

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - SPECIAL SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 4, 1993,
at 8:29 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. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Beth Satre, Committee Secretary

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

Committee Business Summary:

Hearing: SB 25, SB 26, SB 27
Executive Action: None.

HEARING ON SENATE BILLS 25, 26 AND 27

Opening Statement by Sponsor:

Senator Van Valkenburg, Senate District 30, stated that he and Representative Swanson, House District 79, had introduced Senate bills 25, 26, and 27 in order to give the Committee, the Legislature, and the people of Montana an opportunity to consider the recommendations of Governor Racicot's Property Tax Advisory Council (PTAC). He said the PTAC had met and been assisted by Mick Robinson, Director, Department of Revenue (DOR), during the fall in order to respond to and make recommendations about

Montana's current situation in which a combination of factors have created the potential for a very strong property tax revolt. **Senator Van Valkenburg** outlined Montana's current tax system and situation. He explained that the tax system is largely dependent upon income and property taxes; income taxes are used to fund matters at the state level and property taxes to fund governmental services at the local level. He added court decisions ordering increased equalized revenues from state government to fund Montana's public school system K-12 had been a budgetary problem since the late 1980s.

Senator Van Valkenburg stated that in 1993 three primary elements combined with the general structure in Montana to create the current situation: the rejection of the general sales tax, the Legislature's passage of HB 667, another step forward in equalizing school funding; and the implementation of a reappraisal cycle. He explained that the June 1993 rejection of the general sales tax proposal had closed off an avenue by which a "significant element" could have been added to Montana's tax structure and significantly reduced both income and property taxes. He noted that the passage of HB 667 its requirement to utilize property tax revenue for school equalization also resulted in increased property taxes for many people in this state. **Senator Van Valkenburg** stated the Senate had made it very clear during the regular session that the proposal in HB 667 was under-funded by approximately \$30 million, and would be a "pass through" to local property taxpayers thus resulting in substantial property tax increases. He noted that the House of Representatives and **Governor Racicot** chose to recommend and to insist upon passage of HB 667 in that form anyway. Finally, **Senator Van Valkenburg** addressed the 1993 reappraisal cycle. He said the 101 state-wide mills make it essential that the fairness of property values are periodically checked in order to ensure that one taxpayer or certain taxing jurisdictions are not being forced to subsidize other taxpayers because property values are not fairly assessed.

Senator Van Valkenburg noted that the circumstances he had outlined had resulted in an increase in property taxes of approximately \$65 million this past year. He stated, however, government is not spending \$65 million more than it might otherwise have been because the school equalization proposal moves taxes from one area to another. He said in many instances lots of people in Montana, including himself, experienced very substantial property tax increases and agreed with **Governor Racicot** that the Legislature needed to address the real potential of a property tax revolt during the special session. **Senator Van Valkenburg** disagreed, however, with the **Governor's** proposal to provide rebates to property tax payers, especially their sum and their suggested funding. He noted that the Legislature came into the special session nearly \$60 million in debt as a result of the suspension of HB 671, and stated he did not believe it would be responsible to add another \$37 million to that sum especially since the rebate program would be unfair to those taxpayers whose

property did not increase by more than a 10 percent the past year, but whose property taxes had increased very substantially in previous years.

As a result, **Senator Van Valkenburg** said he was pleased to co-sponsor the three bills **Representative Swanson** had requested. He noted that she had followed the PTAC deliberations very closely and worked very diligently to understand and to appreciate the need to implement some of the PTAC recommendations. He explained she had asked him to be co-sponsor so that those recommendations could start in the Senate and receive serious consideration and treatment in this Legislature. He noted it was not likely that the proposal would be given as serious consideration in the House, since the **Speaker of the House** was closely associated with the **Governor's** proposal and **Representative Swanson** was of the opposite party. He gave a summary of the primary provisions in Senate Bills 25, 26 and 27 and informed the Committee that a number of PTAC members were at the hearing in order to explain and provide the background for the recommendations which they had made.

Proponents' Testimony:

Representative Swanson, House District 79, said that the state needed a property tax that would really work for all Montanans. She added **these was** plenty of evidence that the current system has some problems. She expressed her belief that Montanans want to pay their fair share of taxes, and want to have quality government services, but do not want a tax that is unpredictable, that demands more than a fair share of their income, or that gives unfair advantage to another taxpayer. She noted that the package she and **Senator Van Valkenburg** were proposing had been titled the "Montana Homeowners Equity Act" and explained that the proposal was divided into three bills: SB 25 addressed the short-term idea, SB 26 addressed the long-term idea, and SB 27 contained a constitutional amendment necessary to enact the provisions contained in Senate Bills 25 and 26.

Representative Swanson distributed a summary explaining the provisions in Senate Bills 25, 26, and 27 and verbally outlined the contents (Exhibit #1). She stated that the idea of a make-up tax was intended to stabilize some of the impact of the artificial four percent limitation Senate Bills 26 and 27 would implement and to address issue of equity. She emphasized that the make-up tax was not a realty-transfer tax, which would be applied to the sale of every home. She stated that the make-up tax would only apply to the sale of those homes in which the market value had been held down artificially by the a four percent cap. She noted that the provision making the sale price the property tax appraised value for the remainder of the appraisal cycle would help to equalize the burden in communities experiencing an explosive growth, and enable county and city governments to better keep up with the demands of that growth. She noted that part of the long-term solution would begin January

1997 in order to allow enough time to phase into the new tax structures like the four percent cap and the make-up tax.

Representative Swanson asked the Committee to carefully consider all the complexities of the current tax system and the potential effects of any proposal. She expressed her fear that addressing property taxes and making major changes in a short and pressure-filled special session could result in another situation like the current year. introduced **Kristen Juras**.

Kristen Juras, tax attorney and PTAC member, submitted and spoke from written testimony (Exhibit #2). In addition to her written testimony, she noted that the PTAC attempted to come up with a solution that was as fair as possible to everybody in Montana. She stated that chore was difficult because of the great diversity of situation and factors, including but not limited to property reappraisal, present in Montana. She addressed the issue of a cap on increases in property value and stated that the PTAC quickly realized and struggled with the fact that whenever somebody is given the benefit of a freeze, the burden of tax is shifted to somebody else unless budgets decrease by a corresponding amount. To illustrate the effects of an artificial cap she used an exhibit she had attached to her written testimony (Exhibit #2, page four). She stated the PTAC as a group had decided to include a make-up tax in their proposal because they had decided it would be unfair to institute only a cap. She explained the group arrived at that compromise because the members both realized that property taxpayers in Montana wanted the predictability of a cap, but also wanted to protect the people who would pick up the burden of that cap.

Ms. Juras stated that the PTAC members had been conscious of two distinct limitations that any property tax policy would have to take into consideration. The first was the financial condition of the state, the second was Montana's Constitution. She informed the Committee that PTAC members had reviewed sound proposals, like increasing the availability of a tax credits, but had rejected them because of their cost. She noted that in order to implement a cap a constitutional amendment was necessary because the Constitution provided that property needed to be taxed in a uniform method that equalizes values, two requirements that a cap would not fulfil.

Ms. Juras said the PTAC members had agreed that the 1993 appraisal values were a great improvement over 1992 values and are much closer to fair market value, the concept upon which the current system is based. She commented, in fact, that everyone on the PTAC thought that their home was probably worth more than the 1993 values they received. She explained that the PTAC decided that a combination of the acquisition method and a continuing reappraisal was the fairest method of obtaining values. She stated that a pure acquisition value like California's was an arbitrary departure from and unrelated to fair market values especially in the case of long-time property

owners. She noted that acquisition value was also unfair to new homeowners or people whose properties were falling in value, and commented that it created a disincentive for new business.

Ms. Juras assured the Committee and those present that the PTAC members had studied numerous proposals, and reviewed great amounts of statistical information provided by DOR on every proposal that was considered. She identified herself as a Republican and stated it had been encouraging to see Democrats and Republicans come together, put aside personal agendas, and compromise in order to come up with a plan that they "truly felt was the fairest to those people in Kalispell and those people in Sidney".

Jane Jelinski, Gallatin County Commissioner, First Vice-President, Montana Association of Counties, identified herself as a member of the PTAC and read from prepared testimony in support of Senate Bills 25, 26 and 27 (Exhibit #3).

Scott St. Arnauld, American Federation of State and County Municipal Employees, stated that Montana's tax structure is inherently unfair; it burdens the poor and the middle class at rates higher than the rich. He noted that property taxes contribute approximately one-third of the state's revenue and said the property tax policy outlined in Senate Bills 25, 26, and 27 would move closer to fairness for the poor, address the issues for the middle class and not unfairly burden the rich or large property owner.

