

## **MINUTES**

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

#### **COMMITTEE ON PROPERTY TAX**

**Call to Order:** By **CHAIRMAN COHEN**, on March 26, 1991, at 7:00 AM

#### **ROLL CALL**

##### **Members Present:**

Rep. Ben Cohen, Chairman (D)  
Rep. Ed Dolezal (D)  
Rep. Russell Fagg (R)  
Rep. Ed McCaffree (D)  
Rep. Mark O'Keefe (D)  
Rep. Dave Wanzenried (D)

##### **Members Excused:**

Rep. Ellison (R)  
Rep. Hoffman (R)  
Rep. Schye (D)  
Rep. Thomas (R)

**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 147**

**REP. COHEN** designated **REP. O'KEEFE** to serve as committee chairman for discussion of the bill.

**REP. COHEN** said the bill, which provides for a local option realty transfer tax, follows the same procedure as that for filing realty transfer certificates as far as exemptions are concerned.

Amendment 7 states that assessed value is the value determined for tax assessment purposes. On certain kinds of property, the realty transfer tax will be imposed on the productive value, not market value, as the set value on certain classes of real property is productive value.

Amendment 10 describes who is administratively responsible for the adoption and collection of the tax.

**REP. FAGG** said he would prefer that the tax be decided by a vote

of the people rather than by ordinance.

Motion/Vote: REP. COHEN moved the committee DO RECOMMEND the amendments to HB 147. Motion passed unanimously.

Motion/Vote: REP. COHEN moved the committee DO RECOMMEND HB 147 DO PASS AS AMENDED in committee. Motion passed 5 to 2.

#### DISCUSSION ON HB 267

REP. COHEN explained the bill, which allows local governments (city or county) to impose no more than four mills for capital improvements. It does not require a vote of the people.

REP. FAGG recommended the bill be held in subcommittee. Recommendation accepted without dissent.

#### DISCUSSION ON HB 340

REP. COHEN designated REP. O'KEEFE to serve as committee chairman for discussion of the bill.

REP. COHEN stated he would like to amend the bill, striking the language that would allow the timberland classification to be imposed on land of 5 acres and leave it as the law currently stands (classifiable at 15 acres). If the acreage is reduced, many counties will lose substantial amounts of money.

REP. COHEN stated he would also like to amend the rate from 3.84% to 4%, as this is a temporary class that will only be effective until 1994.

REP. COHEN stated he would like to make the new classification (class 13 property) a temporary class, conditional on a productivity study initiated by the Department of Revenue (DOR). The class would sunset on January 1, 1993.

Motion/Vote: REP. COHEN moved the subcommittee DO RECOMMEND the amendments to HB 340 to the full committee. Motion carried unanimously.

Motion/Vote: REP. COHEN moved the subcommittee DO RECOMMEND HB 340 as amended to the full committee. Motion carried unanimously.

#### DISCUSSION ON HB 398

REP. COHEN said HB 398 revises the property tax credit for the elderly. As there was no motion on the bill, REP. COHEN recommended it be held in subcommittee. Recommendation accepted without dissent.

DISCUSSION ON HB 886

REP. COHEN said HB 886 which amends the homeowner low-income exemption for the aged.

Mr. Heiman explained REP. LEE's amendments, which make requirements identical, regardless of property acreage. The head of household provision will also be identical to that of a married couple. DOR's amendments delays the effective date and provides a statutory deadline to ensure the department has enough time to make the necessary administrative changes.

Motion/Vote: REP. O'KEEFE moved the committee DO RECOMMEND the amendments to HB 886 to the full committee. Motion carried unanimously.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND HB 886 as amended to the full committee. Motion carried unanimously.

DISCUSSION ON HB 753

Mr. Heiman explained the amendments, which allow DOR to make a recommendation as to whether the tax break should be given, and give local government veto power over that recommendation.

REP. DOLEZAL said this is a good way to give tax breaks on property tax that would impact the state considerably.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND the amendments to HB 753 to the full committee. Motion carried unanimously.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND HB 753 as amended to the full committee. Motion carried 6 to 1.

DISCUSSION ON HB 787

Mr. Heiman explained amendments, which provide that property taxes are portioned back by the purchaser if the industrial property goes back on the tax rolls. If the industrial park gets rid of the property by January 2, the new purchaser will not get a tax break for the year.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND the amendments to the full committee. Motion carried unanimously.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND HB 787 as amended to the full committee. Motion carried 6 to 1.

DISCUSSION ON HB 914

REP. O'KEEFE said the amendments do what the amendments to HB 787

do (tax break rollback, DOR's initial recommendation, and the local government's veto power of that recommendation).

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND the amendments to HB 914 to the full committee. Motion carried unanimously.


Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND HB 914 as amended to the full committee. Motion carried unanimously.

DISCUSSION ON HB 972

REP. O'KEEFE recommended the bill be held in subcommittee, as HB 970 took care of all printing equipment, which is the only type of equipment HB 972 deals with. Recommendation accepted without dissent.

