

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 17, 1981

A meeting of the House Taxation Committee was held on Tuesday, March 17, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Bertelsen, who was excused, and Reps. Brand and Neuman, who were absent. SENATE BILLS 160, 255 and 483 and HOUSE JOINT RESOLUTION 52 were heard, and EXECUTIVE ACTION was taken on SENATE BILLS 55 and 255.

The first bill to be heard was SENATE BILL 255, sponsored by Sen. Jean Turnage. This bill would eliminate the Inheritance Tax on lineal descendants. The fiscal impact of the bill depends on the effective date. The present threshold for filing a federal Estate Tax return is \$175,000. If there is one adult child inheriting a net taxable estate of \$175,000, under Montana law the tax would be \$9,940, with a 5% rebate if the tax is paid within 18 months. In all probability there will be no need in joint tenancies for probate and no need for the added cost of attorney fees or other probate costs.

Ellen Feaver, Director of the Department of Revenue, then testified in support of the bill on behalf of the Governor's Office. It is a reasonable proposal for tax relief.

Lucille Anderson, Montana Cow Belles, then rose in support of the measure; see written testimony Exhibit "A."

Keith Anderson, Montana Taxpayers Association, also rose in support of the bill; their membership is in favor of the bill, since the inheritance tax is simple double taxation.

Jo Brunner, Women in Farm Economics (WIFE), rose as a proponent; see written testimony Exhibit "B."

Bud Pile, Sweet Grass Preservation Association from Big Timber, also rose in support of the bill; see Exhibit "C."

Gary Langley, NFIB, then testified in support of the bill and added that Mons Tiegen, Montana Stockgrowers Association, was also in favor of the legislation.

Forrest Boles, President of the Montana Chamber of Commerce, then spoke up in support of the bill, as did Dave Goss, Billings Chamber of Commerce.

There were no OPPONENTS to SB 255. Questions were asked. Rep. Williams asked Sen. Turnage to clarify the definition for lineal descendants. Sen. Turnage said it went as far down the line as the good Lord was willing.

Rep. Oberg wanted to know what would happen in the case where a couple's only son dies but the daughter-in-law survives; he submitted that there was no way the daughter-in-law could receive the tax exemption. Sen Turnage said the Montana Estate Tax wasn't eliminated.

If the estate in Rep. Oberg's example was left to the grandchildren, they would then be exempt. \$1 - 2 million is the fiscal impact of the bill. The ultimate impact would be about \$4 million.

Sen. Turnage then closed, and the hearing on SB 255 was closed.

The Committee then went into EXECUTIVE SESSION while awaiting the other sponsors of bills to be heard. Rep. Zabrocki moved that SB 255 BE CONCURRED IN; motion carried unanimously.

Rep. Nordtvedt explained that SB 55 had been returned to committee because it was questioned that it might do more than the Committee had thought. It also eliminates the requirement for filing when a business operation is started in the State. Rep. Williams moved that the bill BE CONCURRED IN. Rep. Nordtvedt explained that after checking the things the bill repeals, they are still in favor of it. The question was called for; motion carried unanimously.

SENATE BILL 483, sponsored by the Senate Taxation Committee, was then presented by Sen. Bill Norman. This bill relates to property tax appraisal. Residential, commercial, and industrial property is being considered. HJR 5 directed that a Committee be appointed to consider this matter, and a Committee was appointed which involved the State Tax Appeals Board, Department of Revenue, and Senators and Representatives as members. The Committee considered this difficulty with property tax appraisal and accordingly introduced this bill.

The problem of appraising is complex. The litigation has been extensive. There are already 3,500 litigants, and counting. If nothing is done, the judicial system will have to be enlarged to handle the problem. This bill is an effort to stop the litigation or to at least give some direction to the Department of Revenue and adjust the appraisal and classification in such a manner that maybe the litigation will slow down. This bill doesn't do anything about what has happened; it attempts to look forward.

The problem began when the Legislature decided that if property taxes were to be equitable, the appraisals were to be equitable. The Department of Revenue proceeded, but difficulties arose and the whole thing went astray. The problem is out of hand at this time, and hopefully this bill will correct that.

A 1972 appraisal manual was used for residential property and a 1976 manual was used for commercial; that led to the "34%" cases. 34% is not a very well-established figure, but it is used quite a bit to label the problem. The Department has an obligation to equitably appraise the property at its true value, but that statement doesn't mean much unless one knows how the value is arrived at. No progress is being made because the procedure is being argued instead of how to get an equitable value. Some manuals used will reach a market value better than others, but the procedure itself shouldn't be set statutorily. For example, if there was a large industrial plant, he doubted if anyone in the State would be competent to appraise the property. A manual

might be used to appraise part of the property. Nothing is committing anything except the manual might work. It doesn't depend on the year the manual is from. The problem arises on how the market value is fixed.

He then went over the bill. Residential property and also commercial and industrial are separated into two classes. The assessment rate of 8.55% in both cases remains the same. The argument at the previous hearing was that residential property was being severed from commercial property and the next step would be to change the rate. He granted that this was an argument, but he didn't feel it was a very strong one. This bill isn't an ideal solution, but he didn't know of a better one. He submitted that it was urgent that something be done this session of the Legislature. This bill is all there is at present. The fiscal note is a fair statement of what is in the bill.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the bill. The Supreme Court remanded a case back to the State Tax Appeals Board, saying they could not use a 34% rollback across the board, and there was no evidence to justify this action. In looking at the values used for taxes of both properties, one has to look at it on an individual basis. In order to define whether or not the appraisal is fair, comparable property has to be looked at. The Department does an annual Sales Ratio Study, which is based upon 10,000 turnovers of property per year, and based on this study they can define what an across-the-board Statewide percentage differential between residential and commercial property would be. This bill is an effort to stop the litigation on the issue of different manuals being used to appraise residential and commercial property. The bill doesn't take any one's right away to appeal the value. However, it takes away the issue on 3,300 cases. The problem is great at present because of the amount of litigation. Local jurisdictions, because of the litigation, are unable to figure what their tax base is, and they have to levy extra mills because of the taxes being paid under protest. It is similar to the Burlington Northern situation. The entire matter has virtually brought a number of local governments to their knees. She pointed out that it was not only the amount of the tax that was being protested that was not available, it was the entire tax. This bill, by moving commercial property to a separate classification, would keep the tax base intact. Agricultural land and improvements are also moved to another class and like items are put in a separate class. Residential vs. commercial vs. agricultural property involve different appraisal techniques.

Also, taxation of Burlington Northern will be helped out by this bill. When the railroad is taxed, their rate has to be compared to commercial rates, and at present the Department is not able to do this, because residential and commercial are together. BN has used this 34% issue as one of its reasons for fighting its tax bill, and the Department feels passage of this bill will give the State additional strength in fighting that case.

She anticipated that many attorneys would be opposed to the bill be-

cause it was only logical that they would be. Property taxpayers jumped on the band wagon when they heard about the 34% deal of something nothing. The Department anticipates that without this bill the band wagon will get fuller and fuller. She pointed out that some property owners went to the State Tax Appeals Board to complain about their assessment, not using the separate manuals issue as an argument, but the Board automatically reduced their assessment by 34%. The Department's position was to file suit against every individual property owner where the 34% relief was given. Therefore they now have as litigants some people who didn't even want to be in Court and didn't have the argument that the Department is in Court about.

Whenever taxes are reduced, there is a redistribution of the property tax burden. In this case, residential property owners will be picking up the burden. The Department maintains the shift of the tax burden from other tax relief measures could be more equitably accomplished if this bill was passed.