Chet Kinsey, Montana Low Income Coalition (MLIC), commented that MLIC was very concerned about the potential legislative actions during the special session might make and expressed his hope that the Committee and the Legislature would do everything in their power not to cut any human services. He stated that taxation was the key element in making it possible to provide those necessary services. Speaking against the proposed property tax refunds, **Mr. Kinsey** said that many low income people own their own homes and have had their property taxes increase. He added, however, that the amount individual property owners might receive would be very small compared to the disastrous results the rebates would have on county governments' ability to meet their obligations. He mentioned the task force that had been formed in Lewis & Clark County to make up for the reductions in services the Legislature had enacted during the regular session. He said volunteers have been working hard to try to meet basic needs of the community with programs like Food Share and any reduction in the amount of Montana's revenue would increase those needs. **Mr. Kinsey** agreed that some methods needed to be worked into any property tax package which would prevent lower income people from having to carry a heavy tax burden on a home they own and could barely keep. He expressed his hope that the Committee would pass a fair tax package that would not result in cutting more human services.

Tom Ryan, Montana Senior Citizen Association (MSCA), noted that the hearing had benefited the public which had been wondering what the PTAC had done and why their recommendations were ignored. He stated he was glad that PTAC recommendations had been formed into a legislative proposal and would be put to good use. He expressed his hope that the commission on health care would receive the same kind of recognition. He informed the Committee that the MSCA was the oldest advocacy agency among senior citizens and had established its independence from government agencies because the MSCA had not wanted to be too influenced by boards, bureaus and commissions. He noted that the organization has since been fairly successful in passing things for the benefit of low and middle income people, and those who were mostly in need.

Ed Caplis, Western Organizer, MSCA, stated that both the MSCA Board and members had directed him to support the package of property tax reforms represented by Senate Bills 25, 26, and 27. He said MSCA is a statewide organization and its membership had experienced different levels of impact from the property tax, but all MSCA believe that there is a need for a fair and long-range solution to Montana's property tax conundrums. He stated MSCA had identified Senate Bills 25, 26, and 27 as the package of reforms which fits the needs of its membership after reviewing all the proposed reform packages.

Gordon Morris, Director, Association of Counties (AofC), stated that, on behalf of Montana's Counties, AofC supports the passage of Senate Bills 25, 26 and 27 with some qualifications. Rather than repeating portions of **Jane Jelinski's** testimony, he called the Committee's attention to a concern he had about SB 26. He referred to page five of SB 26 and mentioned the possible conflict between the idea of limiting annual increases to 33 percent while phasing-in reappraisal values while simultaneously placing the four percent cap on increases in property value. He suggested the Committee might need to clarify those provisions. **Mr. Morris** stated that the AofC did not support a property tax rebate and informed the Committee that the phase-in proposal contained in the package would actually constitute a loss of tax revenue for local governments across Montana. Referring to the adjustments the package would allow in relation to new construction and property, it was an acceptable alternative. He stated that the AofC was prepared to support Senate Bills 25, 26, and 27 in order to support a consensus.

Eric Feaver, Montana Education Association (MEA), rose in support of Senate Bills 25, 26, and 27 and concurred with the testimony given by the sponsors and members of the PTAC. He said that both MEA and he were very impressed by the work of the PTAC and happy that the proposal contained in the package was titled the "Montana Homeowner's Equity Act". He cautioned the Committee and the Legislature against adopting anything that had been adopted in California. He said he "would not trade Montana's tax system for California's nor Montana's schools for California's" and

emphasized that the relationship between the two "is exactly precise". He stated "Let's save our public schools" and expressed his hope that the government do the "right thing" with Montana's property tax system.

Wayne Lewis, Montana Low Income Coalition, said that their home is low income people's only asset. He noted that he had known a few people that had lost their homes to delinquent taxes and expressed his support of any measure that would take away some of their property tax burden, reduce the risk of any more low income people losing their homes, and make their life a little easier. He stated that Senate Bills 25, 26, and 27 would accomplish all three.

Alec Hansen, Montana League of Cities and Towns (MLCT), said MLCT generally supported the PTAC recommendations but disagreed with the issue of tax credit versus rollback. He introduced a proposal which addressed the issues and provisions MLCT supported and distributed that proposal to the Committee (Exhibit #4). He stated the important part of the plan was the long-term solution it proposed, i.e. what happens after 1997, in which the phase-in and the limitation of property tax increases are vitally important. **Mr. Hansen** noted that if the plan had been effective in 1993, property taxes would not have been an issue in this special session of the Legislature. He noted that the reason that property taxes are an issue is, in many cases, property values had not been changed since 1982. According to **Mr. Hansen**, 11 years of inflation, changing market patterns, and a change in the reappraisal method was obviously going to have some radical results. He stated that after the June 1993 vote, Montana's tax system was no longer a "three-legged stool" but a bicycle with two wheels: income tax and property tax. **Mr. Hansen** stated that MCLT was convinced that it was necessary to keep both those wheels spinning for that reason, very interested in working with the Committee on a property tax reform package. He identified the bottom line as the need to put together a reform program that would both be affordable and satisfy the people in Montana. He stated that the MLCT suggestions and the PTAC recommendations could be fused put together into a tax reform program that would "do the job": protect the tax base, enact long-term reform, and help those people that are most in need.

Pam Egan, Executive Director, Montana Family Union (MFU), identified MFU as the Montana State AFL-CIO associate membership program. She offered the support of MFU for Senate Bills 25, 26 and 27 and stated MFU would evaluate any kind reform measures based on two primary issues: tax fairness based on ability to pay, and its provision for adequate revenue for essential state services. She expressed concern about the potential for reduction in revenue the proposal might cause, but stated that MFU recognized that the package was attempting to address the potentially more dangerous tax revolt. She noted that a tax revolt was very possible if the property tax system was not reformed and made more fair. **Ms. Egan** said that MFU supported

the proposal under discussion because it would reform the system in a much fairer way than any other proposal submitted to the special session.

Diane Sands, Executive Director, Montana Women's Lobby (MWL), said her organization had spent considerable time looking at property tax issues and wished to be on record supporting the taxation package in Senate Bills 25, 26, and 27. She stated MWL supported the proposal primarily because it would generate the revenue essential for education and other state human services and because it would be fundamentally tied to the ability to pay.

Darrell Holzer, Political Director, Montana AFL-CIO, stated his support of Senate Bills 25, 26, and 27 and added that the AFL-CIO was "extremely encouraged" by the PTAC's exemplary job in developing such substantive recommendations for consideration. He said Montana had reached the place "where the foundation of our property tax base can no longer be patched". He stated "we need to take out the backhoe, dig out the concrete and pour a new foundation", adding that Senate Bills 25, 26, and 27 embodied a step in that direction.

Linda Stoll-Anderson, Lewis & Clark County Commissioner, stated she "unequivocally" supported SB 25 but was concerned about Senate Bills 26 and 27 since any cap placed on increases in market values would make it unfair for those properties not increasing at the same rate. She noted that the important question was, however, whether the four percent cap proposed in Senate Bills 26 and 27 were less fair or more fair than some other alternative. **Ms. Stoll-Anderson** expressed reservations about the budgetary difficulties local governments might have trying to deal with anticipated revenues from the five percent make-up tax. She said that process would be very confusing and that she had not yet decided if the make-up tax would be workable.

Senator Bartlett, Senate District 23, said she had attended the majority of the PTAC meetings and expressed her positive impression of the PTAC members' dedication, comprehension of the issues, and the thoughtfulness of their recommendations. She noted that she had been a member of a group and observed groups that were appointed to take on particular tasks and floundered or simply led down a "primrose path" by someone who wanted certain results from the group. **Senator Bartlett** informed the Committee that the PTAC members understood what they were doing; they asked excellent questions of every proposal which clearly reflected their comprehension of the complexities and the concerns in property tax areas. She also noted that DOR did an outstanding job of providing them with information and support. She concluded by saying that the PTAC worked their way through difficult topics and reached decisions that the members thought best addressed the situation in Montana.

Brad Martin, Director, Montana Democratic Party, expressed his

organization's support of the package. He stated many tools were available in the political process for making decisions of which the empowerment of a public committee is one. He noted that in their worst construction such committees create more division, but in their best construction they allow discussion and make compromise and consensus possible. He stated that by participating in task forces and panels, both Republicans and Democrats stand some risk that the decisions a committee would take would run contrary to their own interests. He noted, however, the PTAC had done a very good job in reaching consensus and coming to a thoughtful compromise. He stated the Democratic Party was supportive of the PTAC proposals embodied in Senate Bills 25, 26, and 27 for three reasons: one, it recognizes the limited financial resources available; two, it targets relief to those that are in most in need of that relief; and three, it deals with the issue of sticker shock in the property tax appraisal system. **Mr. Martin** said the latter was very important because the appraisal system was defensible, but sticker shock worked to undermine the public's confidence in that system.

Opponents' Testimony:

Tom Hopgood, Montana Association of Realtors (MAR), said he had never been in a situation where he had opposed a bill on behalf of an organization he represented yet agreed with so much of the testimony presented. He stated that MAR most assuredly did agree with almost everything was said in favor of Senate Bills 25, 26, and 27, and noted that MAR had decided to oppose the package only after the most serious consideration and discussion. He explained that MAR believed that the problems Montana is facing are budgetary and that MAR favored retaining the appraisal system. He emphasized that MAR strenuously opposed both the adoption of an acquisition value system and the rebate proposal. He stated that Senate Bills 25, 26, 27, contained some good but also some problematic elements.