ADJOURNMENT

Adjournment: 7:55 AM

  
BEN COHEN, Chair

  
JULIA TONKOVICH, Secretary

BC/jmt

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

**ROLL CALL**

**DATE**

3/26/91

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			

(h) a transfer of a decedent's estate when the recipient of the property is the surviving spouse, child, or lineal descendant of the decedent;

(i) an instrument that, in effect, transfers the property to the same party or parties; and

(j) a sale for delinquent taxes, delinquent assessments, or a bankruptcy action.

(2) The transferee may apply for an exemption from the tax by submitting, under oath, a written application to the county clerk on a form to be provided by the governing body. The clerk shall grant the exemption after being satisfied on the basis of the application that the transfer is exempt under the provisions of subsection (1)."

11. Page 6, line 17.

Strike: "section 9"

Insert: "sections 6 through 9"

12. Page 7, lines 8 and 9.

Strike: section 11 in its entirety

Renumber: subsequent sections

13. Page 7, line 11.

Strike: "8"

Insert: "6"

14. Page 7, line 14.

Strike: "8"

Insert: "6"

15. Page 7, lines 15 and 16.

Strike: section 13 in its entirety

3/26/91 2  
DATE 3/26/91  
HB 147  
Adopted

Amendments to House Bill No. 886  
First Reading Copy

Requested by Rep. Lee  
For the Committee on Taxation

Prepared by Lee Heiman  
March 5, 1991

1. Title, line 8.  
Following: "COUPLE;"  
Insert: "PROVIDING THAT A PERSON'S INCOME LEVEL INCLUDES NET  
BUSINESS INCOME AND LOSSES; PROVIDING THAT CLASS TWELVE  
PROPERTY INCLUDES NOT MORE THAN 5 APPURTENANT ACRES;"
2. Page 6, line 19.  
Following: "sources"  
Insert: "and net business income and losses,"
3. Page 6, line 20.  
Following: "types"  
Strike: "is"  
Insert: ", are"
4. Page 9, line 10.  
Following: "of"  
Insert: "and appurtenant land not exceeding 5 acres belonging to"
5. Page 9, line 11.  
Following: "sources"  
Insert: "and net business income and losses,"
6. Page 9, line 12.  
Following: "types"  
Strike: "is"  
Insert: ", are"
7. Page 13, line 25.  
Strike: "or head of household"
8. Page 14, line 1.  
Following: "couple"  
Insert: "or head of household"

Amendments to House Bill No. 753  
First Reading Copy

EXHIBIT 3  
DATE 3/26/91  
HB 753

For the Committee on Taxation

Prepared by Greg Petesch  
March 21, 1991

1. Title, line 6.

Following: "PROPERTY"

Insert: "DETERMINED BY THE DEPARTMENT OF REVENUE TO QUALIFY FOR  
EXEMPTION"

2. Page 1, line 17.

Following: line 16

Insert: "(2) If the department of revenue makes an initial determination that the business incubator qualifies for the property tax exemption, it shall publish notice of and hold a public hearing to determine whether the property should be exempt from taxation.

(3)(a) For a taxpayer to receive the tax exemption described in subsection (1), the governing body of the affected incorporated city or town or consolidated government, following the public hearing provided for in subsection (2), shall give due notice, as defined in 76-15-103, and hold a public hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The resolution provided for in subsection (3)(a) must include the application submitted to the department by the taxpayer seeking the exemption.

(c) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsections



Exhibit 1  
EXHIBIT  
DATE 3/26/91  
HB 147

Amendments to House Bill No. 147  
First Reading Copy

Requested by DOR  
For the Committee on Taxation

Prepared by Lee Heiman  
February 13, 1991

1. Title, line 4.

Strike: "IMPOSING A"

Insert: "ALLOWING A LOCAL OPTION"

2. Title, line 6.

Following: ";

Insert: "AND"

3. Title, line 7.

Following: "15-7-303,"

Insert: "AND"

Strike: "15-7-306,"

4. Title, line 8.

Strike: "15-7- 307, AND 15-7-310,"

5. Title, lines 8 and 9.

Strike: "; REPEALING SECTION 15-7-311, MCA; AND PROVIDING AN  
EFFECTIVE DATE"

6. Page 1, line 17.

Strike: "impose a"

Insert: "allow a local option"

7. Page 2.

Following: line 1

Insert: "(1) "Assessed value" means the value that is determined  
for tax assessment purposes and that is shown on the records  
of the county assessor at the time of the transfer, even  
though it may be subsequently adjusted. If no value is  
available from the assessor, the assessed value for this tax  
is an amount equal to "value", as defined in subsection  
(6)."

Renumber: subsequent subsections

8. Page 2, line 16 through page 3, line 3.

Strike: ":" on page 2, line 16 through "conditions." on page 3,  
line 3

Insert: "the amount of the full actual consideration paid or to  
be paid for the property, including the amount of any lien  
or liens."

9. Page 3, line 13.

Strike: "8]"

Insert: "6]"

10. Page 4, line 1 through page 6, line 15.

Strike: sections 5 through 9 in their entirety

Insert: "Section 5. Section 15-7-310, MCA, is amended to read:

"15-7-310. **Penalty Violation.** A person convicted of violating any provision of this part shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both who knowingly claims an exemption under 15-7-307 or [section 9] that he does not believe to be true commits the offense of unsworn falsification to authorities under 45-7-203."