Statistics have been collected to support the opposition's opinion, but they have been edited and she cautioned the Committee to explore their basis for gathering the statistics. There will be no comparison to the Department's studies. She explained the impact on the Counties for FY 1978. Property taxes in dispute in the major Counties have increased since 1978. It is hard to imagine how some of these governments are surviving, judging from the impact. Where mill levies haven't been increased, services have been reduced.

She reiterated that the Department had no problem in dealing with individual appraisals and assessments. If they were dealing on the basis on the value of the property, they would have no problem; however, the issue being litigated is a procedural issue and it is unproductive to be dealing with that kind of thing. There is not an across-the-board inequity if every individual based their argument on the difference in two manuals. The range is too great. Appraisals are judgments of value and they would be happy to deal with appeals on judgments of value, but the dispute is based on procedure.

Janet Cornish, on behalf of the Butte-Silver Bow government, then rose in support of the bill. The Montana Urban Renewal law allows Communities to identify areas in need of redevelopment. Financing comes from increased taxes due to redevelopment. Many Cities have a problem in that this redevelopment has created a negative increment. Butte has seen this. In 1979 there were 40 tax appeals in their central business district. The legality of this bill may be questioned but she pointed out that communities were facing problems with tax appeals in general. In providing even separate classifications, hopefully there will be fewer cases contested. In some cases, local governments have to borrow money while waiting for the tax cases to be resolved; this places a burden on them. Other kinds of compensation need to be provided if tax relief is given. They hope that the Governor realizes that in the absence of federal programs, communities will need other sources of revenue and if property tax contesting could be reduced,

this would be helpful.

Mike Stephen, Montana Association of Counties, rose in support of the bill. Their lifeblood is the property tax and they are caught in the crossfire in this situation. It is their dollars that are involved and they hope there will be a conclusion to the problem. They hope to collect as much of their budget as possible and situations like this erode the dollars they have to depend on.

Sam Boggess, City of Billings, then rose in support of the bill. He pointed out that the problem with local government and specifically Billings was that it was hard to survive in inflationary times. The certificate received from the assessor's office can no longer be relied on because of the amount of revenue under tax protest. Both their general tax levy and the increment tax levies are impacted. The entire amount of their tax increases are due to protested taxes on commercial property. Billings is against their mill levy limit and they have no alternative but to reduce services if the protested money cannot be gotten. The tax increment fund in Billings has gotten about half of the project revenues it should have. Because of the excessive rate of protested taxes, the City of Billings had to ask for an extension of a note.

Bill Verwolf, Finance Director of Helena, rose in support of the bill. Helena established a tax increment district for the downtown area in 1978, and due to the 34% cases, they now have a negative increment yielding a negative \$6,000 of taxes. Therefore, because of the appeals process on the 34% cases, businessmen are sitting on both sides of the fence. There have been improvements in the District, although the tax revenue has gone down. The problem is putting development to a halt.

A member of the MEA stated that their public schools needed proper funding and available tax revenue, and on the basis of the fact that this bill will help ensure this, they support it.

Slim Slattery, a retired member of the Lewis and Clark County Tax Appeals Board, rose in support of the measure. The major part of the hearings that they have had on the Board since the first of the year have been concerning the 34% issue. It is costly to have these hearings. There has not been presented by the appellants statistical information that says that the 34% discrepancy exists. The local County appraiser has submitted evidence that 10 - 12% might exist between the two manuals and he, too, felt that the real issue wasn't the manual; the real issue was comparison of value. Appraisal ethics aren't there. He called the Committee's attention to the fact that the protest caused a big burden on the local taxpayers. He said he had a problem with settling the percentage; it should be all or none. The appraiser is the authority in determining values and not the Board.

Larry Huss, Montana Taxpayers Association, then rose in OPPOSITION to the bill. The Legislature has had before it several bills con-

sidered to be tax relief for the small businessman. In each instance they will get something they don't have today. This bill is the most important bill before the Legislature for the small businessman because it will take away something from him that he already has. (1) The Committee formed as a result of the passage of HJR 5 did not have any representatives of the taxpayers in its membership. Decisions were made despite the taxpayers' protests. The creator of the problem, the Department of Revenue, and the jurisdictions wanting the revenue, were on the Committee, however. The statement that this bill will continue to treat commercial at the same rate as residential property, he submitted, was "baloney." They were appraised at two different rates and will never have to come back to the Legislature to ask for an increase; they can do it through the appraisal process. Commercial property taxes can be doubled without coming back to the Legislature under this bill. It is quite apparent that the Department of Revenue is willing to accept what previous Department of Revenue's have done and enlarge on it by the "big lie" that this is lawyer's relief act. It isn't; it is a problem that was caused by the Department of Revenue. The other "big lie" is that the bill is needed because of the lawsuit with Burlington Northern. He discounted this argument. 2,500 litigants have substantive aspects to their litigation. He submitted that there was nothing procedural about it. This bill is a bail-out for a problem the Department has created. The 5-year reappraisal system is because the Department of Revenue had problems five years ago. When the litigation occurred from this, the Legislature bailed them out. He questioned how many times the Legislature was going to bail the Department out. The Department of Revenue reappraised all residential property on the basis of a manual using 1972 valuations. This was done during the five-year cycle, which set all real property, not just residential. After the 5-year cycle, they started on commercial property and a 1976 manual was used. The Supreme Court said on its face it was an inequity and between full market value and equality of taxes they have to take the latter. This was turned back to the State Tax Appeals Board saying that a value couldn't be arbitrarily fixed without a factual background. The Tax Appeals Board had another hearing saying that a value wouldn't be fixed because commercial vs. residential property had been taxed inequitably. They told the Department to take care of this problem. That is where the cases stand right now. This bill simply will bail the Dept. out at the expense of the Main Street businessman.

Tom Harrison, a Helena lawyer representing some of the litigants involved in the issue, then rose in opposition to the bill. He complimented the Committee that worked on the bill. He thought it was a very difficult problem. He gave some of the background he had been involved with in his litigation. In the Department's 1976 manual, it was said that the inflation factor since 1972 was 34%. That was the proof that went to the Courts, and the Supreme Court said that across-the-board it looked like the disparity was 34%; however, it didn't hold in individual cases. Therefore, there wasn't anything arbitrary on the part of the litigants on the 34% figure.

He was sympathetic to the governments that say they have lost this

money that has been tied up. He submitted that the protest law should be changed; instead of holding the entire amount, only the amount under protest should be held. This thing is born of inequity. He didn't have a lot of sympathy with the Department because they created the litigation and weren't willing to solve it. He submitted that they would lose the 34% cases.

The Supreme Court addressed that both residential and commercial were in a single class but that is just a label. The importance of the decision is that the things are the same. This bill takes them out of the same class and leaves them at the same rate, but this will not keep them the same and this doesn't agree with the Supreme Court ruling. His litigants won't stand still with this artificial contrivance. The Supreme Court will say that the disparity is what is unfair. By changing classes but doing nothing to the bottom line, nothing is done to address the disparity. The bill would take out the law which was passed by the Legislature saying that the same-year manuals have to be used. The Supreme Court will say this matter has to be handled fairly whether or not it is in the law. Reclassification of the property into two classes will accomplish nothing. He didn't think the bill would do anything but foster litigation back to the Supreme Court in every case. He didn't see the bill as a reasonable solution. Using the same manual hasn't been done in any of the cases. He submitted that there wasn't a simple solution as to the litigation. Lawyers have tried to solve this thing.

