the value definition of "basic industry" jobs may change this session, depending on the outcome of several bills. It makes sense for the state to look beyond materials -- "hard industry" versus "soft industry" -- when considering the value of companies for economic purposes. HB 452 is focused on industries that bring new money into the state, not those that simply redistribute money already in the state.

REP. LARSON said his bill is designed to give incentives to basic resource industries that create Montana primary products.

REP. THOMAS asked if a tax holiday, instead of the sliding scale proposed by **Mr. Barrett,** should be used. **Mr. Barrett** replied that a limit on the 3% level needs to be imposed, because eventually the business will recapture their original investment. Whether a five-year or a ten-year limit is better is unclear at this point. The five-year limit appears more beneficial, allowing us to give expanding industries the same breaks as new industries are currently receiving.

REP. THOMAS asked about the rate of equipment depreciation; how much value would be lost in five years? **REP. COHEN** said property tax collectors don't use the same depreciation schedule that the income tax collectors use. **Judy Rippingale, Department of Revenue (DOR),** said equipment values are often "trended up" to reflect inflation; there is not always a cost-based determination of equipment value for property tax purposes.

Mr. Groepper said there is room for abuse in the current draft of HB 452, especially from large mining companies. The drafters must ensure that loopholes for extraction companies are tightened as much as possible. **REP. LARSON** said a more specific definition of "value-added" would solve part of that problem.

REP. FAGG said the concept of the bill is good; however, if the legislature wants to help Montana business, the entire property tax structure needs to be reformed, and not in a piecemeal fashion. How complicated will administration of the bill be for DOR and local government? **Ken Morrison, DOR,** said the recapturing process will be complicated and could also be costly.

REP. LARSON said this bill is intended to provide incentives for companies to retool before they become obsolete. **REP. COHEN** said retooling often means fewer jobs. The bill should concentrate on value-adding expansion that increases worker productivity and increases jobs.

REP. DOLEZAL asked if the tax incentives work. **Mr. Barrett** said the incentives at the state level have been very effective, especially in the mining industry. In some cases, the definition of "new" had to be stretched, however.

Mr. Groepper said if the new industry or process wouldn't have taken shape without the tax incentive, then no value has been lost; tax levies are merely being delayed. However, care must be taken in giving exemptions to statewide levies. If it becomes a local option, and county x decides to follow this program while county y does not, the statewide levies cannot constitutionally be forgiven. Only the legislature can exempt entities from levies. The legislature can give localities control over their tax base, but it cannot delegate the right to forgive a statewide levy to local government. **Mr. Heiman** disagreed.

REP. MCCAFFREE asked who makes exemption decisions regarding new industries. **Mr. Groepper** said the qualification criteria are set on the state level for Class Five property; new industries in this property class are automatically given the exemption unless there is adverse impact on local government. For local option exemptions, the city or county commissioners can set the criteria for qualification; there is no adverse impact consideration. When the legislature liberally delegates tax exemption authority to local governments, there is always a possibility that statewide mills will be seriously eroded, and the schoolboard has no input into the decisionmaking process. **Ms. Rippingale** agreed.

Mr. Heiman said the legislature can delegate tax exemption decisions to the local level; those decisions cannot be arbitrary. **Mr. Barrett** said it should be a statewide policy; otherwise, counties will compete against one another.

REP. THOMAS said he would like to see the committee move forward with the bill. Personal and property tax policies have serious problems. Tax incentives for service industries and expanding industries need to be implemented in order to spur economic growth. This committee needs to ration down the 9% rate and make sure it keeps shrinking. One way to do this is to freeze personal property or income taxes, and only increase income taxes to keep up with inflation. This would reduce the percentage on new income, and the growth would reduce the tax percentage until we got to 4% or 5%.

REP. COHEN assigned **REP. THOMAS, REP. DOLEZAL** and **REP. MCCAFFREE** to review the revised edition of HB 452 (with new amendments) on Monday, March 18.

ADJOURNMENT

Adjournment: 8:57 AM

BEN COHEN, Chair

JULIA TONKOVICH, Secretary

BC/jmt

HOUSE OF REPRESENTATIVES

PROPERTY TAX SUBCOMMITTEE

ROLL CALL **DATE** 3/14/91

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
DATE 3/14/91
HB Prop. Tax Subcomm.

March 14, 1991

INFORMATION ON TIMBER LAND VALUATION

What is the current law on eligibility for valuation as timber land?

1. Parcels of land exceeding 15 acres under one ownership are taxed as timber land if they can produce commercial timber.

2. Land that is not eligible for timber land classification may still be eligible for agricultural land valuation.

3. Land is not valued as timber if it is subdivided with stated restrictions prohibiting timber harvesting.

What is the proposed law on eligibility for valuation as timber land?

1. Parcels of land five acres or more under one ownership would be taxed as timber land if it was capable of producing and is producing commercial timber. Exceptions would include situations where trees were removed by man through harvest such as clearcuts, or by natural disaster such as fire.

2. Parcels of land that have been converted to another use such as agricultural land or a commercial site would not be valued as timber land.

3. Timber land valuation would be based on productivity rather than the current standing inventory basis.

What do other states do to distinguish timberland from residential?

Attachment

What options does the committee have to address this question?

1. Require all land containing timber to meet eligibility requirements. Possibly require a forest management plan which identifies the intent to manage and harvest timber in commercial quantities.

2. Adjust the minimum acreage requirements. Possibly make minimum timber land acreage the same as the minimum agricultural land acreage requirement.

3. Create an intermediate Greenbelt tax class.

What would be the revenue impact if qualification for timber land classification was reduced from 15 acres to 5 acres?

Attachment

EXHIBIT 1
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TABLE III
ELIGIBILITY REQUIREMENTS FOR COMMERCIAL TIMBERLANDS

	MONTANA	**IDAHO**	**WASHINGTON**	**OREGON**	**CALIFORNIA**
Timber Acreage Requirements	>15	>5	>20	>2	20-80[18]
Application Required	No	Yes	Yes[19]	Yes	Yes
Management Plan	No	Yes	Yes[20]	Yes	Yes
Primary Use	No Requirement	Growing and harvesting timber	Growing and harvesting timber	Growing and harvesting timber	Growing and harvesting timber
Loss of Timber Status with Restrictions Prohibiting Timber Use	Yes	Yes	Yes[21]	Yes	Yes

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[18] State requirement is no greater than 80 acres. Individual counties can choose to have a lower acreage requirement. The counties can not have a higher acreage than the state limit. The range is from 20 to 80 acres.

[19] Classified Lands - generally speaking these are non-industrial lands.

[20] Management plan is not an absolute requirement, but may be requested by individual county assessors.

[21] Not formalized in state statutes.

Estimated Revenue Loss By Reducing Forest Acres From 15 to 5

HB-340

1.	Lincoln	$387,000
2.	Sanders	230,000
3.	Flathead	617,660
4.	Mineral	25,000
5.	Lake	40,500
6.	Missoula	385,000
7.	Ravalli	162,500
8.	Lewis & Clark	30,810
9.	Gallatin	40,000
10.	Park	21,000
11.	Madison	2,530
TOTAL ESTIMATED LOSS		$1,942,000