Mr. Ernie Dutton, Chair Legislative Affairs Committee, MAR, reiterated MAR's opinion that the current situation in Montana is a budgetary problem. He identified the long appraisal cycle and the large shift of school financing to property taxes as two factors which have exacerbated the problems. He stated that MAR did not consent to the current standards but felt very strongly that the current appraisal method and valuation system formed the most equitable policy under discussion. He expressed MAR's support for expanding the existing low income program as well as using the sales price of a property as the appraised price during the remainder of the appraisal cycle. He noted that MAR hesitantly concurred with the three year phase-in of new values because of political realities and the need to reduce "sticker shock" and anger over increasing taxes, but suggested that decreases in values should be phased-in as well. **Mr. Dutton** stated, however, that other aspects of Senate Bills 25, 26, and 27 would decrease equity and potentially create more problems for the state, counties and schools.

Referring to the past and present situation in Yellowstone County, Mr. Dutton explained the inequities the tax package would create. He said any type of phase-in or cap in value increases would place a disproportionate burden on people with decreasing property values. He stated if the Legislature was worried about people losing their homes because of increased property taxes, the people that deserved the most concern were those in decreasing markets. He explained that even if increasing values force some people out of their homes they have the benefit of increasing equity when they do sell, whereas people in decreasing areas might very well be totally wiped out and have nothing left if they are unable to meet their tax payments. He expressed his surprise that representatives of the cities, counties and schools supported the package since the four percent cap would be devastating to those entities if Montana ever again experienced high inflation over an extended period of time.

Mr. Dutton repeated that MAR supported maintaining the current system with changes provided for low income taxpayers. He stated MAR believed that Montana taxpayers do want to pay their fair share and with education could be made to better understand the system and that it is currently equitable with education. He expressed MAR's commitment to "doing [their] part" in that educational process.

Tim Dean, Montana Building Industry Association (MBIA), spoke from prepared testimony in opposition to SB 26 (Exhibit #5). He said, however, that the MBIA agreed with SB 25 and would support SB 26 if it was amended to exempt new construction from the five percent make-up tax.

Questions From Committee Members and Responses:

Senator Gage asked how the PTAC had arrived at the compromise involving the four percent cap and the five percent make-up tax. Kristen Juras replied the four percent cap was the figure that all members felt that they could accept; there were people that felt that the rate of inflation was the appropriate measure, some members wanted only two percent, some six or seven percent. She noted that the argument against the rate of inflation was its unpredictability which counteracted the primary advantage of a cap which was predictability. Ms. Juras noted that the PTAC decided on the five percent make-up tax based on the statistics that a house of sold on an average of once every seven years and the average mill level per county was 365 mills. She noted that using those averages, the five percent would come close to making-up the tax benefits of the four percent cap. She stated the PTAC had considered using an accurate figure in order to recapture the true benefit but had concluded that determining that amount upon the sale of a property would be an administrative nightmare. She noted that the five percent was also somewhat arbitrary and represented a compromise; people who hold their homes for only two years would probably pay more taxes with the five percent and people who own their homes for ten or

more years would not truly make up the benefits they had received from the cap.

Senator Gage asked **Ms. Juras** to clarify the relationship between the three year phase-in and the provision that property values could increase by only four percent annually. In order to make the situation more clear, he used the example of a home which was valued at \$100,000 prior to the reappraisal but increased in value by \$16,000 as a result of the reappraisal. **Ms. Juras** said that the PTAC proposal would phase-in that \$16,000 increase in value over three years without the four percent cap. She explained the four percent cap would only become effective with the 1997 reappraisal, which would figure the four percent cap from the \$116,000. She said that beginning in 1997, the 1993 appraisals would be used as the benchmark for measuring the four percent per year cap: in 1994 the most the value of that home could increase would be four percent of \$116,000 the first year, another four percent the next year, etc.

Senator Gage asked if there would be another definite jolt when the next reappraisals are calculated. **Kristen Juras** sketched out a situation in which a property was valued at \$100,000 in 1993 and in 1997 the new re-appraisal cycle determined the actual value of that property to be \$150,000. She explained that the taxable value of that property would be calculated from the 1993 benchmark value of \$100,000; the most that the 1997 taxable value could increase would be four percent to \$104,000, and the most it could increase the next year would be another four percent. She stated the tax bill would never reflect the full \$150,000 value of that property.

Senator Eck asked **Kristin Juras** to address **Mr. Dean's** concern about new construction being subject to the five percent make-up tax. **Ms. Juras** responded the PTAC had not intended that new construction would be subject to the five percent make-up tax. She stated legislation would need to be crafted to make sure that the five percent make-up tax would not be imposed on new construction but specifically on the value of the lot.

Senator Eck wondered if the PTAC had looked at the possibility of adjusting the method of collecting the tax instead of making changes in property valuations. She stated one alternative would be allowing any taxpayer whose taxes increase more than four percent the option of deferring that tax until the time the property was sold or transferred. **Senator Eck** noted such a method would allow the exact amount of taxes owed to be collected. **Ms. Juras** replied that the PTAC had considered that option at length. She said that statistics from other states with similar programs showed that less than five percent of those eligible took advantage of the program. She said the PTAC members decided the low participation rate could probably be attributed to the fact that people did not want liens against their homes. **Ms. Juras** said that the PTAC had also determined some technical difficulties would be associated with such a tax

policy and first mortgages, since taxes would become a lien on the property and given first priority. She stated that the PTAC had determined that it would prove very difficult to implement such a plan for the vast majority of houses with mortgages, and added it was not the best plan available. She noted that a reverse annuity program was already available to help some people, in effect, defer taxes on their homes and added that program could serve as a backup.

Senator Eck asked if a make-up tax would do the same thing to a house with a mortgage. **Ms. Juras** acknowledged that some similarities between the two existed. She said the PTAC had decided that one advantage the make-up tax had was that it was fixed and might give more predictability to lenders concerned about the property.

Senator Doherty asked **Ms. Juras** to explain her comment that property tax rebates might be unconstitutional. **Ms. Juras** emphasized that her comment applied not to the rebates in the Governor's proposal, but to those rebates the PTAC had considered which would have used county property taxes to finance rebates for those taxpayers who had experienced more than 25 percent increases. She expressed her opinion that any rebate coming directly from property taxes would not meet constitutional muster. She noted that the Governor Racicot's proposal would use other sources to finance rebates. She stated, however, that the question whether rebates actually met Montana's constitutional requirement of property taxation, equalization and uniformity remained valid and would probably be decided by the court if the Legislature adopted a rebate proposal. She noted that Montana currently had an income tax credit the constitutionality of which had not yet been challenged, and added that if the rebate becomes so broad and so significant, the issue might become important enough to litigate. She stated her personal opinion was that such broad rebates might not pass constitutional muster.

Senator Doherty addressed **Ms. Juras'** comments that a freeze would be a disincentive to new commercial businesses. He asked if that would apply both to areas of decreasing property values and to areas experiencing the boom. **Ms. Juras** replied a disincentive would be created in those areas experiencing a boom.

Senator Doherty noted that a freeze could very well take the boom out of the business community in those areas experiencing economic development. He asked if those who back economic development would be wise to oppose a freeze. **Ms. Juras** responded such people would be wise to consider the possible consequences.

Senator Grosfield noted that SB 27 was fairly direct and would provide that the value may not increase more than four percent per year on property, but made no reference to ownership. He said that SB 26, however, contained the five percent make-up tax on acquisition value. He asked how it would be statutorily

possible to use acquisition value so that the appraised value would not be limited by the four percent cap if that cap were specified in the Constitution. **Ms. Juras** replied the Constitution should be clarified to permit an increase greater than four percent in the case of an acquisition.

Senator Towe expressed his appreciation for the fine work of the PTAC. He said there were a number of technicalities that needed to be addressed and asked if **Ms. Juras** would be available to help the Committee address those issues. **Ms. Juras** said she would be available to help.

Senator Towe asked **Ms. Juras** to clarify how the PTAC defined a family in reference to intrafamily transfers. **Ms. Juras** said she thought the PTAC had intended to include transfers among spouses. **Senator Towe** asked if children would be included in that definition. **Ms. Juras** replied she recalled that the PTAC wanted to limit those transfers to spouses only, but added she would have to refer back to her notes to be certain. **Senator Towe** asked her to inform the Committee if her notes indicated anything different, and asked if the PTAC had intended whether appeals regarding the five percent make-up tax should be pursued through the normal appeals process. **Ms. Juras** replied the PTAC had not given thought to the appropriate appeals process.

Senator Towe said the enforcement mechanism on page ten requiring that the make-up tax be paid before the deed could be recorded concerned him. He noted that provision would ensure payment, but could involve a considerable delay if it involves an appraisal which is appealed. **Ms. Juras** commented that the PTAC had not discussed that issue.

Senator Towe asked if it was really necessary for SB 27 to be so specific. He asked if the phrase "an increase in the value of the residential property may be limited as provided by the legislature" could not be used instead. He noted that language would circumvent the questions of putting four percent into the Constitution, providing for the phase-in, or including acquisition value. **Ms. Juras** replied the PTAC had not drafted the language. She said the language could be more general, and stated it needed substantial work.

Senator Gage asked **Ms. Juras** to comment on the concern expressed by MAR about the phase-in of decreases. **Ms. Juras** responded it was a valid point to consider. She said she did not recall that the PTAC members had very thoroughly discussed why the phase-in should apply to increases and not decreases. She noted the PTAC had simply decided that decreases should apply immediately since that would benefit those people with decreased values.

Referring to the five percent make-up tax, **Senator Harp** asked if the PTAC had considered a lien on the property. **Ms. Juras** replied that the PTAC did prefer to have that make-up tax be a lien on the property. **Senator Harp** asked who would collect the money due in make-up tax and how that money would be distributed.

Ms. Juras said the make-up tax would be collected by local governments and redistributed to local governments to allocate for their general funds in accordance with the mills for the year in which it was collected. She stated local governments would then have that money on hand for the next year for budgetary purposes.

Senator Harp said the allocation and use of that make-up tax needed to be specified in SB 26. **Ms. Juras** agreed.

Senator Harp said if the effective tax values for 1993 are reduced in 1994, schools would have to increase their mills to keep their current budgets in line. He noted there was no provision to require schools to adjust their mill levels downward again once tax values started to increase. He asked if that did not create an opportunity for large increases in taxes. **Ms. Juras** noted that 101 of those school mills were levied state-wide and could only be changed by the Legislature. She said that local school districts levy and have the ability to increase the remaining mills, which they do for a variety of reasons: to increase their budgets, to maintain their budgets because property values have fallen, or to replenish their reserves. She stated that **Senator Harp's** point was accurate, both values and mills needed to be considered in the property tax equation.

Representative Swanson commented that **Senator Harp** had raised a real concern. She noted that city and county governments are already controlled by I-105, but school budgets were not. She informed the Committee that legislation currently in the House addressed budgetary increases. She said the situation might be addressed by the House's probable action which would allow schools budgeted under 80 percent to phase-in up to the 80 percent level, but would require schools budgeted between 80-100 percent to obtain voted levies.

Senator Harp asked **Mick Robinson, Director, DOR**, to explain the reason why the administration's proposal departed from PTAC recommendations. After drawing the Committee's attention to the fact that he had testified neither for nor against Senate Bills 25, 26, and 27 and complementing the PTAC, **Mr. Robinson** replied it was the **Governor's** decision that the immediate steps included in the PTAC reports were insufficient to address the immediate concerns of the taxpayers and head off the potential property tax revolt. He said PTAC's proposed extension for low income credit would address only those households with an income of \$16,000 or less. He added that many Montana taxpayers do not fit into that category but are still on fixed incomes or working for wages that are not increasing at a rate commensurate with inflation or the 13.3 percent statewide average increase in residential property taxes.

Mick Robinson stated the primary question everyone was asking was "what policy is fair for Montana taxpayers and long-term residents?". He emphasized that tax policy needs to be

fundamentally based on the taxpayers' perception of its fairness, and that the current valuation system is widely perceived as unfair. He expressed his belief that the valuation approach used in the 1993 appraisals arrived at comparable sales models that were more consistent than ever before. He added, however, that Montana taxpayers, especially in the hot areas, believe that the comparable sales models are arriving at values that are being dictated by basically unfair transactions: out-of-state money buying, bidding, and paying exorbitant values for properties.

Mr. Robinson expressed the opinion that the rollback and phase-in approach contained in SB 25 would allow higher property taxes than no action if no automatic adjustment were placed on school or local government mill levies. He explained that the rollback would create "significant interest" on the part of local governments and schools to increase their levies in order to maintain their budgets for FY94. He added that the phase-in of those property values and property tax revenues would automatically increase by one-third for each of FY95 and FY96 unless the mills were adjusted downward.

According to **Mr. Robinson**, SB 26, the long-term proposal, is "the best piece" of the PTAC recommendations. He stated the phase-in and cap provision addressed the sticker shock and the significant increases that might be felt in an appraisal period. He noted that **Governor Racicot** did not support the make-up tax because of the unpredictability, complications, and complexity it would bring into the property tax system as well as the fact that many taxpayers might not know of its existence until they sell their property. He said, however, that the **Governor** was aware that the PTAC's intention clearly tied the make-up tax and the other structural changes together. He stated that the administration felt obliged to introduce to the Legislature the acquisition value model for property tax because taxpayers perceive that mechanism to be ultimately more fair than the acquisition value model. He noted that many taxpayers have a hard time understanding why taxable value is not the market value for their property especially when comparable sales of property are escalating so significantly in many parts of the state.

In closing **Mr. Robinson** emphasized that **Governor Racicot** had taken a "serious prolonged look" at the recommendations provided by the PTAC. He noted the **Governor** had asked him numerous questions and had gone through most of the material presented to the PTAC. He stated that the **Governor** felt, based on his reflection and the input from taxpayers, that the administration's recommendation was more justified given the structural change and the immediate impact for the taxpayers of Montana it contained.

Senator Eck asked **Mr. Robinson** whether he had worked with or consulted with PTAC members about the administration's plan and if so what their reaction was. **Mr. Robinson** replied that he had not directly consulted with the PTAC about the administration's

concrete proposal. He said, however, that all of the concepts in the plan were discussed by the PTAC. He explained he had presented information from the PTAC proceedings to **Governor Racicot** and noted that **Lieutenant Governor Rehberg** had also sat in on many of the PTAC sessions. He said no direct meeting took place which involved the PTAC as a group and the **Governor** regarding the administration's recommendations.

Senator Doherty noted that **Mick Robinson** had mentioned the fact that Montana property owners are being forced to sell their property. He stated he had often heard the allegation made, but would like to base any policy strictly on fact. He asked if **Mr. Robinson** could supply the Committee with the specifics of "how many, who, where, and when have been forced to sell their property because of property taxes". **Mr. Robinson** replied he could present the Committee with a file of letters regarding the significant increases that many people are experiencing. He stated those letters contained some very direct statements that the increases in property taxes would make it very difficult for the writers to stay in their homes. Citing the fact that the property tax payment date had just expired and the payments were currently being made, however, **Mr. Robinson** said DOR could probably select and present the statistics **Senator Doherty** had asked for "within a year or so".

Senator Doherty asked **Mr. Robinson** to give an indication of where the letters in his file were from, how much the property taxes went up, on what kind of property. He said he knew that one PTAC member had received a letter from a resident who was outraged that the taxes on his second home had gone up. **Senator Doherty** emphasized that he was not dismissing the difficulties the increases had caused Montana residents, and repeated he just wanted "to know how many, where, when, and why". **Mr. Robinson** offered two specific examples from the calls and letters he had received. One example was a family of five from Missoula with a house in the Rattlesnake area. The property taxes on that were \$1500 when it was built seven years ago, in 1992 the taxes increased to \$2400, and in 1993 to \$3300. **Mr. Robinson** said the family lived on a teacher's salary and did not know whether or not they could continue to live in that home, make the mortgage payments and the increase in taxes. The second example was a single mother with a home near Nelson whose property taxes went from \$200 to \$800. According to **Mr. Robinson** the woman had purchased that particular piece of property because it was cheaper than any rental unit she could find, but the unexpected increases in property taxes would not fit into her budget. **Mr. Robinson** stated that those examples were of primary residents who were concerned about their first home and were representative of the letters and phone calls he had been receiving.

Senator Doherty noted that if property appraisals and property values in a county are increasing, in theory at least, the number of mills that need to be levied should at some point go down if everything else remains constant. He asked **Mick Robinson** if it

was the responsibility of the Legislature or local jurisdictions to balance the needs of a growing community and increases in property values in order to keep the mill levies down. **Mr. Robinson** noted that when the reappraisals became an issue in June 1993 most of the newspaper reporters were writing articles that did not indicate that reductions in mill levies were a possible response to increased property values. He stated county commissioners and members of school boards had criticized him when he made statements which articulated that possibility. He stated those people in control of increasing mill levies had basically indicated that they did not have the latitude to decrease mill levies. He noted also that HB 667 did not give the public the ability to vote on those increases, but allowed those changes to be made at the direction of school boards, etc. **Mr. Robinson** stated that the reality of Montana's current budgetary situation was the existence of a significant demand for services but a real resistance to pay for those services. He noted that was the reason the special session had been called. He noted that most people involved in government recognize that there are significant services that must be maintained at a certain level of acceptable quality. He added that many people understand that if there is not some response to the current crisis or revolt, there might be something far more drastic in November.

Senator Towe commented that the school teacher in Missoula apparently had a \$190,000 house. **Mr. Robinson** noted that the house was not worth \$190,000 seven years ago.

Senator Towe replied that the family could now sell the house for that sum assuming that DOR's appraisals are accurate. He commented that the chair of the Committee on Taxation at the Constitutional Convention had insisted that Montana ought to have equal appraisals across the state because the condition of the property tax system was then terrible because values were terribly inconsistent from area to area. **Senator Towe** stated that as a result of current constitutional language, Montana had finally developed a very good and "pretty accurate" appraisal system. He said the current problem was that the system had become so accurate that people did not like it.

Noting he had asked **Mr. Robinson** this question at least two times before, **Senator Towe** asked **Mick Robinson** if it were necessary to introduce a bill reducing the 3.86 percent accorded to the average mill. **Mr. Robinson** replied he did not think such a bill was necessary. He noted that when **Senator Towe** had previously asked that question, previously the final figures from the reappraisals had not been available. He stated, however, that even knowing the statewide average appraisal increase was 7.3 percent, he would not recommend such a bill because of the Montana's significant diversity. He said an "across the board" reduction state-wide would penalize those areas with decreasing values unfairly and possibly push them into automatically adjusting their mill-levies upward. **Mr. Robinson** concluded that the PTAC had also reviewed that possibility and the diversity in

the state had caused them to reject that alternative because it was not perceived as a fair mechanism for adjusting taxes.

Senator Towe addressed **Dennis Burr, Montana Taxpayers Association (MTA)** and noted he had not yet commented and asked if he would like to say anything. **Mr. Burr** noted he had been a member of the PTAC. He said that the recommendations made to the Governor were consensus recommendations and emphasized that everyone on the PTAC was willing to support those recommendations as a package. He noted that individual members liked some recommendations and did not like others, and that for many members their support was contingent upon the package remaining whole. **Mr. Burr** described the give and take necessary to arrive at a group decision and said that most members were disappointed that the PTAC had not recommended anything for this tax year. He noted that the primary substantive difference between the PTAC recommendations and the Governor's proposal was simply how to address the 1993 tax year. He stated that most of the recommendations the PTAC made for the "out year" -- acquisition based assessments and limitations on increases -- were very similar to the Governor's proposal. He expressed the opinion that there was room to compromise on the other details.

Senator Towe asked why four percent was chosen rather than an average number. He noted that a number which did not float could pose a problem if Montana were to experience several years of high inflation. **Dennis Burr** agreed that if Montana went to double digit inflation, the four percent cap would cause the local government tax base to lag behind the cost of doing business. He stated that the PTAC had considered just using the rate of inflation and was not actually strong enough on the four percent to argue with a better idea. He also commented in California the tax base had grown at a rate of about 10 percent a year since they limited the increase in value to two percent per year. He said that because of the changes in the tax base when property is sold or transferred and because of new construction California has been experiencing a very stable increase in their local tax base.

Chair Halligan asked **Mr. Dutton** if he had would like to respond to California's experience with the two percent limit and how it is working. **Mr. Dutton** replied MAR had a great anxiety about using the California law. He distributed some handouts (Exhibit #6). He commented that the administration had incorporated not only California's two percent cap but also the concept of acquisition cost into its proposal. He said that between 1975 and 1990 the average inflation rate was 6.5 percent and property appreciation was 11 percent in California. **Mr. Dutton** explained that because California uses acquisition cost, the 11 percent funneled new money into the system but placed the tax burden on people who purchased new properties. He stated that in California the extreme property appreciation rate and the booming real estate market allowed local tax bases to grow despite the two percent limit. He stated MAR did not believe that Montana

would enjoy that kind of stability. **Mr. Dutton** responded to prior comments about the taxpayers' negative perception regarding the current valuation system. He stated that MAR had poled realtors all over the state and the results showed that most homeowners knew the approximate value of their home and could, as a result, accept a reasonable appraised value although they might be mad about increases. He concluded that the problem with property taxes is not one of perception or people distrusting the current valuation, but rather on the budget side. He suggested that the Legislature focus its attention on budgets and mill levies instead of the valuation system.

Senator Brown commented that realtors benefit from real estate transactions and higher prices on those homes. He stated that the current situation seemed to indicate that people might be forced into selling their homes because they cannot afford to pay their taxes. He stated that acquisition value might provide an inducement for people to remain in the same home over a longer period of time. He asked **Mr. Dutton** if that difference was one of the reasons he was at the hearing. **Mr. Dutton** replied that MAR recognized that acquisition costs would probably have some effect on people's willingness to sell or move. He stated that MAR is really concerned about equity; the organization tries to represent property in decreasing as well as increasing markets. He stated that MAR is concerned that people both perceive and receive equity and fairness which is the ultimate issue under discussion.

Senator Brown noted that he could not help but wonder whether **Mr. Dutton** did not have some personal motive in the time and effort he had invested in this issue. **Senator Brown** noted he was not saying that was bad, and he believed that most people are motivated by self-interest beyond just some egalitarian concern for equity. **Mr. Dutton** responded that MAR was ultimately arguing in favor of higher total property taxes because MAR was for preserving the tax base. He stated MAR was "trying to take the high road in this debate" and recognized that its motives would be called into question because a system using acquisition value would probably have some deterrent to property turnover. He said, however, that California might prove otherwise. He stated that in any market, but especially in a good market, people make their decision to buy a home or a new home based on many more things than taxes.

Closing by Sponsor:

Senator Van Valkenburg expressed his hope that the Committee and the Montana public had a much better understanding of the reasoning behind the PTAC recommendations to the **Governor**. He stated he recognized the importance of the property tax issue and assured committee members and those present that he did not profess that Senate Bills 25, 26, and 27 provided the sole answer to the problems facing Montana. He added, however, that the PTAC members had "struggled long and hard" with the very issues that

the Legislature currently faced, but were not subject to the "whims of the next election". He suggested that was an asset since they were long-time Montana residents who could step back, think about what was really in the best interests of all Montanans, and speak their minds without having to worry about getting enough votes in the next election.

Senator Van Valkenburg referred to **Alec Hansen's** description of Montana's system of taxation as a bicycle. He agreed that there was some validity in the comparison since Montana was largely dependent upon income and property taxation, and carried the analogy one step further to include the wheels. He said that the wheels on that bicycle are supported by spokes and suggested that legislators and the administration were hearing very strongly from some people who represented some of the spokes on that bicycle tire. He stated if only those people who represent some of the spokes on that bicycle tire are paid attention, Montana will soon find that the other spokes are falling apart. He said Montana's tires would not be in any better shape if more pressure is put on other spokes in order to relieve some of the pressure on those who are feeling the effects of this property tax increase this particular year.

Senator Van Valkenburg noted that the example **Mr. Robinson** used in illustrating the unfair impact of increased property taxes actually reflected more of a special circumstance. He advised the Committee that most of the Rattlesnake area was annexed into the city of Missoula within the last couple of years, an action which had a significant impact on property taxation in that area. According to **Senator Van Valkenburg**, an even more important point was that the school teacher probably belonged to an organization that brought suit against the State of Montana because school financing was not equitable across the state. He stated the current situation is a definite consequence of those suits particularly given the fact when "we as Montanans have decided we do not want to use a general sales tax to equalize funding throughout the State". He said that particular decision had been made and everyone in Montana had to realize that and live with the consequences.

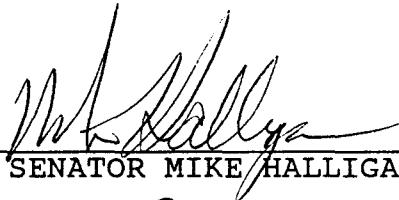
Senator Van Valkenburg said he had received a lot of mail because he had criticized primarily the funding mechanism that **Governor Racicot's** proposed to use for property tax rebates. He emphasized that the property tax issue was not a partisan issue, but an issue in which all Montanans have a great interest. He expressed his desire to work with the Committee, the Legislature, and the Governor on the issue in the next two weeks as well as his belief in the possibility of reaching reasonable compromise and consensus much like the PTAC had been able to do.

Chair Halligan stated the Committee would be hearing the other major pieces of the Property Tax issue Monday morning: SB 20 sponsored by **Senator Harp** and SB 17 sponsored by **Senator Crippen**.


He said he did not know whether a subcommittee would be necessary or not, but added he expected that the Committee would have to work very quickly in order to resolve the basic components in the various proposals. He thanked the PTAC members present for their work and testimony and mentioned that Ms. Juras had had prior occasion to assist the Committee on the limited liability company issue.

ADJOURNMENT

Adjournment: 10:58 a.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE TAXATION

DATE 4 December, 1993

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

PROPERTY TAX PROPOSAL SUMMARY
Rep. Emily Swanson
December, 1993

EXHIBIT 1

DATE December 4, 1993

BILL NO. Senate Bills 25, 26 + 2

MONTANA HOMEOWNERS EQUITY ACT

WHY? Citizens are very concerned that drastic increases in property taxes may force them to sell their homes. We need a Montana property tax system that allows Montana residents to remain in their homes and to own property without having costs of ownership become prohibitive.

FEATURES OF PROPOSED LEGISLATION

- ** Expand low-income program immediately; apply to this year's taxes
- ** Roll back taxes for next year; phase in 1993 appraisal values
- ** Keep 3 year market appraisal cycles; phase in by thirds in each cycle
- ** Constitutional amendment to limit increases in market values at 4% per year
- ** 5% "makeup tax" on homes sold during appraisal cycle
- ** Sale price becomes appraised value for home sold during appraisal cycle

BENEFITS OF PROPOSED LEGISLATION

- ** Constitutional amendment controls rate of increase in property values to provide security for homeowners
- ** Appraisal system retains equity in tax system
- ** Homeowners who NEED immediate relief have access to existing program for this tax year
- ** Provide larger tax breaks to low and moderate income homeowners
- ** All homeowners gain greater dependability knowing what future property taxes are
- ** Sale price keeps system up to date and ensures homeowner tax fairness
- ** Local governments and schools do not suffer

12-4-93
SB's 25, 26 + 2

And...in more detail

MONTANA HOMEOWNERS EQUITY ACT

Part 1: This year: Extend Low-Income Program Application Period
Extend to March 1, 1994, the low-income application date and implement a program to educate eligible taxpayers of the program so they can apply.

Part 2: Next 3 fiscal years: Expand Low-Income program; roll-back taxes and phase-in appraisal values.

* Low-income program: 1) Increase income levels to \$15,000 for single and \$20,000 for head-of-household and married. 2) restructure to four categories rather than current ten categories.

* Tax roll-back and phase-in of appraisal values: 1) FY 95 pay 1992 value plus one-third of difference between tax year 1992 and 1993 appraisal values. 2) FY96 pay 1992 value plus two-thirds of difference between tax year 1992 and 1993 appraisal values. 3) FY97 pay 1993 appraisal value.

Part 3: Long-term structural change beginning Jan. 1, 1997.

* Keep 3 year market appraisal cycles.

* Market value increases are phased in over three year reappraisal cycle.

* All market value decreases implemented first year.

* **Constitutional amendment: Market value increases be limited at 4% per year.**

* 5% "makeup tax" on sale of class 4 property on difference over \$5,000 between selling price and property tax appraisal value in year sold.

* Sale price becomes property tax appraised value for remainder of appraisal cycle.

EXHIBIT 2
December 4, 1993
Squatz Bills 25, 26 & 27

**WRITTEN TESTIMONY OF KRISTEN G. JURAS
IN SUPPORT OF SENATE BILL NOS. 25, 26 and 27
Senate Taxation Committee
December 4, 1993**

My name is Kristen Juras. I am an attorney with the law firm of Church, Harris, Johnson & Williams in Great Falls. One of my areas of practice is property tax law. I also currently serve as Chairperson of the State Bar Section on Trusts, Estates, Tax and Business Law. I served as a member of the Tax Advisory Council on Property Ownership appointed by the Governor to study the issue of increasing property values (and corresponding increases in taxes) in several areas of Montana. I was very impressed with the make-up of the Council. The members were bi-partisan and represented many divergent views. All of us were dedicated and sincere in our struggle to come up with recommendations to address property tax reform. We also received capable assistance and data from staff members of the Department of Revenue.

We quickly learned as a group that tax reform is very complex and very expensive. We came to the difficult realization that unless budgets are cut by a corresponding amount, whenever you give one property owner tax relief, someone else has to pick up that burden. We struggled greatly with that issue. Almost all members of the Council agreed that it was not fair to shift the burden of tax from properties increasing in value to properties increasing at a slower rate or decreasing. (Note that 42% of residential properties declined in value in the 1993 reappraisal.) That is what a "freeze" does. See attached exhibit.

As a long-term solution, the Council did ultimately recommend a 4% cap on property tax increases for Class 4 property, with a "make-up" of the property tax savings when the property was sold. The "make-up" provision was an essential part of our recommendation, since it alleviates somewhat the shifting of tax burdens which occurs as a result of a cap on values. Without the make-up provision, the Council would not have reached a consensus on a freeze.

Another major issue with which we struggled was the effect of any tax reform on both state and local budgets. In view of the special legislature's mandate to reduce spending, we didn't feel we could adopt any plans which would have called for substantial funding by the state. Nor were we willing to create total havoc at the local level by reverting to 1992 appraisals. Furthermore, we felt that the 1993 appraisals were much more reflective of true fair market values than the 1992 appraisals. The 1992 appraisals are extensions of the 1982 appraisals (based upon a cost approach), with interim "sales assessment ratio" adjustments in many counties (which adjustments were held to be unconstitutional by the Montana Supreme Court

in the Barron decision).

In designing a proposal we also faced the constitutional requirements of uniformity and equalization. This very strict standard substantially limits the types of relief that can be offered. Simply stated, the property valuation method for property taxation must be uniform and equalize the valuation of all property. As a result of capping, some properties (i.e., those properties increasing at more than 4% per annum) are valued differently than other properties (which are valued at true fair market value).

It was the Council's conclusion that the capping proposal which we recommended as a long-term possible solution will require a constitutional amendment.

The recommendations we proposed were based on days of deliberation and analysis. They represented a consensus achieved among a widely divergent group. To summarize those proposals:

(a) For immediate relief we recommended an expansion of the current low-income property tax exemption;

(b) Commencing in 1994-95 fiscal year, a roll-back in the 1993 increases so that the 1993 increases would be phased in over the 94/95, 95/96, and 96/97 fiscal years. (Decreasing values would be implemented immediately.)

(c) For long term solutions, we recommended a continuation of the three-year cycle of market reappraisals, with the modification that whenever a property is sold in an arm's length transaction, the sales price would become the new value for property tax purposes.

(d) As another long term solution, we recommended that future increases (starting with the 1997 reappraisal cycle) be phased in over the three-year cycle, and that future increases be capped at 4% per annum. However, property owners benefitting from such a cap would be required to pay a 5% "make-up" tax when they sold their property on the difference between the sales price and, if lower, the value for property tax purposes (with a "de minimus" exception for differences of \$5,000 or less).

As you may be aware, the Governor did not adopt our recommendations. However, Rep. Emily Swanson put in a bill request based upon our proposals, and several members of the Senate have sponsored our proposals as set forth in Senate Bill Nos. 25, 26 and 27.

I understand that the Governor and other legislators are concerned about the many letters they've received from property owners who are concerned about rapidly increasing property values, and who threaten "freeze" petitions as a means of tax reform if the legislature does nothing. The problem with many of those proposals is

EXHIBIT 2
12-4-93
SB's 25, 26+2

that they oversimplify a very complex matter. They aim to protect a limited number of taxpayers, at the expense of the majority. They don't seem to understand that if a freeze is implemented, or a roll-back to 1992 values, it's the taxpayers in counties where property values are decreasing or remaining relatively stable who will be subsidizing relief for property owners in Flathead Valley and other areas experiencing significant increases. Although I sympathize with those in Flathead Valley and other areas who have seen significant increases, quite frankly I'd rather be in their shoes than in the shoes of a property owner whose values are decreasing.

EXHIBIT 2
 12-4-93
 38's 25,26+2

Impact of Implementing Market Value Caps on Tax Shifting

Case 3 - Property "A" Appreciates, Property "B" Stays Constant, and Property "C" Depreciates

Base Year Data	Home "A"	Home "B"	Home "C"
Market Value	\$60,000	\$60,000	\$60,000
Taxable Value	\$2,316	\$2,316	\$2,316
Mill Levy	42.00	42.00	42.00
Tax Liability	\$97.27	\$97.27	\$97.27
Effective Rate	0.162%	0.162%	0.162%

No Cap on Valuation Increases			
	Home "A"	Home "B"	Home "C"
Market Value	\$72,000	\$60,000	\$48,000
Taxable Value	\$2,779	\$2,316	\$1,853
Mill Levy	62.74	62.74	62.74
Tax Liability	\$174.37	\$145.31	\$116.24
Effective Rate	0.242%	0.242%	0.242%
% Inc. in Tax	79.26%	49.38%	19.50%
% Inc. in ETR	49.38%	49.38%	49.38%

With 2% Cap on Valuation Increases			
	Home "A"	Home "B"	Home "C"
True Market Value	\$72,000	\$60,000	\$48,000
Tax Market Value	\$61,200	\$61,200	\$61,200
Taxable Value	\$2,362	\$2,362	\$2,362
Mill Levy	61.51	61.51	61.51
Tax Liability	\$145.31	\$145.31	\$145.31
Effective Rate	0.202%	0.242%	0.303%
% Inc. in Tax	49.38%	49.38%	49.38%
% Inc. in ETR	24.48%	49.38%	86.73%

effective tax rate



County Commission

GALLATIN COUNTY

311 West Main, Rm. 301 • Bozeman, MT 59715

Dave Pruitt
Jane Jelinski
Kris Dunn

Phone (406) 585-1400
Fax (406) 585-1403

Senate Taxation Committee
Honorable Mike Halligan, Chair
State Capitol
Helena, Mt. 59620

SENATE TAXATION
EXHIBIT 3

DATE December 4, 1998

of Senate Bills 25, 26 & 27

December 4, 1993

Senator Halligan and Members of the Committee:

My name is Jane Jelinski and I am a Gallatin County Commissioner. I was also appointed by Governor Racicot as a member of the Tax Advisory Council. I want to thank you for considering the legislation proposed in SB 25, 26 and 27 which incorporates key provisions of the Tax Advisory Council's recommendations to the Governor. The Council took our task very seriously and we attended the meetings at the expense of other responsibilities because we were so concerned about preventing longtime Montana homeowners from being unable to continue their home ownership because of escalating property taxes. In my own case I committed myself to four trips to Helena and eight solid days of committee meetings during a time when one of our commissioners had resigned and a new one was appointed. This left the commission short staffed at a time of very high activity. Nevertheless, our commission supported my participation on the Council because of the importance of its mission.

