

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on January 26, 1993,
at 8:05 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: Sen. John Harp (R)

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

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

Committee Business Summary:

Hearing: SB 159, SB 162, SB 175
Executive Action: SB 159

HEARING ON SB 159

Opening Statement by Sponsor:

Senator Sue Bartlett, representing Senate District #23, presented Senate Bill 159, at the request of the County Treasurer's Association. Senator Bartlett said this bill makes minor changes in the tax deed law which will make the process clearer and easier for someone taking an assignment of a county tax lien, and requires that notices by certified mail include return receipt requested forms. SB 159 also has a form of notice that the tax deed may issue and Proof of Notice form which will be filed of record.

Senator Bartlett said that Senate Bill 159 provides that interest would be added on the taxes due from the date of the tax deed to the date of repurchase by an owner. According to the Department of Revenue Fiscal Note, there would be no impact on state revenues or expenditures.

Senator Bartlett presented an amendment to Senate Bill 159, which is attached to these minutes as Exhibit No. 1.

Proponents' Testimony:

Cort Harrington, representing the Montana County Treasurer's Association, spoke in favor of Senate Bill 159, calling it an improvement to the major tax fee process revision of 1987.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe questioned Senator Bartlett on the notice form as provided in Section 5 of Senate Bill 159. Senator Bartlett replied that notice would be sent to anyone who has an interest in the property that a tax deed may issue unless the delinquencies are paid by a given date in order to forestall the tax deed, and that a tax deed is given three years after the tax sale for the first year's delinquency.

Upon questioning by Senator Halligan, Senator Bartlett stated that if the owner redeems the property prior to tax deed, interest runs from the time the property went delinquent until the time the tax deed issues; if the owner repurchases the property after the tax deed issues, additional interest would be applied from the date of the tax deed until the owner repurchased, at the statutory rate of 5/6 of 1%.

Closing by Sponsor:

Senator Bartlett offered no additional closing remarks.

HEARING ON SB 162

Opening Statement by Sponsor:

Senator Delwyn Gage, representing Senate District #5, presented Senate Bill 162, which is an act increasing the tax rate to 6% on the portion of the market value over \$200,000 of a single-family residence. Senator Gage expressed concerns about

out-of-state residents who come to Montana for a few weeks each year and who purchase or build homes in Montana but do not contribute in other ways to Montana's revenue. He feels this bill is an attempt to have those people pay a greater share of the cost of services in the areas where they locate. Presently a total tax of 3.86% is imposed on these Class 4 homes.

Senator Gage said the Department of Revenue has prepared amendments to Senate Bill 162, which are attached to these minutes as Exhibit No. 2. These amendments reconcile the change in the taxable percentage created in this bill with the taxation restrictions and limitations of I-105, as amended.

Proponents' Testimony:

None.

Opponents' Testimony:

Tom Hopgood, representing the Montana Association of Realtors (MAR), spoke against Senate Bill 162. Mr. Hopgood said the MAR feels there is a strong inequity in Montana property tax laws, and MAR is asking for total tax reform during this legislative session. Mr. Hopgood read a portion of I-105 which states no further property tax increases be imposed on property in classes 3, 4, 6, 9, 12, and 14.

Nancy Griffin, Executive Director of the Montana Building Industry Association (MAIA), spoke against Senate Bill 162 because they feel it discourages housing growth in Montana. Ms. Griffin said that Senate Bill 162, while targeted at out-of-staters who are primarily escaping Montana's income taxes, will affect Montana residents also, and would hurt not only new housing purchasers but people who are moving up from smaller homes. The MAIA believes housing construction plays an important part in the regional economy in Montana's major growth areas but that Montana's tax policy creates a questionable investment climate.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage, responding to questions from Senator Halligan and Senator Towe, stated it was his original intention that Senate Bill 162 would only affect school funding; however, he accepts the fiscal note which indicates it applies to all taxable entities.

Senator Eck asked Senator Gage how the cost of land would be separated from the cost of a house, and Senator Gage replied the

law currently provides that a home and one acre are included in agricultural evaluations.

Senator Grosfield questioned whether Senator Gage had considered graduating market values and Senator Gage explained he did, but decided on the \$200,000 figure.

Senator Doherty questioned the portion of Senate Bill 162 which referred to land not to exceed 5 acres. Jeff Martin, Legislative Council staff member, replied that 5 acres is not an unusual acreage for a homestead.

Senator Van Valkenburg asked Senator Gage if he was concerned about applying different tax rates to different taxpayers and whether the Courts would view it as an equal protection problem. Senator Gage said that income taxes are figured this way so didn't see it as a problem. David Woodgerd, Chief Council for the Department of Revenue, said the Department considers income in some other classifications, and that they looked at this issue and it is their opinion that it wouldn't make any difference.

Senator Towe questioned David Woodgerd if both Class Four and Class Eleven properties are affected by Senate Bill 162 increasing the rate from 3.088% to 4.8% on one-acre farmsteads with a market value above \$200,000. Mr. Woodgerd said that is correct and that the rate in Class Eleven is 80% of the rate in Class Four.

Closing by Sponsor:

Senator Gage closed by saying Senate Bill 162 is of particular interest to people in the Flathead, Gallatin and Bitterroot areas because of development in those areas by out-of-state residents who spend only a few weeks a year in the state. Senator Gage feels this bill would be a deterrent to such development as well as producing more tax revenue for the state.

HEARING ON SB 175

Opening Statement by Sponsor:

Senator Delwyn Gage, representing Senate District 5, presented Senate Bill 175, which is an act exempting the first 1,000 tons of travertine and building stone production from property taxation.

Senator Gage said Senate Bill 175 is a result of problems in the taxation of travertine mining by the Department of Revenue. He agreed during the previous legislative session to study the problems and report back to this Legislature. Senator Gage said there are by-products involved with travertine mining and it is difficult to determine how much of the net proceeds are

deductible against travertine and how much should be applied against the by-products. Senator Gage feels the tax on travertine may be a tax which costs more to collect than is gained in tax revenue. Senate Bill 175 will apply an exemption for the first 1,000 Tons of travertine and building stone extracted in a taxable year.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe questioned Senator Gage about the average tonnage of travertine mined in the Livingston area mine, the only travertine mine in the state. Senator Gage said the owner told him the mine produced approximately 300 Tons of travertine per year. Senator Gage, answering questions by Senator Towe, said this is a net proceeds tax so it would apply at 100% of value.

Senator Towe questioned Dave Nielsen, tax analyst with the Department of Revenue, who said the Department records indicate the 1991 Legislature placed a 2-year moratorium on taxing travertine so there are no tax figures available.

Jeff Martin, Legislative Council Staff, said the 1991 Legislature exempted travertine from the net proceeds tax which explains the applicability date on Senate Bill 175 to tax years beginning after December 31, 1993.

Closing by Sponsor:

Senator Gage offered no further remarks in closing.

EXECUTIVE ACTION ON SB 159

Motion:

Senator Eck moved approval of the amendments to Senate Bill 159.

Discussion:

None.

Vote on Amendments:

Motion to amend Senate Bill 159 carried on oral vote.

Motion:

Senator Yellowtail moved Senate Bill 159 Do Pass as Amended.

Discussion:


None.

Vote:


Motion that Senate Bill 159 Do Pass As Amended carried on oral vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 8:45 a.m.



MIKE HALLIGAN, Chair



BONNIE STARK, Secretary

MH/bjs

ROLL CALL

SENATE COMMITTEE TAXATION DATE 1-26-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp			✓
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 26, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 159 (first reading copy -- white), respectfully report that Senate Bill No. 159 be amended as follows and as so amended do pass.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Page 14, line 6.

Following: "attached"

Insert: "or is on file in the office of the county clerk"

2. Page 14, line 8.

Strike: "Attached are copies"

Insert: "Copies"

3. Page 14, line 9.

Following: "receipts"

Insert: "are attached or are on file in the office of the county clerk"

-END-

Amendment to SB159

P14 line ~~10~~ ¹⁶

Following: "Attached"

Insert: "or is on file in the office of the county clerk."

P14 line 8

Following: "requested."

Strike: "Attached are copies"

Insert: "Copies"

P14 line 9

Following: "receipts"

Insert: ~~"are attached"~~ "or, if file in the office of the county clerk"

Amendments to Senate Bill 162
First Reading Copy

SENATE TAXATION

EXHIBIT NO. 2

DATE 1-26-93

BILL NO. SB 162

Prepared by Department of Revenue
1/26/93

1. Title, line 6.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS"

2. Title, line 6.
Following: "15-6-134,"
Insert: " AND 15-10-412"

3. Page 4, line 10.
Following: line 10
Insert: "Section 3. Section 15-10-412, MCA, is amended to read:

'15-10-412. (Effective January 1, 1993) Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status;

or

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of

improvements; or

(i) increases in the taxable rate on the portion of the market value of a single-family residence that exceeds \$200,000.

(4) The limitation on the amount of taxes levied does not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

(a) a revaluation caused by:

(i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or

(ii) cyclical reappraisal;

(b) transfer of property into a taxing unit;

(c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit; or

(f) conversion of the individual property from tax-exempt to taxable status; or

(g) increases in the taxable rate on the portion of the market value of a single-family residence that exceeds \$200,000.

(5) Property in classes four and eleven is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

(a) new construction;

(b) expanded, deleted, replaced, or remodeled improvements;

(c) annexed property; or

(d) property converted from tax-exempt to taxable status.

(6) Property described in subsections (5)(a) through (5)(d) that is not class four or class eleven property is valued according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on 1986 mills levied.

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation,

but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

- (a) rural improvement districts;
- (b) special improvement districts;
- (c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;
- (d) city street maintenance districts;
- (e) tax increment financing districts;
- (f) satisfaction of judgments against a taxing unit;
- (g) street lighting assessments;
- (h) revolving funds to support any categories specified in this subsection (8);
- (i) levies for economic development authorized pursuant to 90-5-112(4);
- (j) levies authorized under 7-6-502 for juvenile detention programs; and
- (k) elementary and high school districts.

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

- (a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;
- (b) an explanation of the nature of the financial emergency;
- (c) an estimate of the amount of funding shortfall expected by the taxing unit;
- (d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;
- (e) a finding that there are no alternative sources of revenue;
- (f) a summary of the alternatives that the governing body of the taxing unit has considered; and
- (g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board of health may not exceed the 5-mill limit established in 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2).

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402."

Renumber: subsequent sections

REASON FOR AMENDMENT: This amendment reconciles the change in taxable percentage created in this bill with the taxation restrictions and limitations of I-105, as amended (now codified in Title 15, chapter 10, part 4, MCA.)

Homebuilders Assoc. of Billings
252-7533

S.W. Montana Home Builders Assoc.
585-8181

Great Falls Homebuilders Assoc.
452-HOME



Flathead Home Builders Assoc
752-2522

Missoula Chapter of NAHB
273-0314

Helena Chapter of NAHB
449-7275

Nancy Lien Griffin, Executive Director
Suite 4D Power Block Building • Helena, Montana 59601 • (406) 442-4479

SB 162
Increase Tax Rate on Homes over \$200,000
Recommend:
Do Not Pass

SENATE TAXATION

EXHIBIT NO. 3
DATE 1-26-93
BILL NO. SB 162

Nancy Griffin, Executive Officer, Montana Building Industry Association, representing 800 small businesses and 32,000 employees in the building, subcontracting and building supply business.

We recommend a do not pass for the following reasons.

1. Prohibitive Tax Policy Discourages Growth

We believe the State of Montana ought to adopt a tax policy which encourages housing growth. We have in Montana a housing shortage. There are more families desiring homes, than there are homes available. While everyone loves to sock it to the rich when crafting tax law, please consider that construction of higher end homes creates a move up opportunity for low to moderate income Montanan's desiring to own their own home. Also please consider that considering the alarming increase in property prices in Montana, and the inconsistency of market value appraisals among our different Montana communities; this is not a tax bill that will just hit the temporary Montana residents who escape our income tax, but is a tax bite that will hurt Montana families struggling to meet mortgage payments on their dream homes.

2. Housing Creates Jobs

Tax policy which compounds the already questionable Montana investment climate will continue to impact our state's economy. We are sending a message that we discourage upper end construction. This inequitable housing taxation structure could effect housing in Montana's major growth areas--the Flathead, the Gallatin area, the Bitterroot. Housing is an important part of these's regions economies, ensuring employment growth and improvements in community tax base. This only ends up impacting the many small businesses and support services which make up Montana's building industry.

