

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 195

Call to Order: By CHAIRMAN JOHN HARP, on April 12, 1997, at 6:30 a.m., in Room 325

ROLL CALL

Members Present:

Sen. John G. Harp (R)
Sen. Bruce D. Crippen (R)
Sen. Mike Halligan (D)
Rep. Chase Hibbard (R)
Rep. Dan W. Harrington (D)
Rep. Robert R. Story, Jr. (R)

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch, Legislative Services Division
Jodi Jones, Committee Secretary

HEARING ON SB 195

Discussion:

CHAIRMAN JOHN HARP expressed his goals for this conference committee. He said all of the key people are on this committee who understand tax. This is a free conference committee and the members can ask questions of the audience. This committee needs to look at the immediate effects of property tax. The people of Montana need to know what type of methodology and purpose of assessing property is in the future and unify this state in tax policy.

SENATOR MIKE HALLIGAN said the focus of this committee is the short and long term effects of this tax. The short term has to be constitutional and in balance across the state.

SENATOR BRUCE CRIPPEN said this bill should be drafted and follow some of the ideas of SB 392.

REPRESENTATIVE CHASE HIBBARD said we need to take a look at SB 392 and it will help in making a better piece of legislation out of SB 195. Long run form of tax is a meaningful form but has eluded the legislature and people for a long time. What we are doing here today could be a short term solution but will take us

into the future of examining property taxes. Property tax needs to evolve and there are probably still better ways out there.

REPRESENTATIVE DAN HARRINGTON said whatever we do here could be used in the future. We should move in the direction of SB 392.

REPRESENTATIVE BOB STORY said we need to protect the tax-payers from the reappraisal of class 4 tax. If we are going to protect class 4 then the other cyclical classes should be protected also. One of the problems is the market value of land and the effects tax has on local government.

{Tape: 1; Side: A; Approx. Time Count: 6:40 a.m.; Comments: .}

Key Component Discussion:

SENATOR CRIPPEN said a key component is the phase in theory of two percent of a temporary or long-term solution. This session we are trying to deal with the artificial increases in property taxes. Natural increases are from inflation and the increases of the economy. Artificial is people are buying land at prices far beyond what land would normally sell for and these tax bills are trying to deal with that. We want to help the local governments and the two percent phase in is the alternative. It does not get rid of fair market value and we should not get rid of market value until we find a replacement.

CHAIRMAN HARP asked if in the phase in process do we want to use the 1996 reappraisal as a basis? **SENATOR CRIPPEN** replied yes.

SENATOR HALLIGAN said reappraisal needs to be continued as it allows us to stay at a current market value and treat the tax-payers equally. Market value is still the fairest way to proceed. Flexibility for local governments is important so it can grow and they don't have to go out and get a vote of the people every time they have to deal with budget issues at the local level.

REP. HIBBARD said he agrees with the phase in idea because it doesn't dismantle the system with nothing to replace it. It will preserve the fair market value concept and will give us a mechanism to gradually see the impact. This bill started out as a freeze on 3, 4, and 10 cyclical classes and we need to carry that out. Taxes should not increase and acknowledge the phase in. If we look at the way the two percent works it is the difference between the old and new values. It is two percent of that, which is an .8 percent increase. However that .8 percent will vary from county to county depending on how much that county went up relative to average. He would like to bring the tax value down to zero. We need to adjust the taxable rate not just once but for each year. We need to look at a mill adjustment and make sure the local governments will remain whole.

REP. HARRINGTON said we want to use the 1996 reappraisal figures. We need to keep local governments and schools whole and at the

same time not cause any shift in these tax classes. The phase in is good but the 50 year period needs to be shortened. State wide mills need to use a percentage change to take care of that. Local government need to have the authority to keep themselves whole where they are not losing money through this process. These are short-term solutions but it is a place to start.

REP. STORY said he liked the freeze idea as it was a way to start protecting people from reappraisal. He said he would like to get away from the market value because all of the land he owns is assessed another way. In reappraisal cycles they were careful to make sure local governments and schools didn't take any advantage of them. Rate reduction will protect the tax-payer from the state.

SENATOR CRIPPEN said we have done this phase in before. There are a lot of ways to determine the value of property for tax purposes. The phase in and the reappraisal can be separate and be constitutional as long as they are applied the same across the state. The two percent should be put in but we don't have to worry about the 50 years because by then the tax structure will be crafted another way.