I would like to show you the amount of material that the Council studied to demonstrate the thoroughness of our deliberations. In addition to Council members' work, our meetings were attended by a minimum of five Department of Revenue staff members at all times. This was not a frivolous undertaking.

We took an open-minded look at many alternatives including California's Proposition 13, tax reductions, caps, circuit breakers, rebates, and freezes. For every proposal we considered, the staff prepared reports on legal issues associated with the proposal, administrative costs and implications, cost to state, schools, and local governments, and benefits and deficits to the taxpayers.

I would like to focus my testimony on why we unanimously rejected rebates or refunds. Refunding a portion of paid tax bills presented an administrative nightmare, and fiscal chaos for schools and local governments. Budgets for these entities were fixed last July. Contracts were signed,

staffing levels decided, repairs and purchases were effected, and policies were adopted. To reduce those budgets six months after adoption would require layoffs and decisions with immediate and serious legal and administrative problems. It would also penalize those counties that reduced their mill levies to reduce the impact of reappraisal on their taxpayers.

12-4-93
SB's 2526

The administrative problems of rebates were significant. Assessors would have to create a second tax assessment while their staffs were reduced due to lost revenue. It cost Gallatin County \$11,000 to mail tax bills once this year. An impossible administrative dilemma with rebates is how to figure rebates or bills on the 2000 parcels that have been split in Gallatin County alone this year. If the figure could be determined, who would get the rebate - the current homeowner or the previous owner?

Limiting rebates to non-voted levies presents additional problems. Gallatin County has 51 Rural Improvement Districts and 60 Special Districts. Separating these from the property tax increase would require a whole new computer software package and a new method of tax billing. This certainly could not be accomplished this fiscal year.

The Tax Advisory Council also rejected rebates because the staff clearly demonstrated that the result would be a shift in tax liability from the properties with rapidly increasing values to those with little or no increase. Further, it would provide tax benefits to taxpayers whose property was significantly under-assessed over the past ten years to the detriment of those who were more accurately assessed in the past and consequently had smaller increases with reappraisal. The issues of fairness and equity were central to the Council's deliberations. Rebates violate both.

In regard to proposition 13, a presentation by a California assessor convinced the Council that in addition to throwing California into a fiscal crisis, the results were very regressive. Taxes were shifted from the established homeowners to younger families who had to pay increasing income taxes, higher sales taxes, and user fees on everything from libraries to parks. These shifts have seriously impacted those citizens with the fewest resources, and locked them out of home ownership because in addition to currently bearing a greater tax burden, they would pay for the appreciated values on property if they bought their first homes.

In closing, I would stress that the committee's recommendations did effectively address the serious concern of longtime Montana residents being taxed out of their homes. The expansion of the low income tax benefit alleviates that problem more effectively and permanently than rebates or other alternatives. I urge you to pass SB 25, 26, and 27.

Respectfully submitted,

Jane Jelinski
Gallatin County Commissioner

Montana League of Cities and Towns



SENATE TAXATION

EXHIBIT NO: 4
DATE: December 4, 1993
BILL NO: Senate bills 25, 26, 27

PROPERTY TAX RECOMMENDATIONS

The Montana League of Cities and Towns has developed a two-part proposal to alleviate the tax consequences of the 1993 revaluation of residential property and to provide long range stability to the state and local government finance system. This plan was developed as an alternative to many of the proposals that will be introduced in the special session of the legislature, and it combines some of the concepts in these bills with the recommendations of the Governor and the Special Task Force on Property Taxes.

REBATE PROPOSAL

1. Tax payments that are 10 percent above 1992 levels, and directly attributable to reappraisal, will be rebated on the principal residences of Montana property owners.
2. The rebates will be made as a credit on state income taxes.
3. The payments could be capped, which would balance the costs of the program with available revenues. Limiting rebates on the most expensive properties would also provide a more equitable distribution of the benefits of the program.
4. The pay back program will be phased out over three years by either adjusting the caps or reducing the percentage of the 1993 tax increase that will be rebated.
5. The program can be financed in the first year by the state general fund or other revenues suggested by the Governor. Funding in the next two years could come from a combination of realty transfer and accommodations taxes or other sources of revenue.

PHASE-IN AND LIMITATION PROPOSAL

1. The reappraisal system and the existing three-year assessment cycle will be maintained.
2. Following the next reappraisal in 1997, increases in valuation will be phased in equal increments over three years.
3. Reductions in valuation will be effective in the tax year immediately following the reappraisal.
4. Increases in the value of individual properties will be capped at four percent annually. This will limit the increase in value resulting from any subsequent reappraisal to a cumulative 12 percent.
5. This procedure will be repeated after every reappraisal cycle.

EXHIBIT T
12-4-93
SB's 25, 26+27

The League of Cities and Towns believes that this recommended plan has the following advantages:

1. The cost of the rebate program will be significantly reduced by limiting eligibility to the principal residences of Montana property owners and the possible cap on payments.
2. The three-year duration of the rebate program will allow values to increase, but the increments will be less severe and the state will not be committed to a payment schedule that extends until nearly the middle of the next century.
3. Following the next reappraisal, increases will be phased in and limited to four percent annually, which will stabilize the system and provide accurate, equalized and moderately progressive valuations.
4. Reappraisal will track market patterns and provide adjustments if property values fall below 1993 levels. This is important, because there is no reliable method under a Proposition 13 system to account for declining values.
5. This plan will provide immediate and reasonable relief for Montana homeowners from the tax increases that resulted from the 1993 reappraisal. In addition, it will set up a long term system that will accurately determine and equalize property values, phase in and limit tax increases and provide a moderately progressive and totally predictable source of revenue for cities, counties, schools, special districts and state government.



SB 26

Senate Timination
Exhibit: 5
DATE: December 4, 1993
BILL: Senate Bills 25, 26 & 27.

Phase In Residential Value Increase
Sellers' Equity Tax

OFFICERS:

- Gene Graf III
Bozeman, President
- Stan Helgeson
Billings, 1st Vice President
- Bob Ross, Jr.
Kalispell, 2nd Vice President
- Mark Meek
Helena, Treasurer
- David Steen
Great Falls, Past President
- Tim Dean
Bozeman, National Rep.
- Jim Caras
Missoula, Builder Rep.
- Frank Armknecht
Bozeman, Associate Rep.

CHAPTERS:

- Flathead Building Assoc.
752-2522
- Missoula Building Industry Assoc.
543-4423
- Helena Building Industry Assoc.
458-5380
- Homebuilders Assoc. of Billings
252-7533
- S.W. Montana Building Industry Assoc.
585-8181
- Great Falls Homebuilders Assoc.
452-HOME

Recommend:
Do Not Pass

Ladies & Gentlemen of the Committee:

Tim Dean, home builder, Bozeman, Montana, representing the Montana Building Industry Association, Our nearly 900 members are business with nearly 32,000 employees serving the Montana housing and construction industry.

Although, understandably, this session is forced to deal with the burdens that recent property tax appraisals have placed upon homeowners; we believe that SB 26, places a heavy burden upon the sale of improvements a property owner may choose to undertake. It is tax policy which discourages investment in property improvements.

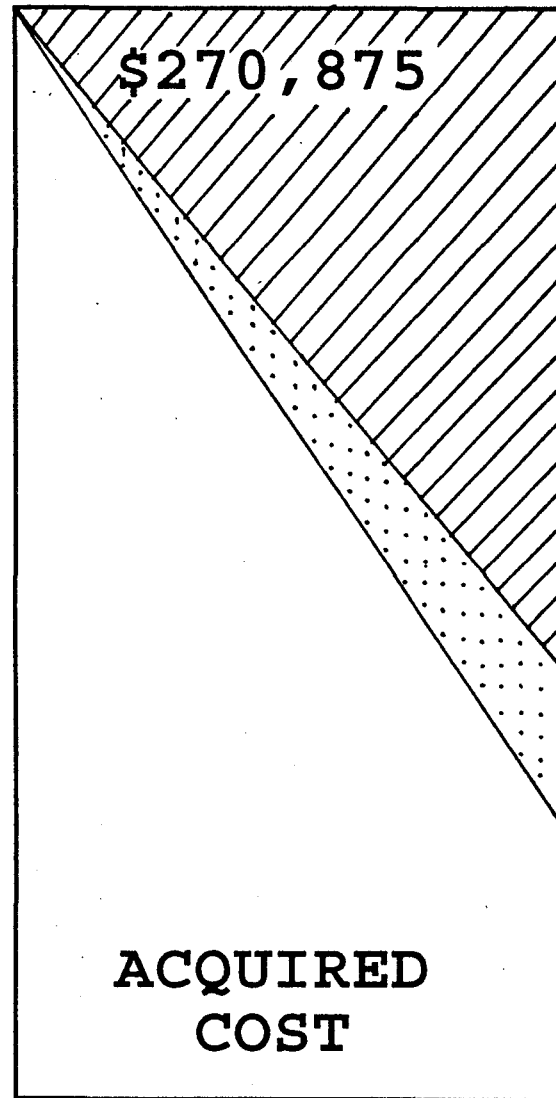
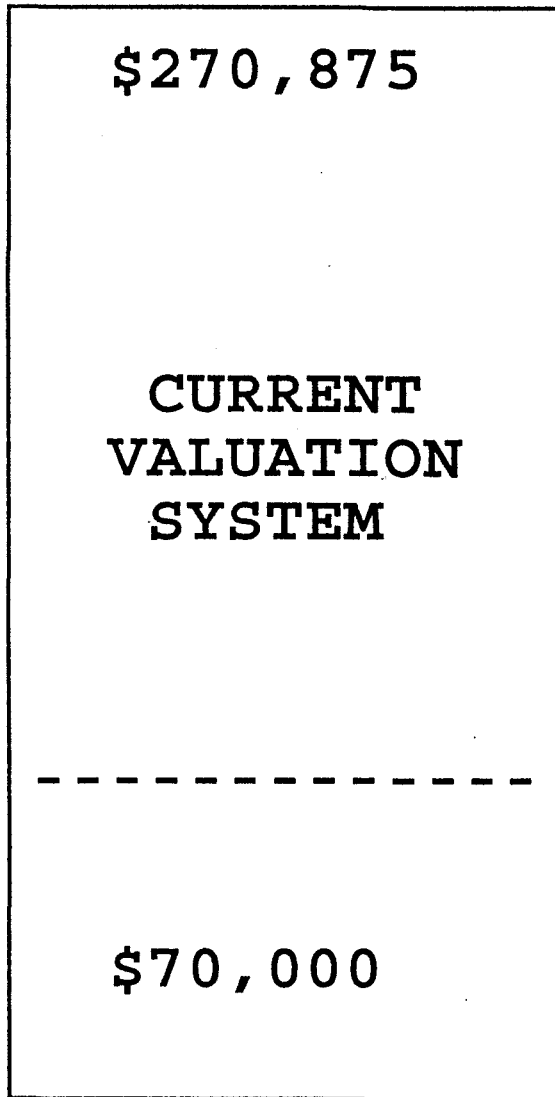
For example, purchase of a vacant lot constitutes a tax record. If a home is built on that vacant lot and then sold, that owner is responsible for the full tax due; whereas other homes owners with similar valuations are entitled to a phase-in.

However, the real objectionable component of SB 26 is the 5% tax on the difference between the previous year's tax bill, when the property was a vacant lot, and current year's tax bill, when the property contains a home. This transfer tax is a disguised tax on new construction. It is more property tax. A \$20,000 lot which turns into a \$120,000 home would cost that homeowner \$5,000!!

We have in Montana a crisis of home affordability. In Montana's growth areas, there is more demand for housing than there are homes available. Housing shortages create unreasonably high rents and housing costs; not to mention social problems faced by communities with lack of affordable housing. The families who invest in their communities by providing new housing, and consequently freeing up existing housing, would be faced with an impossible financial hurdle if SB 26 became law.

Affiliated With





SENATE TAXATION
 EXHIBIT NO: 6
 DATE: December 31, 1993
 BILL: Senate Bills 25, 26 & 27

\$104,016

\$70,000

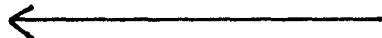
7% ANNUAL APPRECIATION OVER 20 YEARS

Montana Association of Realtors
 Retain Current Valuation System
 Greater Equity
 Preserves Tax Base

EXHIBIT 6
12-4-93
SB's 25,26+27

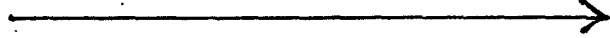
CALIFORNIA 1975-1990 EXPERIENCE WITH PROPOSITION 13

\$170,000



11%

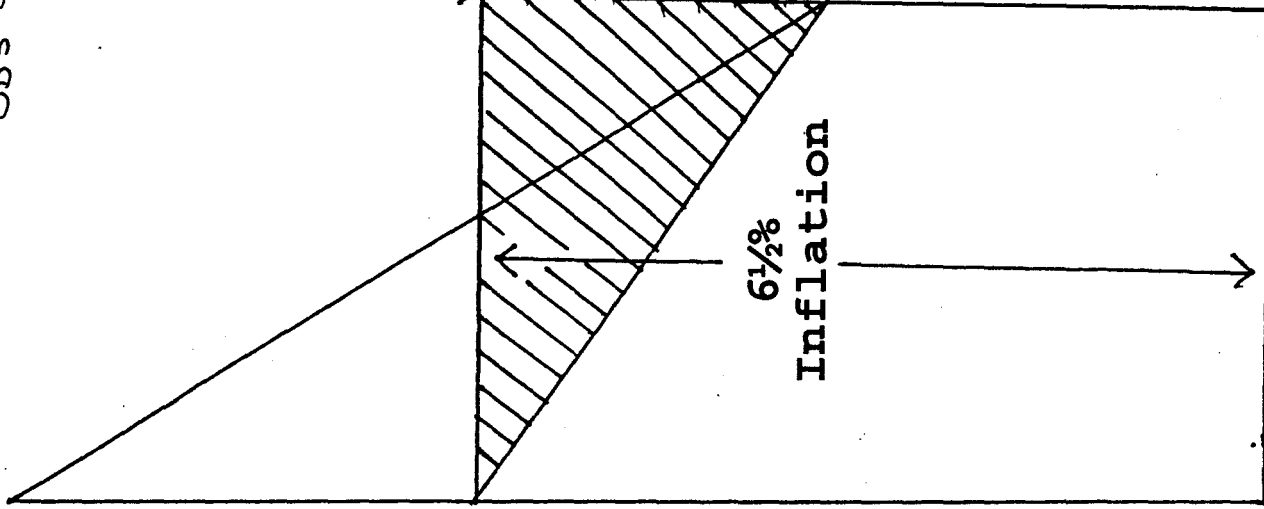
Property
Appreciation



\$90,000

\$35,000

6 1/2%
Inflation



Montana Association of Realtors
Retain Current Valuation System
Greater Equity
Preserves Tax Base

EXHIBIT 7
12-4-93
SB's 25, 26 +

Dear Committee:

I am sorry I missed the Committee hearing due to my having to be on the House floor.

Your bills have merits as to property tax reform. However, I think the Governor and both political parties are headed for a train crash next week. Giving rebates & lowering property taxes increases are good, but don't solve the underlying problem of disaster in the reappraisal and appraisal system. Also if the reappraisal just finished is illegal (which it probably will be ^{found}) we are giving breaks on a reappraisal that is wrong.

The voters may want property taxes reduced, but both bills are only a short term fix if the reappraisal system is wrong. I don't have the answers, but starting just on fixing the reappraisal system so people have faith in it will short term may disappoint voters, but long term they will believe this was finally the best way to go.

Sincerely,

Rep. John Cobb

DATE December 4, 1993SENATE COMMITTEE ON JudiciaryBILLS BEING HEARD TODAY: SB 25-26-27

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Gordon Morris</i>	<i>MALC</i>	<i>SB 25</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Wanda Stull-Anderson</i>	<i>Lewis Clark County</i>	<i>SB 25</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Tom Haggood</i>	<i>Mt. Assoc. Realtors</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Ernie Dutton</i>	<i>Mt. Assoc. Realtors</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Scott A. Arnold</i>	<i>A.F.S. C.M.E.</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Kristen Juras</i>	<i>Tax Advisory Council</i>	<i>SB 25</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Jean Jelinski</i>	<i>Tax Advisory Council</i>		<input type="checkbox"/>	<input type="checkbox"/>
<i>Tim DeAN</i>	<i>Mt. Building Ind. Ass</i>	<i>SB 26</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Jerry Schilling</i>	<i>Self</i>	<i>SB 26</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Gregory Van Horssen</i>	<i>Income Property Managers Assn Montana Landlords</i>	<i>SB 26</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Phyllis Smith</i>	<i>Mt Women Lg</i>	<i>SB 25 26</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Pam Egan</i>	<i>Mt Family Union AFL-CIO</i>	<i>SB 25 26, 27</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Darrell Holzer</i>	<i>MT ST AFL-CIO</i>	<i>SB 25 26, 27</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Fred Martin</i>	<i>Mt Democratic Party</i>	<i>SB 25 26/27</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE December 4, 1993

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: Senate Bills 25, 26 + 27

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Sue Bartlett	S.D. 23	25, 26 27	X	
Ed Caplis	MSCIA	25, 26 27	X	
Wayne Lewis	MLIC	25-27	X	
Alvin B. Swadlow	AARP			
Tom Pryor	Mont Sm Cit 23		✓	
Chet Hunsy	MLIC	25-26 27	✓	
Alec Hausen	MLCT	"	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY