

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### FREE CONFERENCE COMMITTEE ON SENATE BILL 195

Call to Order: By CHAIRMAN JOHN HARP, on April 14, 1997, at 8:30 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 on Amendments #4:

Greg Petesch handed out amendments dealing with SB 195. He explained amendment #1 (EXHIBIT 1).

CHAIRMAN JOHN HARP said there will be several examples of phasing in, millage changes, new construction etc. He said he would like to get some examples of a home being built in 1998 and show how this will work. Those examples would be helpful.

Greg Petesch explained the amendments further (EXHIBIT 1).

CHAIRMAN HARP said the amendment's main components are ratcheting, phase-in, how to deal with new construction, and allowing to retain re-evaluation if needed.

SENATOR BRUCE CRIPPEN said they are always concerned about the length of reappraisals even though they are using a different method in fair market values. The bill says the Legislature can come back at any time and start a new cycle. Could this language cause some Constitutional concern? Greg Petesch said the language as written would provide for the 50 year phase-in. The re-evaluation would occur at a point in time when the base value

changes or is completely phased-in. If a certain time was put in it would negate phase-in provisions.

**REPRESENTATIVE DAN HARRINGTON** asked if the 50 years had to be set or can it be adjusted to 30 or 40 years. **Greg Petesch** said it can be adjusted by changing the percentage rate of the evaluation that is being phased in.

**SENATOR CRIPPEN** said if you have a two percent phase-in could there be a shorter period of time stated. Things can be phased-in at two percent and it will not go to the full 100 percent.

**REPRESENTATIVE CHASE HIBBARD** said the way the language reads, a re-evaluation doesn't need to occur until it is totally phased-in, but the language is still there to do a re-evaluation if needed.

**SENATOR MIKE HALLIGAN** asked if they had other amendments proposing shorter cycles. **Greg Petesch** said they had not been done, but could be provided.

**SENATOR HALLIGAN** said he was concerned that if taxpayers decided to sue and they have this 50 year cycle in place they could sue three or four years down the road. They could sue because we are looking at fantasy values.

**CHAIRMAN HARP** said it won't happen because they are using the 1996 values and the most current and accurate information this state has ever had.

**SENATOR CRIPPEN** said anybody can go in and protest what is happening to the value of their property. They will still have that opportunity under this bill.

**REPRESENTATIVE BOB STORY** said there is no tie in the language of the bill between the percentage ratchet and the percentage growth allowed.

**CHAIRMAN HARP** said they will have that ability this session but future Legislatures that want to change the phase-in percentage or the ratchet provision could go in the opposite direction. Right now they are saying it is tied together, but this could change in the future. We are allowing the 1996 re-appraisal to take effect and at the same time making property owners whole.

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Discussion of Amendment #2:

**Greg Petesch** handed out and discussed amendment #2 (EXHIBIT 2).

**CHAIRMAN HARP** asked with this amendment the taxpayers would have the predictability of knowing what their taxes would be in the

next year. **Greg Petesch** said yes except in the case of local decision. He continued to explain the amendments (**EXHIBIT 2**).

**SENATOR CRIPPEN** asked in the notice provision, if the taxpayer doesn't protest the first notice, then they cannot protest the next year because there was no notice provided. **Greg Petesch** said each year a person gets a tax statement and could still challenge it. He explained the amendments further (**EXHIBIT 2**).

**CHAIRMAN HARP** asked if it would be a month to two months on the extension of property taxation? **Greg Petesch** said based on the phase-in, they can reduce the period of time it takes for getting the budgets out and the delay would not be as long under the hard freeze. **Mary Bryson, MT Department of Revenue**, said they would have the assessments done by the 1st of August. They normally go out May or June.

**CHAIRMAN HARP** asked if this would harm local governments. **Mary Bryson** said they would still be able to get their tax bills out on time.

**SENATOR CRIPPEN** asked what the reason was for the delay. **Mary Bryson** said a lot of it has to do with calculation of reappraisal amounts and modifications.

**SENATOR HALLIGAN** asked if budgets for local governments have to be done by July? **Gordon Morris, MT Association of Counties**, said current law requires the budget to be adopted by the 2nd Monday in August, but it can still be done if there are some delays by the Department of Revenue.

**Greg Petesch** finished explaining amendments #2 (**EXHIBIT 2**).

**CHAIRMAN HARP** asked if the \$425,000 was money that would be a reversion. **Mary Bryson** said the \$425,000 represents the total cost anticipated with the implementation of this bill. Some of the monies will be associated to the business cycle, programming costs, and limitations of the bill. **Greg Petesch** said this would be money that would otherwise revert at the end of the fiscal year. The amount has been capped.

**CHAIRMAN HARP** asked if there are additional dollars that won't be expended by this current biennium and rather than reverting to the general fund, this money would be held and carried forward. **Greg Petesch** stated this was true.

**CHAIRMAN HARP** asked if that is the case, what if the \$425,000 limit was taken out? **Greg Petesch** said he didn't know.

**REP. STORY** said a portion of that money, if notices are mailed out in June, wouldn't be spent and would be available for reversion. Since they can't mail them out later, they need to be able to carry that mailing money into the next biennium.

**CHAIRMAN HARP** said with these new additional dollars, this re-appraisal would take effect one way or the other. There was money already in HB 2 to allow that. The additional money is for program changing to implement the phase-in and going from the old to new value.

**SENATOR CRIPPEN** asked if the \$425,000 has been spent, where is that money. **CHAIRMAN HARP** said that comes under the general government provision in HB 2, Department of Revenue. He asked who runs the Department of Revenue budget. **REPRESENTATIVE TOM ZOOK, HD 3, Miles City**, said Jim Turner is the person to ask on this issue.

**Discussion of Amendment #3:**

**Greg Petesch** handed out amendment #3 and explained them (**EXHIBIT 3**).

**CHAIRMAN HARP** asked if they could use any staff they desired? **Greg Petesch** stated yes.

**CHAIRMAN HARP** said there is a lot of reliance on market value and coming up with alternatives to market values. This is important to Montanans. The way these amendments are crafted, market value would be the law of the land, but they also need to look to the future to try and find some alternatives. **Greg Petesch** said current statutes require property to be valued based on market value. This language would direct the committee to look at alternative methods to change or supplement what is already in statute. This is trying to take the volatility of using market value out of the tax system to enhance predictability and decision making.

**SENATOR CRIPPEN** said he agrees with twelve members being on the committee. He has no problem with sub section (2), but has some concerns with sub-section (3). He said he doesn't want to see members of the committee working independently. There needs to be a timeline and ideas need to be refined.

**CHAIRMAN HARP** said once the committee is formed the chairman and the committee can form their own timeline and ideas. There needs to be some flexibility there.

**SENATOR CRIPPEN** asked when is the effective date going to be on this bill. **Greg Petesch** said when the final amendments are drafted there would be an immediate effective date on the bill.

**REP. HIBBARD** said the 12 members on the committee would be more effective. He said they discussed in sub-committee on whether to have this committee study property tax only or to broaden it. It is difficult to come to a resolution because there is some many ideas about tax out there. If the intent is to get something done with property taxes then the focus should be on that only. Under this amendment it takes three members on the committee to present

a proposal and the entire group doesn't have to agree. If it is the entire group, they may not have many ideas that survive the test.

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**REP. HARRINGTON** said it had been discussed earlier that these meetings should be moved throughout the state rather than having them just in Helena. **SENATOR CRIPPEN** said there may be a problem with this because the committee cannot bring all the staff and have access to state organizations etc. He said perhaps in the preliminary stages it can be moved around the state to gather informational material but it needs to be done in Helena. **REP. HARRINGTON** agreed.

**SENATOR HALLIGAN** said sub-section (3) is designed to produce mutual exclusive alternatives and that is good. He said every session we have legislation dealing with tax credits, tax breaks etc. The whole issue here is do we broaden this to include other taxes? This study needs to address value added tax structures and be refined and discussed. The study might want to be extended to a four year plan with the appropriate funding.

**CHAIRMAN HARP** discussed amendment #3 (**EXHIBIT 3**). He said to replace the property tax system in Montana they are looking at over \$600 Million in taxes collected in Montana under property taxes. All tax structures need to be discussed in this study.

**REP. HIBBARD** said if they leave the language the way it is, the overall focus is on property tax, but it doesn't preclude the value added tax or other major taxes. If we broaden to include all taxes, the committee could lose its focus.

**SENATOR CRIPPEN** asked where did the \$100,000 for funding come from and is that enough to fund this? If it is apparent that the \$100,000 won't cover this study, where can they get more money. **Greg Petesch** said the Legislative Council, in its budget, has funding for statewide importance that is not otherwise funded. The Council has historically used some of this money to fund interim study committees. The other option is to go to leadership for the authority to use some of the funds allocated to leadership.

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**REP. STORY** said he was concerned about each member on the committee forming their own ideas in sub-section (3). If 12 people were busy on the committee and the staff busy throughout the interim would there be enough budget? There needs to be some authority of the chairman to watch this spending. **CHAIRMAN HARP** said the people who get appointed to this committee will be dedicated and watch their spending.

SENATOR CRIPPEN said in the fiscal note it talks about contractile services. He said he would rather work with staff that already knows what is going on and has some experience.

Discussion of Amendments #4:

Greg Petesch handed out amendment #4 and explained them (EXHIBIT 4).

CHAIRMAN HARP asked if the new base was the 1996 tax base and the old was 1986. Greg Petesch replied yes.

CHAIRMAN HARP asked whatever dollars were collected in Montana in the year 1996 will be capped. Greg Petesch replied yes. He continued to explain the amendments (EXHIBIT 4).

CHAIRMAN HARP said they are not interested in the average taxpayer but this provision will get all Montana taxpayers to a zero increase in tax, except in remodeling and construction. Greg Petesch said yes, that is what this is designed to do.

CHAIRMAN HARP said Sweetgrass Co. took the largest jump in new values and would this affect them. Greg Petesch said yes this is a jurisdiction that would apply.

REP. HARRINGTON said he would like a sheet to show the affects this would have on counties.

CHAIRMAN HARP said he would like examples of what happens after the two percent and the ratcheting has gone into effect. If a taxpayer has still increased above the average then they would go into the taxable value in that mill levy that excluded new and remodeled construction. Those values of classes 3,4, and 10 would be reduced so the property taxpayer would have no increases in taxes.

REP. HARRINGTON said once we start removing classes 3,4 and 10 then they start affecting the other classes.

REP. HIBBARD said in HB 590 they took a look at reducing statewide mills. In this case the valuation is only increasing two percent and is ratcheted down by the tax classification rate to under one percent. In a county like Sweetgrass, which had the largest increase, they might be around one percent and if agriculture and timber is added, it will be minimal where mills will have to be changed.

CHAIRMAN HARP said this is the third and final movement in this taxpayer's bill. He used the example of Silver-Bow County and said this wouldn't affect many of the property taxpayers in that area. The winners and losers between those classes are really going to be limited.

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**Greg Petesch** explained cyclical reappraisals in the amendments (EXHIBIT 4).

**CHAIRMAN HARP** asked if they are excluding non-levy revenues from the limit of increases in taxes. **Greg Petesch** said it is only certain non-levy revenues, such as coal gross proceeds and oil and gas production taxes.

**CHAIRMAN HARP** asked in those areas that have coal, oil, and gas will they be allowed to increase? **Greg Petesch** stated yes.

**REP. HARRINGTON** asked about the metal mine gross proceeds. **Greg Petesch** said they are in a different category.

**REP. HIBBARD** asked if both oil and gas decrease, would mills be able to adjust automatically, and would they be subjected to a five percent cap? **Greg Petesch** said this is a specific exemption to compensate for a loss in revenue for those two types of taxes.

**Greg Petesch** explained sub-section (5) and (6) (EXHIBIT 4).

**REP. STORY** said when the five percent was put in I 105 in 1985 it was assumed that local governments would eat that. But if there was a large loss to the county that was substantial to the tax base, the government could automatically come in and put the burden onto the homeowners and businesses without a vote of the people. If this happens, the government would have to be restructured and it is logical that if a county gets into large mill shifts the voters should be consulted.

**Greg Petesch** continued to explain the amendments (EXHIBIT 4).

**CHAIRMAN HARP** wanted to know if he was correct on how school elections were run. He said if you have a 40 percent voter turnout, they have to vote in a favorable manner. If it is between 30 and 40 percent turnout the approval has to be adopted by 60 percent. And if it is less than 30 percent, the proposal is rejected. **Greg Petesch** said this was correct.

**REP. HIBBARD** asked if there was any statistics on how often an election in a school bond falls below these provisions. **Greg Petesch** said the Office of Public Instruction does not keep track of that data.

**REP. STORY** said one of the things that will make this work is they will be able to hold it during the general election.

**CHAIRMAN HARP** said there are going to have to be large turnouts to meet these percentages. He liked the idea of having taxpayer involvement when talking about raising property taxes. He asked if it is fair to say that most of these elections would be held during a statewide general election. **Greg Petesch** said if that was done the turnout numbers would be acquired more easily

because counties don't get these kind of numbers at municipal elections.

**SENATOR CRIPPEN** said when a bond is up they are usually indebting a district. He said this is not always happening here, they are just allowing the increase to go in as requested by the county. They are digressing from I 105 and by doing this they are making the standards more strict.

**CHAIRMAN HARP** says he sees this bill as a way of strengthen I 105 by this provision.

**REP. HARRINGTON** asked if this is extended to all property tax increases. **Greg Petesch** said for example if a school wants to put out a levy for a specific provision then the school election laws would cover that.

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**REP. HARRINGTON** said in other words they would run their normal levies and vote by a majority. **Greg Petesch** said he would have to look at that more closely.

**SENATOR HALLIGAN** said he has a major problem with the super-majority requirements as it takes away the local control issue. He asked if the timing of the election will affect budget periods. **Gordon Morris** said under I 105, generally, those elections take place in the spring. Those election were special elections and held because of budgeting. If it is restricted to a general election then the vote will only come in even number years and budget projections would be very difficult.

**SENATOR HALLIGAN** said then they are looking at a special election almost everytime. What is the prediction of getting 40 percent to turn out for these elections? **Gordon Morris** said they have no experience on the type of turnout they would get for these types of special elections. Under I 105 elections, there has been less than 25 percent of the qualified voter turnout.

**CHAIRMAN HARP** asked if this bill passed with the phasing-in and the ratcheting, taxes will become more predictable. **Gordon Morris** said this was correct, but counties can't always predict if they are going to loose more than anticipated.

**CHAIRMAN HARP** asked why shouldn't the local taxpayers support an increase in taxes before it automatically shifts to every household in Montana. **Gordon Morris** said he thought the voters should be asked.

**SENATOR CRIPPEN** asked where does it prohibit the local jurisdictions from having one election. **Greg Petesch** said it does not.



**SENATOR CRIPPEN** said they can try this vote with the school election in the spring and if the numbers don't show, then they can try it in the general election in the fall.

**SENATOR HALLIGAN** said they need to trust local officials and let them use the super majority vote. The state should not be setting election standards. **CHAIRMAN HARP** said why not trust the tax-payers? By having more involvement with higher standards they are going to trust a super majority of tax-payers.

**SENATOR HALLIGAN** said what they are trusting is the no vote. The people who won't go to the polls are the ones who make sure a 40 percent turnout doesn't happen. **CHAIRMAN HARP** said what they are encouraging is involvement and how our tax dollars are spent in this state.

**SENATOR HALLIGAN** said they can't wait for the general election, it has to be a special election because counties can't speculate on what their valuations are going to be. **CHAIRMAN HARP** said because of the ratcheting and the phase-in, the predictability of what taxes are going to be needed in the future for local governments are going to be more quantified than they were in the past.

**REP. STORY** said on school mill levies, which don't require a super-majority, they are only in effect for one year and have to be voted on again the next year. He also asked if there was a bill that limited the number elections to two times for one issue. **Greg Petesch** said those were for school levy elections.

**Discussion on Amendment #5:**

**Greg Petesch** handed out **SENATOR HALLIGAN'S** amendment #5 (**EXHIBIT 5**). He explained the amendments.

**CHAIRMAN HARP** asked if these amendments would allow the phase-in percent to be included in I 105. **SENATOR HALLIGAN** said that was correct.

**CHAIRMAN HARP** asked if these amendments would go beyond the 1996 tax dollars collected. **Greg Petesch** said that was correct.

**REP. STORY** said how does that relate to the mill reduction?. **Greg Petesch** said the phased-in portion would have to be added to the mill reduction in sub-section (b).

**SENATOR HALLIGAN** asked if it is two hundredths of a percent? **Greg Petesch** said this was correct.

**SENATOR HARP** said they are not limiting local governments, but by giving them this authority, the counties have to have a significant turnout by voters and a trust factor that taxpayers will support it.


**REP. HIBBARD** asked if the phased in portion would be before or after the rate reduction. **Greg Petesch** said the rate reduction would offset the amount of revenue received, but would allow the phased-in portion to be excluded from the cap.

**REP. HIBBARD** said for dollar purposes that are flowing in as a result of reappraisal, the rate would be reduced. But, for the purpose of setting mill levies, the number before the mill reduction would be the number that would be applied. **Greg Petesch** said that was correct.

**SENATOR HALLIGAN** asked would this hurt or help the local governments. **Gordon Morris** said he would like to comment on this later.

ADJOURNMENT

Adjournment: 10:03 a.m.

  
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SEN. JOHN HAGG, Chairman  
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JODI JONES, Secretary

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