**NEW SECTION. Section 6. Imposition of local option transfer tax.** A county or incorporated municipality may impose a local transfer tax on all transfers of interest in real property, except those exempted in [section 9].

**NEW SECTION. Section 7. Amount of tax -- lien.** The transfer tax is imposed upon the transfer at the rate of \$1 for each \$1,000 of assessed value or fraction thereof as certified by the county assessor as of the date of the transfer of title. The transferee is liable for the tax and shall either pay the tax or apply for an exemption. The tax is a lien against the transferred property and may be collected and enforced in the same manner as other tax liens on real property are enforced, including the imposition of penalties and interest.

**NEW SECTION. Section 8. Adoption of ordinance -- hearing -- procedures.** (1) The governing body of a county or an incorporated municipality may impose the local option transfer tax by ordinance. The adoption, amendment, and repeal of the ordinance must be conducted pursuant to Title 7, chapter 5, part 1, after a public hearing on the action is conducted in which notice of the hearing is given as provided in 7-1-4128.

(2) The ordinance must establish procedures necessary to administer the tax, including refunds, delinquency collections, exemptions, and filing of notice of lien.

**NEW SECTION. Section 9. Exemptions from tax -- application under oath.** (1) The following are exempt from the transfer tax:

(a) an instrument recorded prior to December 31, 1991;

(b) a transfer made solely to provide or release security for a debt or obligation;

(c) a transfer to the United States of America, the state, or any instrumentality, agency, or subdivision of the state;

(d) an instrument that, without added consideration, confirms, corrects, modifies, or supplements a previously recorded instrument;

(e) a transfer made pursuant to a court decree of partition;

(f) a transfer made pursuant to a merger, consolidation, or other reorganization of a corporation, partnership, or other business entity;

(g) a transfer by a subsidiary corporation to its parent without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;

Amendments to House Bill No. 787  
First Reading Copy

EXHIBIT 4  
DATE 3/26/91  
HB 787

For the Committee on Taxation

Prepared by Greg Petesch  
and Lee Heiman  
March 25, 1991

1. Title, line 6.

Following: "PROPERTY"

Insert: "DETERMINED BY THE DEPARTMENT OF REVENUE TO QUALIFY FOR  
EXEMPTION"

2. Page 1, line 17.

Following: line 16

Insert: "(2) If the department of revenue makes an initial  
determination that the industrial park qualifies for the  
property tax exemption, it shall publish notice of and hold  
a public hearing to determine whether the property should be  
exempt from taxation.

(3)(a) For a taxpayer to receive the tax exemption  
described in subsection (1), the governing body of the  
affected incorporated city or town or consolidated  
government, following the public hearing provided for in  
subsection (2), shall give due notice, as defined in 76-15-  
103, and hold a public hearing. The governing body may  
approve or disapprove the tax exemption provided for in  
subsection (1). If approved, the governing body must do so  
by a separate resolution for each industrial park in its  
respective jurisdiction. The governing body may not grant  
approval for the industrial park until all of the  
applicant's taxes have been paid in full. Taxes paid under  
protest do not preclude approval.

(b) The resolution provided for in subsection (3)(a)  
must include the application submitted to the department by  
the taxpayer seeking the exemption.

(c) Upon receipt of approval of the governing body of  
the affected taxing jurisdiction, the assessor shall make  
the assessment change for the tax exemption provided for in  
this section."

Renumber: subsequent subsections

3. Page 3, line 1.

Following: "."

Insert: "[Upon termination of the exemption, the property must be  
assessed as provided in [section 1 of House Bill No. 757].]"

4. Page 3.

Following: line 1

Insert: "NEW SECTION. Section 2. Coordination instruction. If  
House Bill No. 757 is not passed and approved, the bracketed  
sentence in 15-24-1902(4) amended in section 1 is void."

Renumber: subsequent section

Amendments to House Bill No. 914  
First Reading Copy

EXHIBIT 5  
DATE 3/30/91  
HB 914

For the Committee on Taxation

Prepared by Greg Petesch  
March 21, 1991

1. Page 1, line 22.

Following: line 21

Insert: "(2) If the department of revenue makes an initial determination that the building and land qualifies for the property tax exemption, it shall publish notice of and hold a public hearing to determine whether the property should be exempt from taxation.

(3)(a) For a taxpayer to receive the tax exemption described in subsection (1), the governing body of the affected incorporated city or town, county, or consolidated government, following the public hearing provided for in subsection (2), shall give due notice, as defined in 76-15-103, and hold a public hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution. The governing body may not grant approval for the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The resolution provided for in subsection (3)(a) must include the application submitted to the department by the taxpayer seeking the exemption.

(c) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsection

2. Page 3, line 10.

Following: "."

Insert: "[Upon termination of the exemption, the property must be assessed as provided in [section 1 of House Bill No. 757].]"

3. Page 3, line 15.

Insert: "NEW SECTION. Section 4. Coordination instruction. If House Bill No. 757 is not passed and approved, the bracketed sentence in [section 2(4) of this act] is void."