Litigants were taken to local and State Tax Appeals Boards and won. The Department of Revenue then tried to convince the Supreme Court on their position and told the litigants that they would be paying the increased tax, too. The litigants said they were entitled to the rollback. They were given the rollback and notices were then sent out in November putting the assessments back up to 34%. The lawyers submitted that they did this too late. They submitted that the Department wasn't entitled to collect any increases for 1979 and 1980. The Department of Revenue has the problem and unless something positive can come out of the Legislature to settle these cases, other than this bill, nothing will be solved and this bill should be killed.

Tom Dowling, representing several litigants and the Montana Railroad Association, then testified in opposition to the bill. The Burlington Northern lawsuit stands and falls on its own two feet, and has nothing to do with the 34% cases. For the same reasons as Mr. Harrison opposed the bill, he did also.

Mark Safty, from Billings, then spoke in opposition to the legislation; see Exhibit "D." The one thing to be reemphasized is that the Supreme Court said that what the Department of Revenue did was illegal. They are trying to bail out at this point. The only question that should be considered is whether or not the Legislature wants commercial property to be taxed at a higher relative percentage of its true value than residential property. This is a back-door way of changing the taxable percentage. The bill would increase taxable

percentages on commercial property from 8.55% to 12% by manipulating the method of deriving the value, basically. He encouraged the Committee to kill the bill; it would do nothing to solve the problems the State has.

Ward Shanahan, a Helena attorney with several clients involved in the litigation, then testified. He reminded the Committee that: (1) The property being discussed is not assessed on its productivity, it is assessed on its market value, which has been adversely affected by inflation. (2) There has been for at least several years the principal that the benefit of the doubt in a tax question should be decided in favor of the taxpayer, not the tax collector. When a tax law is being talked about, one is talking about individuals vs. government, over what the government's share of their property is. The question should be solved in favor of the taxpayer if the law is in doubt, and this principal should be kept well in mind. The Department of Revenue's points resolve the question against them. HJR 52 will direct the Department to settle the cases. He questioned if this was consistent with what the Department has said. (3) The question of different techniques. This bill will force the Department's method to be used. (4) The conclusion that the bill will assist the Department of Revenue. It will be dividing and conquering different groups of taxpayers.

Dennis Burr, Montana Taxpayers Association, then rose in opposition to the bill. What the bill is trying to do and what the Legislature and the Department of Revenue are trying to do, is to get out from under these problems. Things have already been done to help and already been done in the Legislature. The issue that went to the Supreme Court was thrown out and the decision said how a tax appeal should be handled. A taxpayer needs to present information regarding value of his property and other pieces of property. The Court said if the taxpayer could show a discrepancy then the blanket percentage could be taken off the property and the Tax Appeals Board could determine what the percentage was. Many different percentages were submitted in the cases. The State Tax Appeals Board decided they couldn't find a blanket amount and the thing was remanded to the Department of Revenue in November, 1980.

This bill has one purpose: to prevent taxpayers from comparing commercial property with residential property. This does nothing for the Department or the taxpayer. According to the Supreme Court, values on the property and other properties need to be presented, Separating these properties will prevent a blanket reduction because commercial is supposedly appraised higher than residential. The Supreme Court has said this is not proper, however.

Once these properties are separated into two classes, the percentage on commercial property could be changed. However, he felt that instead of this, residential property taxes would probably be lowered. He pointed out that an appeal procedure is already established, and this bill will not help the Department.

The bill is trying to help the State Tax Appeals Board, who has caused the problem, by not having to hold 3,500 hearings. Possibly these appeals should be heard individually. He submitted that many of the litigants wouldn't show up at all. He thought the bill by creating more classes of property would make it easier to lower the taxes in each class.

Dave Goss, Billings Chamber of Commerce, then spoke in opposition to the bill. In the past, the Legislature has worked for equity in the State's tax structure. There is now a problem brought about by the Legislature. He asked that the Legislature strive to continue to bring equity into taxation, and not pass this bill, which would open the door for this inequity to be expanded in the future.

Forrest Boles, Montana Chamber of Commerce, then spoke. He thought the bill was a step backwards. The problem, which is complex, will not be getting a good solution if this bill is passed.

Questions were then asked. Rep. Dozier wanted to know why there was so much opposition to the bill if the opposition's statement was true that the bill wouldn't do anything.

Mr. Harrison said striking the language requiring that the same year's data be used will in effect say that different mills should be used, tacitly. Increasing the cycle will theoretically allow the Department to use a seven-year older manual than another. Therefore, a 105% disparity could be created on the basis of this bill.

Rep. Roth asked Mr. Huss if the bill wouldn't remove the only recourse a taxpayer had, to protest. He said it would remove the ability to continue the protest about treating equitably in relation to other property.

Rep. Roth asked Ms. Feaver if changing the classification wasn't bound to have a fiscal impact, contrary to what the Fiscal Note said. Ms. Feaver said the same taxes would be levied on the same base.

Rep. Asay asked Mr. Dowling a question regarding the criticism that Montana didn't have and should have a separate classification of property for commercial property. He added that this bill appeared to do that what Mr. Dowling had previously said should be done. Mr. Dowling replied that although the state didn't have separate classes for commercial and residential, the Department of Revenue's testimony said that those figures could be arrived at. Therefore, they can be separated. Rep. Asay submitted that it was his understanding in the past that a commercial classification should be had. Mr. Dowling disagreed.

Rep. Sivertsen had a question regarding one of the statements made by Larry Huss that the Department waited until the reappraisal was done before appraising commercial property. Mr. Huss said they didn't

go through the commercial appraisal during the same cycle as the residential.

Jack Gribble, Department of Revenue, said Mr. Huss's information was incorrect. When the Constitution went into effect in 1973, the Department of Revenue was put in the position of assuming responsibility for appraising all real property in the State. They took over and started a Statewide reappraisal, utilizing a 1973 Montana manual for appraisal of residential property and the Marshall Swift manual. In 1975 the Legislature created the law requiring the 5-year cycle. The Department then had to make up a reappraisal plan. It was decided to include the work done from 1973 - 1975 in the cycle, and complete it in 1979. Subsequently, additional funding was made available and their appraisal was done in 1978. The decision to use the two manuals was made because they felt they would be able to update residential appraisals using data processing, if this could be done by a 1976 date. The system didn't come on line and therefore, the 1972 manual had to be used for residential. Effort was involved so that the commercial and residential property appraisals could be done at the same time.

Rep. Sivertsen asked Mr. Safty about the statement that passage of the bill would automatically raise the 8.55% rate. He said he didn't mean this, he meant that it would have the same effect as this. Reappraisal value is being talked about and if a 1976 manual for one property is used and 1972 for another, a higher value will be gotten from the newer manual because of inflation. Effectively then, the percentage amount of total market value has been increased with the newer manual property.

Rep. Sivertsen wanted to know if he could submit information to this effect. He agreed to summarize the conclusion of a survey in Yellowstone County. 1,254 actual residential sales were surveyed. The actual sales price minus land value was determined. These values were compared with the Department of Revenue's appraised value and it was found that on the average those residences were taxed at about 40% of sale value. They then studied about 40 commercial structures. They found that on the average, they were appraised by the Department of Revenue at about 95% of their market value. They presented the evidence to the State Tax Appeals Board and there is a transcript of that hearing available. Cascade County found a 39 - 40% discrepancy.

Rep. Sivertsen questioned whether the comparison was valid because of the difficulty of getting information on commercial property. Mr. Safty said that a statistician from the Department of Revenue submitted that the information was statistically unsound. He also said there was no statistically correct way to do this and the Department of Revenue's Sales Ratio Study also had the same flaws.

