

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Eck, Vice-Chair, on December 8, 1993,
at 8:11 a.m.

ROLL CALL

Members Present:

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: Senator Halligan

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 12, SB 19
Executive Action: None.

HEARING ON SENATE BILL 12

Opening Statement by Sponsor:

Senator Swift, Senate District 32, stated SB 12 would place a five percent annual cap on the allowable increase in appraised values on owner-occupied residential properties. He said SB 12 targeted this portion of the property tax system because the present reappraisal system did not accurately reflect the value of a homeowner's property. **Senator Swift** added SB 12 would provide that the assessed values of those properties occupied by low-income owners presently in the tax code be proportionally decreased so that low income residents would not be penalized by the excessive increase in owner-occupied improvements. He passed

out a document from the Department of Revenue (DOR) which analyzed the "considerable impact" SB 12 would have on property tax revenues (Exhibit #1). According to **Senator Swift**, that impact would be a tax decrease of more than \$30 million.

Senator Swift acknowledged that SB 12 would heavily impact education and local government funds, but said a summary of the 1993 increase in property taxes showed that local school levies made up 36 percent and legislative action during the regular session about 23-24 percent of that increase. He stated that the school districts took advantage of the increases in assessed values that were easily anticipated because of the immigration experienced particularly by western Montana. He stated local governments could have adjusted the mill levies to reflect expected increases, but they evidently "did not see fit to do so". He stated he had introduced SB 12 because he did not think it proper that Montana have a property tax system which would put people out of their homes. **Senator Swift** acknowledged that other legislation had been introduced which would ameliorate the property tax burden for those unable to pay, and such a measure was probably necessary. He stated, however, SB 12 addressed only the extreme increase in assessed values because leaving those high values in place was "totally improper". He expressed his hope that the Committee would consider SB 12 along with the other proposals in putting together a property tax package which would "take the sting away from the massive increase experienced in the 1993 re-appraisal".

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

Senator Towe noted that the concept in SB 12 was very similar to that contained both in SB 21, which he introduced, and in the recommendations of the Governor's Property Tax Advisory Council's (PTAC). He asked **Senator Swift** if he intended that assessed values could be increased every year by up to five percent. **Senator Swift** replied affirmatively but emphasized that the increase could be no more than five percent.

Senator Towe asked **Senator Swift** how SB 12 addressed the problem that any limitation of the increase in a property's assessed value represented a shift in burden from those people whose houses and the marketability of those houses have increased in value to all other parties including people whose properties have decreased in value and are not as marketable. **Senator Swift** replied SB 12 was structured to target qualifying property; only the improved part of a property which is owner-occupied for seven months per year would qualify. He said he disagreed with phasing the property tax in over two or three years because homeowners

would still pay the higher level of tax. He stated the Legislature needed to accord homeowners a certain measure of relief in a constitutionally appropriate manner. **Senator Swift** reiterated that the current reappraisal cycle did not reflect the true values of homes, and stated if those high values were retained, too many people would be penalized.

Senator Towe noted that **Senator Swift's** answer really did not address the problem of the tax shift. **Senator Swift** agreed and added that the tax shift would have to be carefully evaluated when the Legislature had the time to address the Montana's total tax system. He stated the Legislature should revise the property tax system by specifically addressing market values during this special session. He agreed that would cost money, but stated until that occurs, Montana's tax system would not be fair.

Senator Towe commented that SB 12 used the 1992 values as a base to start annual increases of no more than five percent. He asked **Senator Swift** if that were not problematic given the Supreme Court ruling which places the constitutional validity of those values in doubt. **Senator Swift** replied that Supreme Court ruling presented a problem. He noted that the Committee needed to consider that ruling while reviewing the entire property tax system.

Senator Harp made some comments concerning the tax shift. He noted that the tax shift connected with a cap on property value increases had become one of the major components of any discussion on property tax issues in the special session. He said "tax shifting" occurred every time a tax policy was set in place; an income tax bill would obviously shift income and when the State raised mandatory mills of education a tremendous shift took place. He stated to disqualify the concept in SB 12 because of a tax shift is not reasonable. He asked **Senator Swift** if he agreed with those statements. **Senator Swift** replied "definitely". He added he did not have the answers and referred to the Committee as the tax experts.

Vice-Chair Eck asked what the assessed value of a \$100,000 house would be if 1986 values were used as a starting point and a five percent per year increase through 1993 were calculated. **Senator Towe** figured that the assessed value would be close to \$55,000. **Vice-Chair Eck** noted that calculation showed that allowing a five percent increase per year could result in increases in assessed values which were greater than the values assessed in the 1993 appraisal cycle.

Senator Swift replied yes, but added he would actually prefer that the Legislature use the same method it did in the 1986 reappraisal and "then go from 0 base". He noted, however, that legislative action did not pass constitutional muster.

Senator Towe noted the important question about any tax shift is not so much whether it exists, but rather from whom and to whom

that shift occurred. He stated that the problem with the current shift under discussion was that the shift was clearly going from those people whose property values and equity increased to those people whose properties and equities decreased. He said that other districts like Great Falls and the south side of Billings experienced just as or more extreme increases in 1986, and noted that appraised values tended not to have gone up so much in the 1993 reappraisal cycle. He asked **Senator Swift** why the Legislature should grant a tax break to the people in his district who were seeing the brunt of the 1993 reappraisal cycle when nothing was done to help the people who were hit equally hard by the last reappraisal cycle.

Senator Swift responded he would welcome any balanced solution. He said the land values in Ravalli County "skyrocketed" in 1986, and noticed everyone had "experienced that at one time or another". He noted a true assessment of property value could be applied in a fair manner to all properties statewide. He stated he had introduced SB 12 so that the Legislature could evaluate and change the property tax system in a way which would alleviate the current problems.

Senator Grosfield said that the fiscal note indicated that of the total decrease in taxable class four value SB 12 would cause, 44 percent of that decrease would be within cities and towns and 56 percent outside of cities and towns. He asked a DOR representative why it would not be the opposite. **Judy Paynter, DOR**, replied that the figures on the fiscal note were statewide numbers; while properties in some cities and towns are increasing in value, properties in other cities and towns are decreasing.

Senator Grosfield asked if he had correctly understood that the 44 percent ratio was in only in relation to the decrease and the total taxable value of class four property statewide would place the percentage within cities and towns a lot higher than 44 percent. **Ms. Paynter** said she did not have the number for cities and towns, but agreed that the number in the fiscal note did not reflect the total taxable value.

Contributing to that discussion, **Senator Towe** said the bigger and more valuable houses which probably experienced the greater increases in assessed value were generally found on the outskirts of cities and towns. He noted that fact might explain why only 44 percent of the decrease had occurred in the cities and towns.

Closing by Sponsor:

Senator Swift expressed his hope the Committee would consider and utilize SB 12 in conjunction with other pieces of property tax "if it is deemed to be of any value".

HEARING ON SENATE BILL 19Opening Statement by Sponsor:

Senator Swift, Senate District 32, stated that SB 19 would delete the statutory appropriation 19-15-101 MCA for teachers and state retirees and would provide reimbursement for tax payments instituted by SB 226 which was adopted by the 1991 Legislature. He distributed a historical summary of SB 226 which related directly to the fiscal note accompanying SB 19 (Exhibit #2). He stated the costs associated with SB 19 would amount to about \$8.1 million and SB 19. He noted he had filed SB 19 after the US Supreme Court had ruled on a similar case but prior to the Montana Supreme Court decision.

Proponents' Testimony: None.

Opponents' Testimony:

Leo Barry, Association of Retired Public Employees, stated another bill in which the Retirees are interested was currently being heard in Senate Finance and Claims and, as a result, **Tom Schneider, Montana Public Employees Association**, and **Bill Brooks, Montana Education Association**, had asked him to speak on their behalf as well. Mr. Barry expressed the associations' opposition to SB 19 which "basically tries to codify the recent decision of the Montana Supreme Court". He noted that those proceedings have not been concluded, and added a petition for rehearing had been filed that day with the Montana Supreme Court. He said normally when a court decision affected the statute, the code commissioner reviewed the cases and provided recommendations for the codification of those court cases at the conclusion of the proceedings. On behalf of the associations, Mr. Barry recommended that this issue could "easily be handled during a regular session" if the Supreme Court does not modify its position.

Questions From Committee Members and Responses:

Senator Van Valkenburg asked if **Senator Swift** would agree that if the Montana Supreme Court decision stands, the provision SB 19 would place in the MCA would have no effect. **Senator Swift** replied he was not sure. He said he brought this issue to Legislature because a lot of legislation occurred which directly affected SB 226. He stated the Legislature needed to "address it at one time or another and... might as well do it".

Given his early filing of SB 19, **Senator Harp** asked **Senator Swift** if he knew somebody over at the Montana Supreme Court. **Senator Swift** reiterated he wanted to bring this issue to the attention of the Committee and ensure that it was considered. He took the opportunity to say that the Legislature had not carefully considered the issue in 1991 and used a "devious way" to "save a

few million dollars for a couple of years". He stated the legislators "knew at the time that it was not quite right".