{Tape: 1; Side: A; Approx. Time Count: 6:59 a.m.; Comments: .}

REP. HIBBARD said in the House they spent time on the I-105 provisions and updating them to 1996. He said when local governments are below average and this two percent is applied, coupled with a rate spiralling downward, they end up with less money than they had before.

REP. STORY said there were some sections that came out of SB 392 that dealt with a percentage increase and local governments ability to raise money. Local governments said they could already go under I-105 and get more than two percent. The language in I-105 presently says local governments have to declare an emergency to use that provision and meet certain criteria. It was decided that some of that criteria should be eliminated and if the local government wanted to go to its voters, all they had to do was show that they didn't have enough money to operate. If they could sell this to their voters, let them do that rather than having to comply with present law. He passed out amendments (**EXHIBIT 1**).

CHAIRMAN HARP asked if they are looking for flexibility for local governments. He asked about the five percent on emergency issues.

REP. STORY said this does apply to local government flexibility. The two percent idea could be a problem because there are jurisdictions out there that are losing in their values. If the two percent is used they would never be able to use the five percent increase. He discussed the amendments (**EXHIBIT 1**).

CHAIRMAN HARP said they need to look at how an election would occur and under what conditions, and would it be a special or state wide election with the maximum amount of input from the

voters. It is important that we do allow local governments to raise additional dollars if that community sees fit.

REP. HIBBARD discussed the amendments (**EXHIBIT 1**). He said it may be appropriate to discuss if a two percent cap is relative or not. We are taking away any opportunity they may have to automatically gain revenue from cyclical reappraisal. He said they may want to discuss giving them the ability, by a vote of the people, to raise the amount of money they need and not limit it to two percent.

REP. STORY said he agreed. He said schools were allowed to go to four percent. One of the things that are exempt from I-105 are cyclical reappraisals.

SENATOR CRIPPEN said local governments made a good point when they said the two percent wasn't applicable because it would cost more to have an election than they would receive from the two percent. That needs to be taken out. With the phase in of the two percent the local governments will get a natural increase. It is a problem if it is going to be capped at two percent. There needs to be other ways for local governments to get money but it shouldn't be capped.

CHAIRMAN HARP asked if it shouldn't be capped at two percent then should the local tax-payers have the ability to decide this by lifting the I-105 provision dealing with this. **REP. STORY** said this was a fair statement.

CHAIRMAN HARP said he comes from Western Montana and they know exactly what market value means. Taxes have not increased accordingly and it is a problem when dealing with market value. We need to fully examine why we need to stay in market value in this state. He said if market value is so good, why don't we do that with other properties in Montana. Market value does not have to be tied to the land in Montana and we can use any type of methodology in assessing land. Through education and time, people will understand what market value has done for the tax-payers. There is no question that the counties in eastern Montana will be affected by the freeze on taxes. There needs to be a provision in this legislation that will bring some flexibility to those areas that have had a reduction in value.

{Tape: 1; Side: B; Approx. Time Count: 7:18 a.m.; Comments: .}

SENATOR HALLIGAN said if we are looking at other definitions of fair market value we need to ask ourselves if we need to look at the difference between residential and commercial property. He asked what growth does local government have besides new construction. He said he doesn't agree that the local government should have to go to a vote of the people every time they want to do something. One of the goals is zero increase in taxes and we have to recognize the equal partnership of local governments. Fair market value has hurt low and fixed income people and we

don't want to erode the work we have already done on this matter.

CHAIRMAN HARP asked if we lift I-105 and lift the cap and allow local governments that ability to go out and get a vote of the people, this sends the message that they are a partner with tax policy and government services.

SENATOR HALLIGAN said this is the right direction to go. He asked **Gordon Morris, MT Association of Counties** to respond on the issues of I-105. **Gordon Morris** said he wouldn't encourage repealing I-105 totally. The counties would like to have the elimination of the emergency references and then they can go to the vote of the people for any request. He said if the committee is looking at a major reduction, then there is a provision in I-105 that says the drop in taxable value has to be greater than five percent before you can levy back. He suggested taking the five percent out so that any drop will allow to levy back to 1996 amounts. He didn't think the two percent voting authority would be appropriate.

REP. HIBBARD said it is important to allow local governments the ability to go out and get a vote of the people to operate. The provision needs to be in there to adjust their mills to come back to what they had the previous year. On the issue of raising money they should have a vote and we need to discuss how that vote should be structured.

REP. STORY said on a 40 percent turnout there would have to be a majority vote. If it was between 30 and 40 percent they would need a 60 percent positive vote. With less than 30 percent the election would be void. This concept could be brought before this committee and the election would probably have to be held in conjunction with a general election to get this type of turnout. This could not be the best time though because local government's fiscal years run from July to July.

SENATOR CRIPPEN asked if he was tying this to school bonding elections. **REP. STORY** said that is already in the statutes on how this election is run.

REP. HARRINGTON said local governments should have the same parameters as schools.

SENATOR HALLIGAN said they should not micro-manage the democratic process. It should be a majority vote on general local government concerns.

CHAIRMAN HARP said if they are talking about a democratic process, why not give the tax-payers and the voters an opportunity to turn out in a general election where there is strong community support. There is nothing wrong with a large turnout as it will give more input for the state and local government entities.

SENATOR HALLIGAN said if they are going to have a percentage requirement why don't they do this for legislative elections. If 40 percent don't show up you don't get elected.

SENATOR CRIPPEN asked why is I-105 there? He said people are tired of increases. We need to look at the reasons for why we have I-105. We need to look at the people who rely on local governments that they don't go hog wild and get these requests for increases by just a small vote of the people. It is a good idea to have some limitation.

SENATOR HALLIGAN said they never had a vote of the people before. If we go to a voting system we are sending out the message to the people that they will be allowed to vote by the democratic process.

REP. HIBBARD said he would like some language on how school and bond elections are carried out.

CHAIRMAN HARP said if we decide to lift I-105 there should be some type of safety net. We cannot turn our back on local government and try to find a balance.

REP. STORY said the problem is with municipal elections as they are held at an odd time of year and there is little voter participation. If the mills are run at that time, there will not be the voter turnout.

SENATOR HALLIGAN said if a local government wants to grow, why not reward them for being more frugal.

CHAIRMAN HARP said they need to have the flexibility. If I-105 is lifted why shouldn't there be more participation by the voters by setting election standards. These are big issues to the tax-payers and they need to be involved.

SENATOR HALLIGAN said if a local government is stagnant and they just want to grow with inflation, then why have a requirement for election standards.

CHAIRMAN HARP said there needs to be some definitions between what type of election each city and town can have.

REP. HARRINGTON said the school elections were held the first of April and it was 15-20 percent voter turnout.

SENATOR HALLIGAN asked if we can find some common ground on this. **Gordon Morris** said under I-105 an election can be held anytime and the key is if you assume normal economic growth, the value will grow by general depreciation. The problem with I-105 right now is the growth and value of the mill is tied to cyclical reappraisal. If you strike the language "cyclical reappraisal," then the other growth would give increased revenue to local governments. This will take care of the 1996 problem. The local

governments will be able to go the voters for a request at any time and let's not try to put regulations on an election as it could be disastrous.

{Tape: 1; Side: B; Approx. Time Count: 7:40 a.m.; Comments: .}

REP. STORY asked if cyclical reappraisal is taken out will you still be able to take the two percent. **Gordon Morris** said it wouldn't have to be referenced in the bill; it would be phased in over a period of time.

REP. HIBBARD asked REP. ELLIS to comment on this matter. REP. ELLIS said he doesn't agree with the area of needing a certain turnout. He said schools are going to mail ballots. In mail ballots you routinely get more than 50 percent.


SENATOR CRIPPEN said a committee should be formed that deals just strictly with property taxes. This is a citizen legislature and how much are we going to ask people to take during the interim to deal with this problem. People are going to have to be very serious if they are going to tackle property taxes. We have discussed just about everything in the area of property taxation and it needs to be refined and made appealing.

CHAIRMAN HARP said we are assuming the 1996 reappraisal goes into effect. The other things this committee will look at is the two percent phase in, rate reductions, cyclical striking that affects millage, increasing local government participation, updating I-105, committee study, making sure eastern Montana can be made whole, and looking at market value.

ADJOURNMENT

Adjournment: 7:48 a.m.



SEN. JOHN HARP, Chairman

JODI JONES, Secretary

JH/jj