Mr. Huss reiterated that because there are two classes, there are

two different methodologies of appraisal to change the tax. He submitted that he didn't say the percentage was being changed.

Rep. Sivertsen asked Mr. Huss what his recommendation was to the Committee. He replied that the Committee was trying to treat the hearing as a determination of the validity of the taxpayer's complaint and the purpose of the hearing was to determine whether or not the taxpayer would have the ability to protest his taxes. It shouldn't be the job of the Legislature to remove the basic rights of taxpayers. The Courts should decide this or the Department of Revenue should concede the litigation. Rep. Sivertsen submitted that this was a matter of opinion.

Rep. Williams asked Mr. Huss about his statement that this bill would limit the ability of the taxpayer to appeal, and expressed disagreement with the statement. Mr. Huss submitted that the basis of the lawsuits was the inequity between the appraised value of residential vs. commercial property; the ability to contest that inequity will be removed by this bill.

Rep. Dozier said that there should be a difference between commercial and residential property. Mr. Huss said that the valuing of the structure is what is being looked at.

Mr. Harrison said that philosophically, Rep. Dozier had a good argument. But, the law would not change the rate. No one has complained about the fact that different manuals are used. The complaint is that one manual is four years newer than the other manual and accordingly has four year's more inflation and creates a disparity in value. Changing classes won't change this, but it is an invitation to the Department that the disparity is acceptable. He felt the question was basic equity. If commercial property should be effectively taxed higher, he suggested that they be separated and the percentages changed, instead of this bill. At present, the cycle is working against commercial property, but the next time, maybe that will be reversed.

Rep. Williams then closed for Sen. Norman. He reviewed Montana's tax classification system. Two years were spent studying it and HB 213 in 1979 was drafted as attempt to simplify it and reduce the number of classes and retain equity in tax classification. He submitted that there would never be equity. He pointed out that most of the opponents were attorneys representing the people litigating. He submitted that it was only natural that they would be opposed to the bill. The select Committee went through the information furnished by the Tax Appeals Board and the Department of Revenue, and Supreme Court decision information and in the end this what they came up with. The Department's Sales Ratio Study probably has errors in it. It is difficult to survey commercial property. Residential and commercial property are not the same and should be in two different classes. They should be assessed and evaluated on a different basis. The select Committee chose to leave the tax percentages the same, at 8.55%.

He referred to the Fiscal Note, and submitted that there was no impact from this bill or the resolution. The bill is trying to make it possible for the Department of Revenue to negotiate the settlements or litigate if necessary. This bill will give them some ground to work on. He submitted that the Committee was not giving the Department the ability to gyp the taxpayer. He felt the bill put the Department in a better relationship with the taxpayers, so they can equitably settle the cases which will be in litigation in the future. He submitted that the Department would provide equity. He felt that these two pieces of legislation would help them to do a much better job of this. He submitted that all sides of the question had been carefully considered and that as good a solution as was possible was come up with.

Two years ago the Legislature seriously considered separating residential and commercial property and if that had been done, today's problems might have been avoided, but because they didn't want an excessive number of classes, they chose not to separate them. Now the intent of this bill is to try to help solve past problems and give the Department room to work out solutions and prevent this from happening in the future. The hearing on SB 483 was then closed.

Rep. Asay then took over the meeting, and Rep. Sivertsen presented HJR 52. This is a resolution going hand in hand with SB 483. As a taxpayer and Representative of taxpayers, he has no intention of passing legislation detrimental to the taxpayer. It is up to the Legislature to try to give guidance, although they didn't create the problem. The State will be saved a lot of money and the taxpayers as well, with the solution to the problem. The resolution tries to give the Department of Revenue some guidance as to what should be done. He asked that the Committee change the percentage to 12% in the resolution. The Department of Revenue's study comparing the two manuals came up with 10%. However, he felt it was better to go to 12% and base the argument on the Sales Ratio Study. The Study shows the difference between commercial and residential at about 12%. All the resolution does is help give the Department some guidance in trying to resolve this problem. If it isn't solved, the litigation will continue and it will be costly for everyone.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the Resolution. More than 10,000 property transfers were included in the Sales Ratio Study, and the study conducted by the Billings attorneys wasn't nearly as comprehensive, and was colored in their favor. The question is can taxes be rolled back for those who protested and not for everyone, and the answer is yes. Those people who protested their taxes have legal standing; the others don't. Whether 10% or a 12% reduction is being talked about one can make a very good argument for either figure. She reminded the Committee that appraisals were judgments and it was hard to get people to agree on the amounts. When they went back to the Tax Appeals Board and asked

them how their decision was made, the answer wasn't very concrete. The Sales Ratio Study showed an 11-12% difference and it is very easy to use it as a basis to settle the cases; but the Department must have a legitimate basis for trying to settle the cases presently in litigation.

Attorneys for the people would prefer settling the lawsuits without a basis. However, if this was done, the residential people would also have a good case for saying they weren't treated fairly, either. They feel 12% would be a fair basis for settlement. She said that various courts in the State were upset with the 12%. When 10% was announced in the newspapers, the Department was swamped with complaints from the local governments because this wouldn't give them enough revenues. Even 12% is not going to make them happy. She pointed out that a number of litigants have expressed willingness to settle for 10%. She pointed out that the opponents would be foolish to say that they would settle for 10%; they must argue for more. She submitted, however, that a lot of people would settle for 10 or 12%. Yellowstone County's data was definitely not complete, in her opinion. They will continue to litigate cases if a settlement which is fair cannot be reached. She pointed out that the majority of commercial taxpayers weren't involved in litigation.

This resolution does nothing to the taxpayer's right to appeal. What is being promoted is an appeal based upon an appraised value, not an across-the board procedure. She submitted that much misinformation was conveyed by the testimony concerning this issue.

The Department has proposed a \$3 million appropriation to use to make the local governments' budgets whole until the cases are settled. She also pointed out that local governments would be party to any settlement reached.

Bob Raundal, a member of the State Tax Appeals Board, then rose in support of the resolution. He agreed with its concept, but they had a problem with the percentage, because the Supreme Court, when the decision was remanded back to the Tax Appeals Board, said that market values should be looked at as to appraised value ratios of residential and commercial property. Some of the convincing testimony is what is being presented in Exhibit "E," which was distributed. There were several surveys, and the Billings one is the first one in the handout. He went over the survey. P. 2 is the testimony of two individuals. The Board is thinking that with this resolution some of the problems with the smaller taxpayers might be settled.

The Director of Finance for Billings then rose in support of the legislation. Regarding the 10% vs. the 12%, if the money could be gotten in the near future, he would be happy with either percentage. The net increase to the City if the taxpayers agreed to settle at 12% would be better than an increase of 100% later on.

Bill Verwolf, Finance Director of the City of Helena, then spoke in support of the resolution. He said that his testimony stood from the previous bill. Regarding picking up the 1978 "mistake,"

that appraiser did as he received a directive to do. As far as the taxpayer being denied his right to appeal, he felt this was not being taken away.

Rep. Williams then rose as a representative of the select Committee which drew this resolution up. This is a companion bill to SB 483. He pointed out two things in the resolution: (1) the Department is mandated to reach a settlement with the taxpayer and it is on the basis of those who have made an appeal and this is within the law; this has been researched and found to be the case. The Department of Revenue has the privilege of settling only with those who have appealed and settling in a manner that this resolution recommends. This is a way of legally forgiving taxes. (2) P. 2, lines 4 - 8 were referred to. The impact with a 12% figure would be about \$2.25 million; therefore, there is still quite an impact to the local governments. They considered 10 - 25% in the Select Committee. After surveying all information, it was set at 12%, going by the Sales Ratio Study. He thought if the problem was approached in the right manner, things could be resolved. He expressed confidence that the Department wouldn't make any decisions to the detriment of the commercial and industrial taxpayers. He urged a DO PASS for HJR 52.

Mark Safty, Billings, then rose in OPPOSITION to the Resolution. (1) Regarding Rep. Williams' references that for some reason or in some way taxes were being forgiven, nothing is being forgiven. These people have rights that have been violated. The rights have been pursued up to the Supreme Court, and even the Supreme Court has said the rights are being violated. The State is trying to get an unlawful tax and the taxpayers are trying to get their money back. The question is down to "how much." He didn't like the idea of the Legislature helping to solve lawsuits. There is a lot of evidence justifying reduction of more than 12%. He said he was not in a position to propose any kind of a figure to the Committee because this wasn't a realistic approach. He felt the Committee should propose guidelines. He submitted that there were many cases where the figure should be higher. He suggested that same year manuals be gone back to and the job be done right. He submitted that maybe 3,500 reappraisals could be done; that was one alternative for settling. He submitted that the Department should be made to do this right. The State Tax Appeals Board provided the Department with a manual from 1972 which could be used to do the job right.

Dennis Burr, Montana Taxpayers Association, then rose in opposition to the resolution. 12% is probably acceptable. The problem they have is that the Resolution is an attempt to settle taxes presently being appealed and it does nothing for the taxpayers who went to the Tax Appeals Boards and lost and this happened in most of the Counties in the State. The people who didn't go to the State Tax Appeals Board are left out completely. Also, the people who didn't appeal to the Counties won't get relief even though they disagreed

with their taxes. He felt the 12% should be applied to all appraised values of commercial property in the State. That is the only way to arrive at an equitable decision; if this is going to be done en-mass and not on an individual basis. He felt that SB 483, together with this Resolution, were inequitable. Also, the 10% settlement would generate about \$750,000, and the figure is not \$2 million. Rep. Williams pointed out that the reduction was 1/3, from 34% to 10%.

Dave Goss, Billings Chamber of Commerce, then testified. He said that a piecemeal approach like this wasn't addressing the problem correctly.

Questions were then asked. Rep. Williams asked Mr. Safty a question regarding P. 3, lines 6 - 11. He submitted that he felt that every case would be settled at 12%. He stressed that the 12% was only a basis and if the Department felt there were cases more than 12%, they could still settle on that basis. It is not mandated in the resolution to use 12% as a maximum.

Rep. Williams also commented, regarding Mr. Burr's statement that many cases were unfairly treated because the assessment was unfairly high, that some commercial property had been missed initially and when it was caught, the tax doubled. In the past, they were under-taxed for quite a length of time. In his District, complaints were withdrawn when they saw how low their taxes had been in the past compared to other commercial properties, even though they had gone up 200%.

Rep. Underdal submitted that passage of only the resolution and not SB 483 wouldn't prevent future suits. Mr. Raundal said the suits would still be there unless they settled for 10%. Rep. Sivertsen submitted that nothing prevented the right of appeal in the future. SB 483 is trying to deal with the situation in the future and the resolution is trying to establish a basis for settling the present cases out of Court.

Rep. Roth asked Ms. Feaver if the Department would need more staff to take care of the cases presently under litigation. Ms. Feaver said that to litigate at all, they would need a lot of time. To reappraise all commercial property they are talking about not doing a reappraisal for the future. This resolution is a stopgap for the past and a getting-on with what is fair for the future. They are proposing to do something much more sophisticated, defensible, and fair in the future. If the past continues to be dealt with, they will never get on with achieving equity. They don't have the resources to deal with both the past and the future, and never will have the resources.

Rep. Roth submitted that the Department was asking the taxpayers to blindly accept its terms and the fact that they are more fair than the Court's. Ms. Feaver disagreed, and said their Sales Ratio Study came up with 12% for a fair settlement figure for those years. This

is based on much more study than has been done with the attorneys for the litigants. SB 483 is a reasonable approach which will allow the Department to get on with reappraisal.

Rep. Williams made another comment to Dennis Burr regarding his feeling that the taxpayers that didn't appeal would be unfairly dealt with if they weren't also paid back. This was studied, and it was decided that those who didn't appeal didn't feel that they had been treated unfairly. Mr. Burr replied that when those people who didn't follow up were compared with those who took advantage of the 34% publicity even if they didn't feel they were overtaxed, this is not equitable.

Rep. Williams asked Mr. Burr how he would deal with the matter in order to get on with the future. Mr. Burr said, if the adjustment needed to be made, it should be done by the Department; the problem should be correctly addressed. The mess of the State Tax Appeals Board issuing a blanket reduction should be gotten away from. He didn't see how the same values could be used in the future and the problem could be considered solved. He stressed that the same values would be being used even if the class was changed and the problem was with the value.

Rep. Williams asked him if he thought there was a problem in that there was not uniformity in all property. Mr. Burr replied that one could look at the appraisal manuals and see inequities; sometimes the 1972 manual showed a higher value. Each piece of property is treated differently. The State Tax Appeals Board compared one manual that was used by the State with one that wasn't and came up with 34% and he felt this was ridiculous. He felt the Department of Revenue needed to do something and not the Legislature. Rep. Williams said that according to SB 483 it was the intent of the Department to use a different approach to appraisal which they felt would create equity. Mr. Burr agreed, but as far as the Supreme Court was concerned, they just wanted the same value; there was no question with the method; however, this is the issue that is being addressed.

Rep. Sivertsen then closed. This is a very complex and serious issue. The Legislature would be remiss if it didn't attempt to resolve the situation. The only available manuals were used in the cyclical appraisal. When the appeals started coming in, Rep. Sivertsen had favored rolling all properties back to the 1975 appraisal and using another cyclical appraisal but that wasn't done. The new Director of the Department of Revenue has to address this problem and he commended her in her job. He submitted that the Legislature needed to work with her to do something in the best interests of all. This resolution would do this. He urged a DO PASS on the resolution. The hearing on HJR 52 was then closed.

SENATE BILL 160, sponsored by Sen. Mike Anderson, was then heard. In 1947, an exemption of \$50,000 was made from the Inheritance taxes of life insurance proceeds. It was increased to \$100,000 subsequently.

This bill will have little application within family settings because the Inheritance tax, it appears, will be gone in those situations. It will be applicable between a party that would like to have their land go to someone who had rented or farmed it for many years but was not related. They will be able to buy a policy of life insurance on the person who owns the land and have the cash to pay the estate taxes on the land where the owner dies, and they will be able to get the land.

Jo Bruner, WIFE, rose in SUPPORT of the bill; Keith Anderson, Montana Taxpayers Association, also rose in support of the bill.

There were no OPPONENTS to SB 160; there were no questions.

The sponsor then closed, and hearing on SB 160 was closed.

The meeting was adjourned at 11:00 a.m.

Rep. Ken Nordtvedt, Chairman

da

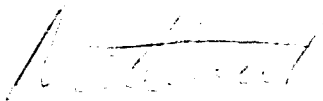
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There were no OPPONENTS to SB 160; there were no questions.

The sponsor then closed, and hearing on SB 160 was closed.

The meeting was adjourned at 11:00 a.m.



Rep. Ken Nordtvedt, Chairman

da

VISITORS' REGISTER

HOUSE Texas

COMMITTEE

RILL 35 255

Date 3/17/81

SPONSOR Tenneco

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Taxation 3/17/81
EXHIBIT 'A'

MR. CHAIRMAN AND MEMBERS OF THE TAXATION COMM.

I AM SPEAKING IN SUPPORT OF S. B. 255. I HAVE STUDIED THE BILL AND AM IN FAVOR OF IT.

I AM LUCILLE ANDERSON. MY HUSBAND, KERMIT, AND MY BROTHER-IN-LAW CARL AND I OWN AND OPERATE THE K BAR A HEREFORD CATTLE RANCH WEST OF MELVILLE IN THE FOOTHILLS OF THE CRAZY MOUNTAINS. OUR RANCH HAS BEEN IN THE ANDERSON FAMILY SINCE 1883. FOUR GENERATIONS OF ANDERSONS HAVE WORKED TO PUT TOGETHER A WELL BALANCED RANCH.

I HAVE SERVED AS PRESIDENT OF THE MONTANA COW BELLES IN 1973-74 AND I WAS THE COW BELLE REPRESENTATIVE ON THE MONTANA BEEF COUNCIL 1974-75. PRESENTLY I AM SERVING AS VICE-CHAIRMAN FOR REGION V OF THE LEGISLATIVE COMMITTEE OF THE AMERICAN NATIONAL COW BELLES.

THIS IS MY PERSONAL TESTIMONY, BUT I AM SPEAKING IN BEHALF OF 2000 MONTANA COW BELLES, THE AUXILIARY OF THE MONTANA STOCKGROWERS.

WE NEED RELIEF FROM THE CRIPPLING INHERITANCE TAX TO DIRECT DECENDENTS.

INFLATED LAND VALUES HAVE PUT RANCH OWNERS IN AN UNUSUALLY VULNERABLE POSITION ON ALL TAXES. THE INHERITANCE TAX BEING THE FINAL BLOW. INFLATION HAS NOW PLACED MANY PERSONS WHO HAVE REGARDED THEIR WORTH AS VERY MODEST INTO THE CATAGORY WHERE THE TRUST ROUTE OR INCORPORATION IS THE ONLY ROUTE TO CONTINUE AN ECONOMIC UNIT. THE INHERITANCE TAX IS EXTREMELY EXPENSIVE FOR TAXPAYERS WHEN THE COST OF LAWYERS AND ACCOUNTANTS ARE CONSIDERED. AS A REVENUE MEASURE THE STATE INHERITANCE TAX FALLS HEAVILY UPON INDIVIDUALS WHO INHERIT LAND AND CHILDREN WHO INHERIT A FAMILY BUSINESS. DUE TO INFLATED VALUE OF THE LAND THE TAX AFFECTS FARMERS AND RANCHERS MORE.

A LAND OWNER HAS A REAL PROBLEM PASSING LAND ON TO HIS CHILDREN. THEY CANNOT AFFORD TO BUY IT, THEY DON'T DARE INHERIT IT AND WE CANNOT GIVE IT TO THEM WITHOUT PAYING A HUGE GIFT TAX.

MANY INTERESTED, WORTHY, ON-THE-JOB TRAINED YOUNG RANCH HEIRS MUST SEEK OTHER JOBS BECAUSE OF THE FINANCIAL BURDEN IMPOSED BY THE INHERITANCE TAX. THIS OFTEN RESULTS IN THE SELLING OF THE FAMILY RANCH.

IT IS WITH A SENSE OF SADNESS AND LOSS WE WATCH THE DIS-APPEARING OF THE SMALL FARM AND RANCH. THE FAMILY RANCH IS A WAY OF LIFE BASED ON FAMILY, AN INVOLVEMENT WITH EVERYTHING FROM THE BEGINNING TO THE END OF LIFE, A PERMANENCY, A PASSING ON OF SOMETHING - A WAY OF LIFE - BASED ON THE LOVE OF THE LAND! THE LAND REMAINS FOR THE BENEFIT OF ANOTHER GENERATION. THE FAMILY RANCH OFFERS THE BEST HOPE FOR RESPONSIBLE STEWARDSHIP OF OUR LAND - IT PROVIDES FOR WIDESPREAD OWNERSHIP OF LAND - ONE OF THE STRONGEST GUARENTEES OF DEMOCRATIC FREEDOM AND RESPONSIBLE AND EFFICIENT WAY OF PRODUCING FOOD FOR USE HERE AND ABROAD.

I SEE MANY ADVANTAGES TO MONTANA IF WE ELIMENATE THE INHERITANCE TAX TO DIRECT DECENDENTS.

I ASK YOUR SUPPORT OF S. B. 255. *effective upon passage of this Bill*

111
Brunner

WITNESS STATEMENT

NAME Jo Brunner BILL No. SB 255
ADDRESS 531 South Oakes DATE 3/17
WHOM DO YOU REPRESENT Women Involved in Farm Economics
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Mr. Chairman, members of the committee, my name is Jo Brunner, and I am privileged to speak today for Women Involved Farm Economics.

We were appreciative when the bill exempting inheritance tax for the surviving spouse was passed. We, along with others had worked toward the passage of such legislation, and while we did not want to seem ungrateful at the time, we felt that it could have gone a step further and given relief of the same sort to other descendants, so we are appreciative of the continuation of such legislation.

To Mr. Furnage and to all who have co-sponsored this bill, we offer our complete support and thanks. We concur with Senate Bill 255.

Mr. Chairman, members of the committee, my name is Bud Pile and I am from Big Timber. I am here representing the Sweet Grass Preservation Association. Our group is very much in favor of the bill to eliminate the inheritance tax for linear descendants.

In discussing this issue with various legislators and also reading what has been written by the press, I have discovered there is an appalling lack of knowledge as to what the inheritance taxes actually are. Having gone through estate proceedings on our ranch, as administrator, I would like to give you a few facts so that everyone might understand why we are so concerned about this bill.

Minor children have an exemption of the first \$15,000 of an estate. Children over the age of 21 are exempted the first \$7,000. The taxes on the remainder of the estate are graduated. There will be a 2% tax on the first \$25,000 above the exemptions, 4% tax on the next \$25,000, 6% tax on the next \$50,000, and 8% tax on everything over \$100,000.

You can look in practically any magazine and see that a 300 acre farm is selling for around \$300,000 or a 750 acre ranch is up around \$750,000. It doesn't take to big a spread to be up there over the million figure.

To simplify the whole affair I will give you an example of what the taxes could look like on an estate. For a minor child with the exemption of \$15,000, there would be a tax of \$500 on an inheritance of \$40,000. If that same child inherited \$115,000 he or she would be taxed \$4500. For a \$315,000 estate the tab would be \$20,500. If the kid really hit it big and the folks left a million dollars the Revenue Department would take \$76,500 out of it. If you consider a two million dollar bundle the bite would be around \$156,000. The progression goes on. Do I need to?

My wife and the kids and I are very proud to say we run a genuine family farm in the truest sense of the word down there close to Big Timber that has been in the family since before the turn of the century, and we would sure appreciate your support of this bill to help us keep it that way.

Thank you very much for your consideration.

WITNESS STATEMENT

NAME Nora Hanson (Howard) BILL No. 255
ADDRESS Box 321, Big Prairie, DATE 3-17-81
WHOM DO YOU REPRESENT Ranchers
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: It is difficult if not impossible for ranches to leave land to sons or daughters as our inheritance bill are now. In Montana land is double taxation. We are ranchers with a five section operation mostly cattle and our son is on the ranch because of Howard's poor health, we wish for him to inherit the ranch. I am on Legislative Committee for our Co. I have Bureau and have studied this bill and all related bills and support this bill. We need this bill to keep young farmers on the land in Montana to produce food, who are good operators for business & production. We need our young farmers to survive.

VISITORS' REGISTER

HOUSE Defton

COMMITTEE

FILE Sr3 7.3

Date 5/17/01

SPONSOR: Santa Teresa Comm.

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Bill Verwolf BILL No. HR 52 SB 483
ADDRESS _____ DATE _____
WHOM DO YOU REPRESENT City of Helena
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME LARRY HUSS BILL No. SB 483
ADDRESS Bx 514 Helena DATE 3/17/81
WHOM DO YOU REPRESENT MONTANA
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME MARK D. SAFTY BILL No. HJR 52; SB 483

ADDRESS P.O. Box 2529 DATE 3/17

WHOM DO YOU REPRESENT SEE ATTACHED

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I.

In 1977-1978 the Department of Revenue reappraised or re-valued all property in Montana. A value was determined for commercial and industrial buildings and improvements by using a 1976 manual. The manual uses replacement cost as the indicator of a building's value. By using the manual, the appraiser can determine the approximate 1976 cost of a structure based on the cost of materials and labor.

Residential improvements, which for many years have been in the same statutory class as commercial improvements for tax purposes were also reappraised in 1977-78. They were valued by using a "replacement cost" manual as well, but one which computed costs as of 1971.

II.

There is a difference between 1976 construction costs and 1971 construction costs. The cost of materials such as wood and concrete increased during this 5 year period. This means that the two types of property were treated differently -- that is, commercial property was discriminated against. This unequal treatment is unlawful. The Montana State Tax Appeals Board, the District Court of the Eighth Judicial District, and the Montana Supreme Court have all so held. The case Department of Revenue v. State Tax Appeal Board, Countryside Village, et al., decided by the Montana Supreme Court June 24, 1980 says:

"The next question is whether using different cost data for appraising different types of property within the same statutory classification constituted unlawful discrimination and violation of the requirement for uniformity in taxation. We start with the

factual premise that such disparate cost data was in fact used in assessment of respondent taxpayers' property improvements, as found by the Board and the District Court. The legal premise is that both residential and commercial improvements to real property are in the same legislative classification. Section 15-6-134, MCA. The constitutional and statutory requirements for equalization or uniformity within a legislative classification cannot be questioned. See Article VIII, Sections 3 and 7, 1972 Montana Constitution; Section 15-7-103(1), MCA; section 15-9-101(1), MCA; *Larson v. State and Dept. of Revenue* (1975), 166 Mont. 449, 454-455, 534 P.2d 854, 857; *State ex rel. Schultz-Lindsay Constr. Co. v. Board of Equalization* (1965), 145 Mont. 380, 393, 403 P.2d 635, 641-642. Failure to adhere to the uniformity rule also offends due process and equal protection principles. *Larson*, supra, 166 Mont. at 455, 534 P.2d at 857. Given the legal and factual premises noted, the method used by the Department in these cases would seem, on its face, to have violated uniformity, equal protection and due process requirements. If different valuation statistics are applied to different pieces of property in the same legal classification, an illegal disparity in valuation is likely to result."

The Supreme Court went on to say that were this type of disparity exists, it can only be corrected by a reduction of the value of the property discriminated against.

III.

The Montana Supreme Court would not say how much reduction should be granted to correct the unlawful discrimination. The County Tax Appeal Boards of many counties (Yellowstone, Cascade, Silver Bow, Missoula to name a few) have ordered reductions of 34%. The Montana State Tax Appeal Board, which has heard hundreds of cases and accumulated thousands of pages of testimony has ordered reductions of 34%. The 34% figure is one with a logical source. The very manual used by DOR to value commercial improvements says that material costs in 1971 were 66% of what they were in 1976. A 34% reduction in commercial valuations, said these Appeal Boards, should correct the unlawful error of DOR.

IV.

The Supreme Court wouldn't approve an across-the-board reduction of 34%. It said that in addition to manual comparisons a study of values should be done. The Court said that the complaining taxpayers should:

1. Find the ratio that the DOR value for residential improvements bears to the "true market value" of those improvements.
2. Find the ratio that the DOR value for commercial improvements bears to the true market value of those improvements.
3. Compare the two ratios to see how much discrimination exists.

On October 1, 1980, in the Montana State Senate Chambers, representatives of taxpayers from many counties appeared before a hearing of STAB to present their findings.

The Yellowstone County testimony is fairly representative and was the result of an extensive study. The actual 1978 sales price of 1242 residents was established. These prices were compared to DOR values placed on the residences. DOR values were, on the average, 45.35% of "market value". Next, the "market value" of as many commercial structures as possible was established by actual sales, construction costs, or certified MAI appraisals. In all, 40 commercial structures were analyzed. The DOR values were, on the average, 98.39% of "market value".

In short, based on this extensive survey, a reduction of 53.91% in the value of commercial improvements would be called for.

Based on what it heard on October 1, STAB made a ruling. The ruling offered a fair and just method of resolving an obvious problem. STAB told DOR to revalue commercial property by using the

same year of manual it used for residential property. DOR promptly appealed the Order and has totally ignored it since. Reappraisal of commercial property would have been work for DOR, but if it had been done the legislature wouldn't be involved in this issue. By now, six months after the hearing, the issues would be resolved.

V.

Representatives of taxpayers have been working toward settlement of these issues for three years. In an attempt to be firm yet fair, a reduction of 25 - 35% has been urged. DOR is now backing HJR #52, which would express the legislative intent that a "reasonable" settlement would be a 10% reduction. The 10% figure has no basis in fact or logic, and does a great injustice to taxpayers who have been wronged by an illegal act of the taxing authority.

VI.

DOR has made a vague assertion that to settle these issues at or near a 34% level would "break the counties". Nothing could be more false. In 1978 protesting taxpayers in Yellowstone County, for example, were forced in nearly every case to pay taxes under protest to preserve refund rights.

In 1979, STAB ordered many reductions of 34% and only the reduced amount was paid.

In 1980, we have a combination of "paid under protest" and "already reduced" cases.

Taxes paid under protest cannot be spent. Taxes not paid cannot be spent. Settlement of these issues won't destroy local governments' ability to function.

VISITORS' REGISTER

HOUSE TAXATION

COMMITTEE

RTLL

H-3R 52

Date

3/17/21

SPONSOR

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SOME EVIDENCE
PRESENTED TO THE STATE TAX APPEAL BOARD
IN THE 34% CASES

The State Tax Appeal Board has heard evidence in about 100 hearings involving more than a thousand appeals in the so-called 34% cases. The issue is the use of different appraisal methods for "residential" and "commercial" properties, resulting in relatively higher appraised values for the "commercial" properties.

Below is a summary of a small portion of the evidence heard by the State Tax Appeal Board in these appeals.

SURVEYS

There were many surveys. The most recent figures were entered into evidence at a hearing held in Helena on October 1, 1980.

Billings

All residential sales listed by Multilist for the year 1978 were tabulated. A total of 1,242 sales were compiled and studied.

Residences were appraised at:

45.35% of market value.

A list of 40 commercial properties showed appraisals at:

98.39% of market value.

The market value of the commercial properties was determined from 28 sales, construction costs of six buildings, and appraisals by qualified appraisers on six buildings.

The witness who did the survey testified that commercial properties in Yellowstone County should be reduced an average of 53.9% to obtain equity.

Other Areas

In the same hearing, more limited surveys made in other cities and counties indicated, according to witnesses, these reductions should be made in commercial property to obtain equity:

Cascade:	40.6%
Lewis and Clark:	55.0%
Flathead:	two witnesses -- 47.0% to 48.0% 52.9%
Pondera:	7 residences showed appraisals at 45.0% of market; 8 grain elevators showed appraisals at 214.0% of market.

INDIVIDUAL TESTIMONY

A Great Falls contractor, Jack Kessner, kept very good records. He builds both residential and commercial buildings. Members of STAB saw receipts which confirmed his testimony. These are the figures reported by Mr. Kessner:

	1971	1976	Differential for Equity
Concrete, per yard	\$ 20.50	\$ 31.25	34.40%
Dimension lumber, per M bd. feet	135.00	210.00	35.72%
Labor, per hour	6.075	9.11	33.32%

Mr. Hansen, who owns duplexes and fourplexes in Great Falls, made his calculations on the basis of the taxes he paid in 1978.

The duplexes, appraised as residential property, contain 816 square feet, are in better shape than the fourplexes, have a fenced and maintained yard and other amenities. They rent for \$300 per month. Taxes amounted to \$33.12 per unit per month.

The fourplexes, appraised as commercial property, contain 700 square feet and rent for \$190 and \$200 per month. The 1978 taxes amounted to \$36.14 per unit.

Mr. Hansen drew these very logical conclusions:

"The substantially inferior properties pay a higher tax than the superior ones under the existing system, simply because this unit is classed commercially and this unit is classed as a residential property.

"All businesses have to pass on their costs of operation to the customer. If they don't, if the receipts don't equal the debits, you've got a charity on your hands. The fact is that I do have to pass the taxes on to my renters, and the fact is that this taxing system is highly regressive. It places the maximum tax burden on the lowest income people, and it really does not affect the high income people."

ALL OF THIS TESTIMONY AND MUCH MORE IS ON FILE IN
THE OFFICES OF THE STATE TAX APPEAL BOARD. WE
INVITE YOUR INSPECTION OF THESE RECORDS.

VISITORS' REGISTER

HOUSE

Dec. 1, 1912.

COMMITTEE

P T L L

SyB 160

Date _____

117

ONSOR

Dr. Anderson

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Jo Brunner BILL No. SB 160
ADDRESS Helena DATE 3/17
WHOM DO YOU REPRESENT W.I.F.E.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Mr chairman, members of The
Committee - my name is Jo Brunner and
I speak for Women Involved in
Farm Economics. Our organization supports
~~Legislation~~ Legislation That contributes to
our efforts to keep our farm & ranches
intact and in our families ~~by~~
often any money not taken by inheritance tax
~~will go back into our businesses for paying~~
off mortgages and operating expenses. And to
a great extent it will turn over in the
local communities.
We concur with SB 160.

STANDING COMMITTEE REPORT

April 10,

19 61

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 160

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE INSURANCE EXEMPTION FOR INHERITANCE TAX PURPOSES FROM \$50,000 TO \$100,000 AND TO CLARIFY THE EXISTING LAW TO SPECIFICALLY LIMIT THE INHERITANCE TAX ON INSURANCE PROCEEDS TO INSTANCES IN WHICH THE INCIDENCE OF OWNERSHIP IS IN THE INSURED; AMENDING SECTION 72-16-304, MCA."

Respectfully report as follows: That SENATE Bill No. 160

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 17, 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 255

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE CERTAIN TAXES FOR LINEAL DESCENDANTS; AMENDING SECTIONS 72-16-313 AND 72-16-321, MCA; PROVIDING APPLICABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 255

BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

April 2, 1911

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 423

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE CLASSIFICATION OF LANDS AND IMPROVEMENTS FOR PURPOSES OF PROPERTY TAXATION; ADDING CLASSES FOR RESIDENTIAL PROPERTY, COMMERCIAL AND INDUSTRIAL PROPERTY, AND OTHER REAL PROPERTY AND IMPROVEMENTS AND A RESIDUAL CLASS FOR PROPERTY NOT OTHERWISE COVERED; CLARIFYING THE ROLE OF THE DEPARTMENT OF REVENUE IN THE CLASSIFICATION AND APPRAISAL PROCESS; AMENDING SECTIONS 15-1-101, 15-6-101, 15-6-133, 15-6-134, 15-6-140, 15-6-151, 15-7-101 THROUGH 15-7-103, 15-8-111, 15-26-1102, AND 15-24-1103, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 423,

third reading (blue), be amended as follows:

1. Page 4, line 14.

Following: "(1)"

Strike: "Class"

Insert: "(1) For the period from January 1, 1901 to December 31, 1905, class"

2. Page 4.

Following: line 14

Strike: "(a)"

Insert: "(1)"

3. Page 4.

Following: line 15

Strike: "(b)"

Insert: "(1)"

(Page 1 of 3 pages)

COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 483:

4. Page 4.

Following: line 16

Strike: "(2)"

Insert: "(b)"

5. Page 4.

Following: line 17

Strike: "(a)"

Insert: "(1)"

Following: "(1)(a)"

Insert: "(1)"

6. Page 4.

Following: line 19

Strike: "(a)"

Insert: "(1)"

Following: "(1)"

Strike: "(b)"

Insert: "(a)(1)"

7. Page 4.

Following: line 21

Insert: "(2)(a) After December 31, 1985, class three property includes agricultural land as defined in 16-7-202.

(b) Class three property is taxed at 30% of its productive capacity."

8. Page 7, line 15.

Following: "property"

Insert: ", for the period from January 1, 1981 to December 31, 1985,"

9. Page 7, lines 16 and 17.

Following: "purposes" on line 16

Strike: line 16 through "families" on line 17

(Page 2 of 3 pages)

10. Page 7, line 22.

Following: "property"

Insert: ", for the period from January 1, 1981 to December 31, 1985,"

11. Page 10, line 12.

Following: "land"

Insert: "and improvements thereon"

12. Page 10, line 13.

Following: "his"

Strike: "and"

Following: "as to"

Strike: "improvements thereon"

13. Page 11.

Following: line 24

Insert: "If any property in class 12 is given a taxable value in excess of 90% of its current year market value, as determined by a qualified appraiser accepted by both the property owner and the department of revenue, such a value constitutes sufficient conditions for a tax appeal board to reduce the taxable value of the property to less than or equal to 90% of the current year market value."

14. Page 13, line 18.

Following: "value"

Insert: "for the designated appraisal year of the reappraisal cycle"

15. Page 13, line 21.

Following: "(1)"

Strike: "(b)"

Insert: "(a)(ii)"

AND AS AMENDED
BE CONCURRED IN

(Page 3 of 3 pages)

STANDING COMMITTEE REPORT

March 26, 1951

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HJR Bill No. 52

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE DEPARTMENT OF REVENUE TO REACH A SETTLEMENT WITH TAXPAYERS WHO HAVE APPEALED THEIR PROPERTY TAXES ON THE BASIS OF A DISPARITY BETWEEN MANUALS USED FOR RESIDENTIAL PROPERTY AND THAT USED FOR COMMERCIAL AND INDUSTRIAL PROPERTY.

Respectfully report as follows: That HJR Bill No. 52

introduced (white), be amended as follows:

1. Page 1, line 15.

Following: "been"

Strike: "valued"

Insert: "appraised"

Following: "for"

Strike: "the"

2. Page 1, line 24.

Following: "the"

Insert: "appraised"

3. Page 2, line 6.

Following: "a"

Strike: "10¢"

Insert: "12¢"

4. Page 2.

Following: line 7

Strike: "2,205,000"

Insert: "\$2,646,000"

(Page 1 of 2 pages)

COMMITTED ON TAXATION AMENDMENTS TO HOUSE JOINT RESOLUTION 52:

5. Page 3, line 7.

Following: "of"

Strike: "10%

Insert: "12%

AND AS AMENDED
DO PASS