Senator Eck asked **Leo Barry** to brief the Committee on the gist of the other legislation to which he had referred in his testimony. **Mr. Barry** identified that legislation as SB 38 and said SB 38 would reenact the pertinent portion of SB 226 through a different mechanism. He explained that SB 38 attempted to remove from the legislation the two main elements that the Montana Supreme Court relied upon in striking down that portion of SB 226: non-residency issues, and the fact that both the tax changes and the provision were included in the same bill. He stated it would do exactly the same thing as SB 226. He said there would be no impact on this particular biennium since the effective date would be March of 1994 with the next payment due the retirees in July 1995. He noted that if the Supreme Court did reverse itself and hold that SB 226 was valid in its entirety, the 1995 Legislature could act to remove SB 38 from statute.

Senator Towe asked **Leo Barry** if there would be a savings to the General Fund of \$8.1 million this biennium, since SB 38 would not require payments until the next biennium. **Leo Barry** replied **Senator Towe** was correct.

Senator Towe asked **Senator Swift** asked if SB 19 would repeal sections 19-15-101 and 19-15-102 MCA. **Senator Swift** replied affirmatively. **Senator Towe** then asked if **Senator Swift** intended to supplement this act in the next biennium with an appropriation or if he intended that the recipients would not get any more benefits of this nature, cost of living or otherwise under this authority. **Senator Swift** replied the intent of SB 19 was to remove those benefits from the statute entirely.

Vice-Chair Eck asked **Leo Barry** why SB 38 had been referred to Senate Finance & Claims. **Leo Barry** replied he was not the best one to answer that question. **Vice-Chair Eck** referred the question to **Senator Van Valkenburg** who replied SB 38 essentially called for an appropriation of money to provide for the ad hoc increase in retirement benefits. For that reason, he said it was most appropriately heard in Finance & Claims.


The Committee exchanged a few comments about the questionable appropriateness of an appropriations bill that started in the Senate.

Closing by Sponsor:

Senator Swift closed the hearing on SB 19 and asked the Committee to consider SB 19 "in the light in which it is presented". He expressed his hope that the issue of retirement benefits would be "leveled off one way or the other" before too many years pass.

ADJOURNMENT

Adjournment: 8:43 a.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE TAXATION

DATE Wednesday 12-8-93

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		

FC8

Attach to each day's minutes

State of Montana

Marc Racicot, Governor

SENATE TAXATION

EXHIBIT NO. 1DATE November 8, 1993BILL NO. SB 12

P.O. Box 202701

Helena, Montana 59620-2701

Department of Revenue

Mick Robinson, Director



November 30, 1993

Senator Bernie Swift
Senate Seat #32
State Capitol
Helena, Montana 59620

[Handwritten signature] 11/30/93

Dear Senator Swift:

Attached you will find a document that presents a partial analysis of the impact that Senate Bill 12 would have on property tax revenues. The Department's property tax database was used to simulate the impact of capping the increase in assessed values or residential property at 5 percent. Because it was assumed that most low-value mobile homes and vacant land would not be impacted by the proposal, these types of property are not included in the analysis.

In addition, the property tax reduction impact of \$18.8 million shown on the attachment is substantially overstated for two reasons: first, the Department's database is not capable of distinguishing "owner-occupied" properties from other properties; consequently the tax impact shown is for all properties. Second, the tax impact is overstated by the number of properties which, while owner-occupied, are not occupied the required 7 months out of each year. This adjustment includes the "snowbirds"; those Montanans who own houses and mobile homes in Montana, but stay elsewhere for more than five months out of each year.

In our best judgement, and based on the number of owner-occupied housing units in Montana from the 1990 Census, the actual tax impact could be more in the range of three-quarters of the impact shown, which places the tax impact in the range of \$14.5 million.

[Handwritten note:] Ave 14-15MM

Please contact the Department if you have further questions regarding this information.

Sincerely,

[Handwritten signature: Mick]

MICK ROBINSON
Director

12-8-93
SB 12

Impact of Capping Increase in Residential Property Value at 5%
ALL Property --- Cap Increase from 1992 to 1993

<u>County</u>	<u>Parcels</u>	<u># Impacted</u>	<u>Reduction in Taxable Value</u>	<u>Reduction in Tax Liability</u>	<u>Avg. Relief</u>
Beaverhead	2,530	1,840	650,021	240,495	131
Big Horn	1,835	735	141,583	34,860	47
Blaine	1,505	785	206,192	75,725	96
Broadwater	1,100	175	20,194	6,875	39
Carbon	1,160	185	45,934	14,915	81
Carter	480	110	18,434	6,955	63
Cascade	20,230	10,045	3,836,347	1,610,265	160
Chouteau	2,055	495	86,739	38,200	77
Custer	3,345	2,525	670,474	318,675	126
Daniels	945	160	22,949	10,730	67
Dawson	2,840	595	94,225	42,210	71
Deer Lodge	3,260	1,720	380,478	181,600	106
Fallon	900	395	94,339	28,570	72
Fergus	3,760	1,705	279,630	125,535	74
Flathead	26,660	18,900	8,762,174	3,246,315	172
Gallatin	15,935	9,610	4,709,592	1,589,925	165
Garfield	500	70	14,505	4,845	69
Glacier	2,055	745	170,299	72,170	97
Golden Valley	305	55	41,317	11,920	217
Granite	1,260	870	311,728	105,480	121
Hill	4,775	2,465	658,584	260,010	105
Jefferson	2,730	1,675	522,888	177,565	106
Judith Basin	900	200	24,467	8,895	44
Lake	9,290	6,995	4,885,428	1,534,895	219
Lewis And Clark	15,920	9,795	2,962,297	1,271,430	130
Liberty	670	110	22,432	7,295	66
Lincoln	6,595	4,060	1,074,800	328,070	81
Madison	3,050	1,300	847,996	237,180	182
McCone	810	135	20,283	7,345	54
Meagher	755	420	87,131	28,840	69
Mineral	1,300	1,135	373,759	142,025	125
Missoula	24,730	11,955	3,087,997	1,483,540	124
Musselshell	1,335	235	19,595	6,825	29
Park	4,780	2,095	609,902	215,470	103
Petroleum	185	100	17,433	3,410	34
Phillips	1,655	710	146,354	49,605	70
Pondera	1,750	510	111,544	43,810	86
Powder River	730	185	46,477	20,175	109
Powell	1,910	1,360	323,883	103,175	76
Prairie	435	115	10,816	4,155	36
Ravalli	11,220	7,120	2,090,554	711,525	100
Richland	3,230	2,090	547,447	200,500	96
Roosevelt	2,180	710	91,094	33,150	47
Rosebud	2,035	525	89,634	16,445	31
Sanders	3,460	2,565	606,202	185,605	72
Sheridan	1,670	440	45,645	19,275	44
Silver Bow	11,460	8,365	2,522,099	1,185,240	142
Stillwater	3,000	1,845	400,186	127,015	69
Sweet Grass	1,175	100	22,104	7,975	80
Teton	2,245	500	80,004	33,090	66
Toole	1,535	630	170,541	70,895	113
Treasure	295	40	4,629	1,850	46
Valley	3,000	1,265	176,446	70,585	56
Wheatland	630	165	11,001	3,900	24
Wibaux	380	195	27,419	9,425	48
Yellowstone	37,170	23,465	6,424,907	2,423,025	103
TOTAL	261,650	147,295	49,721,132	18,799,480	128

30-Nov-93

Adjust. 14-15

SENATE TAXATION

EXHIBIT NO. 2DATE December 8, 1993BILL NO. SB 19Legislative Fiscal Analyst
Fiscal Update of 11/29/93SB 19
SwiftRetirement Benefits

The 1991 Legislature passed Senate Bill 226 (SB 226) which allows a \$3,600 exemption from taxable income for all retirement income for tax years after December 31, 1990. The exemption is phased out for taxpayers with federal adjusted gross

incomes in excess of \$30,000. Previous law allowed state retirees an exemption equal to all of their retirement income.

SB 226 also provides a 2.5 percent annual benefit increase for public employee and teacher retirement system recipients living in Montana. These increased benefits are funded with a general fund statutory appropriation.

On November 23, 1993, the Montana Supreme Court ruled that the 2.5 percent benefit adjustment contained in SB 226 constitutes discriminatory taxation and violates 4 U.S.C. 111. This decision will result in a general fund spending reduction of \$8.1 million for the 1995 biennium. While the ruling will have an immediate impact on 1995 biennium expenditures, the ruling did not address the fate of benefit adjustments paid during the 1993 biennium. Those payments totalled \$6.7 million.

EPA 12
(2.5)

DATE 8 December '93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 12, SB 19

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Check One

Name	Representing	Bill No.	Support	Oppose
Lance Clark	MT Assoc. Realtors	SB 12		X
AARON L ZIMMERMAN	NARFE	SB 19, 12	X	
HERMAN WITTMAN	NARFE	SB 19; SB 12	X	
Gregory Van Housen	Income Property Managers Assn. Montana Landlords Assn.	SB 12		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE December 8, 1993

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB12, SB19

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Check One

Name	Representing	Bill No.	Support	Oppose
Ed SURZHY	SELF	19	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leo Benay	Ret Pub. Eng.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY