

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**FREE CONFERENCE COMMITTEE ON SENATE BILL 195**

**Call to Order:** By **CHAIRMAN JOHN HARP**, on April 17, 1997, at 8:06 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**

**CHAIRMAN JOHN HARP** explained the amendments on SB 195 (**EXHIBIT 1**).

**Greg Petesch, Legislative Services Division**, explained amendment H (**EXHIBIT 2**).

**CHAIRMAN HARP** said before they can get to this condition for a taxing unit they have to first phase-in and ratchet and if they are above the average then they will allow for the phasing-in of the cyclical reappraisal in that taxing unit. **Greg Petesch** stated that was true.

**SENATOR MIKE HALLIGAN** asked why this only applied to those that were above the average. **Greg Petesch** said it will apply to everyone, but it will only affect those who are above average because of the ratcheting rate.

**Dave Woodgerd, Department of Revenue**, said the .065 percent will be the rate that will come through. He said administratively, they would prefer the phase-in was put in, because it is such a small amount to try and keep track of those differences.

**Dennis Burr, Taxpayer Assoc.** said he thinks reappraisal should not be an exception to I 105. By inserting the language of the

phase-in amount of cyclical reappraisal, it would be the same as not striking cyclical reappraisal at all because that is all that will be going in over the next two years. The department still has to keep track of new construction so they can give a certified mill levy to local governments. The certified mill levy would be needed to not raise taxes other than taxes on construction. It makes sense to strike reappraisal.

**REP. CHASE HIBBARD** said they are going to start with the two percent phase in, then ratchet down the rate and some taxing units will still have an increase because of the statewide average provision. With the cyclical reappraisal language stricken from I-105 those units that do have an increase after the ratcheting down would not be able to realize that increase. With amendment H they would be able to realize that increase after the rate reduction.

**REP. BOB STORY** said he would oppose amendment H because even though it says phase in, they may eventually be back to where the phased-in portion is 100 percent of the reappraisal.

**SENATOR HALLIGAN** said he would like to know what the administrative cost would be. **Judy Paynter, Department of Revenue**, said under the current system they do not know the difference between new construction and reappraisal. She said previously there was not a great need to separate these two out to make a difference in taxable value. If this is struck, then it says they have to devise a way to know how much the change in taxable value is going to reappraisal and how much for new construction. Their system is not set up to do this. She said right now they have it estimated by county and it is the average growth each year in class 4.

**SENATOR BRUCE CRIPPEN** asked why can't these fancy computers figure out new construction? **Judy Paynter** said this wasn't an issue when the system was first designed. If counties could use construction in their budget then they could also use reappraisal in their budget. It wasn't an issue to separate these out because they could use both in their budget.

**CHAIRMAN HARP** said cyclical reappraisal has already been stricken and there is no problem with that. **Dennis Burr** said that was correct and the department should have to separate out new construction and reappraisal because of other statutes.

**CHAIRMAN HARP** asked how the Department of Revenue was able to come up with figures for new construction costs and reappraisal. **Judy Paynter** said what they did was look at the average growth that had occurred in class 4 over the past three years. There was no sophisticated manner in doing that. The problem is the computer is not big enough to carry two values.

**Mick Robinson, Governor's Office**, said the striking of cyclical reappraisal would reduce the mills. If new revenue is there, they

have to reduce a mill to get rid of that. If they don't put in the phase-in portion, they are requiring that mills will have to be reduced to get rid of that tax revenue.

Motion/Vote:

SENATOR HALLIGAN MOVED TO ADOPT AMENDMENT H. MOTION FAILED 3-3 WITH CHAIRMAN HARP, REP. HIBBARD, AND REP. STORY voting no.

{Tape: 1; Side: A; Approx. Time Count: 8:24 a.m.; Comments: .}

Discussion:

CHAIRMAN HARP discussed the vote amendment (EXHIBIT 3). He said they have discussed the voting issue very much and they have come up with an option. Local governments can continue using the provision of the emergency language in I-105 or they can have a 40 percent turnout vote.

Motion:

CHAIRMAN HARP MOVED TO ADOPT THE VOTE AMENDMENT (EXHIBIT 3).

Discussion:

SENATOR CRIPPEN said he does not share the same concern of increased property taxes for cities and counties because there isn't any. He said on an annual basis it would be less than a \$1 Million the first year and \$2 Million the second year across the state with the phase in. This is less than a one percent increase on taxes for each taxpayer. The phase-in is predictable and the only way they will have a significant tax increase is if they vote to raise it themselves. He said he is confident that the cities and counties have done a good job in managing the money now. He said he would have rather left the provisions of I-105 in there and given them the phase in.

REP. HIBBARD said by taking the emergency provision out of I-105 they thought they were making it easier for taxing units to go out to the voting public with an increased proposal and meet their needs. However there was serious objection to the 40 percent voter requirement so this is a nice compromise.

SENATOR HALLIGAN said they are relying on statistics for everything else they are doing in this bill. But when local governments provide the statistics that they are not the problem they ignore them. If they put the 40 percent requirement in, they reward the people who don't vote. This is not a compromise, all session they have been saying let the cities and counties have some local control and this is not doing that.

REP. HARRINGTON said any time they move to a super-majority, they are rewarding people who don't go to the polls.

**CHAIRMAN HARP** asked how often the emergency provision of I-105 had been used. **Alec Hansen, MT League of Cities and Towns**, said it hasn't been used more than three of four times in the past ten years.

**SENATOR CRIPPEN** asked why? **Alec Hansen** said cities and towns see this provision as a desperate solution. He said there will be more in the future, because there has been no growth in the tax base.

**CHAIRMAN HARP** said it was disappointing that schools were excluded from I-105 in 1989. Had they not been excluded they probably would not be here today because it would of forced the state into tax reform. But when they were excluded, it allowed them to rely on property taxes. **Alec Hansen** said the whole intent of I-105 was to force property tax reform.

**CHAIRMAN HARP** asked what the budgets for cities have been. **Alec Hansen** said property taxes represented about half of the revenue in the General Fund budget. Gambling revenues have increasingly become a more important part of the financial picture. Fees are also becoming a bigger part of the revenue package. If this Legislature wants people to vote on taxes, then give them some other things to vote for and it could be very positive.

**CHAIRMAN HARP** asked if cities have been frozen since 1986 or have they have actually grown? **Alec Hansen** said they have grown, but it has been below inflation and the biggest area of growth has been in gambling.

**Gordon Morris, MT Assoc. of Counties**, said since 1995 there has been seven I-105 elections. Since 1987, they have had approximately 15 to 20 I-105 elections. Those elections have been primarily in those counties that have lost significant taxable value. He said one of the contrasts between cities and counties is the fact that counties are 75 percent more reliant on property taxes than cities. This bill will target those counties that are below their 1986 I-105 cap. They will be frozen at the 1996 values without any room to move out of that except by a vote.

**SENATOR CRIPPEN** said the burden of the increase cost of government will fall on the homeowner, the small business person and the people who go into a gambling establishment and lose. By doing this there will be no growth, no government, and no responsibility. The thing that will save this is the interim committee who will study this more indept.

Vote:

MOTION TO ADOPT THE VOTE AMENDMENTS (EXHIBIT 3) PASSED 4-2 WITH SENATOR HALLIGAN AND REP. HARRINGTON voting no.

{Tape: 1; Side: A; Approx. Time Count: 8:47 a.m.; Comments:  
Committee took a 10 minute break and reconvened at 9:03 a.m..}

Discussion:

Greg Petesch explained amendments to SB 195 (EXHIBIT 1). He said these amendments are drafted so it is a substitute bill. The title has been amended and everything struck in SB 195 and the amendments will be the bill.

Motion/Vote:

REP. HIBBARD MOVED TO INCLUDE IN SECTION 4 THE CHANGE IN VALUATION FROM THE 1996 BASE YEAR FOR EACH PROPERTY IN CLASSES 3, 4 AND 10, MUST BE PHASED-IN EACH YEAR AT THE RATE OF TWO PERCENT OF THE TOTAL CHANGE IN VALUATION. MOTION CARRIED UNANIMOUSLY.

Discussion:

Greg Petesch continued to explain section 4 of the amendments (EXHIBIT 1).

REP. STORY said in the future he would like to extend the reappraisal cycle from three years to a longer term.

Greg Petesch explained sections 5,6, and 7 of the amendments. (EXHIBIT 1).

REP. HARRINGTON discussed sub-section 4, on page 7. He asked if this is in compliance with the Albright Decision. Greg Petesch said the intent is to make certain that they clarify what they are doing conforms to the decision in the Albright Case. He continued to explain section 7 of the amendments (EXHIBIT 1).

Motion/Vote:

SENATOR CRIPPEN MOVED TO CHANGE "THE" TO "EITHER" IN SECTION 7, SUB-SECTION 5 (d). MOTION CARRIED 5-1 WITH SENATOR HALLIGAN voting no.

Discussion:

Greg Petesch continued to explain section 7 of the amendments (EXHIBIT 1).

REP. HARRINGTON asked for a clarification of the vote provisions. Greg Petesch explained the vote amendment (EXHIBIT 3).

Greg Petesch continued to explain the amendments, sections 8-15 (EXHIBIT 1).

Motion/Vote:

SENATOR CRIPPEN MOVED TO STRIKE "BASE YEAR" AND INSERT "PHASE-IN" IN THE BEGINNING OF SECTION 11. MOTION CARRIED UNANIMOUSLY.

**Discussion:**

**REP. HARRINGTON** handed out a sheet on SB 195 (**EXHIBIT 4**). He asked if the taxpayers would have a standing using this in court? **Dave Woodgerd, MT Department of Revenue**, said if they look at the town of Circle where they would pay \$10 more than they would with the complete phase-in then they might have a legal standing in court.

**REP. HARRINGTON** said if they would of done this with the 101 Mills the cities would of all paid \$389. With the 101 mills at the two percent phase-in it goes from \$399 to \$209. It is not just the \$10, it is quite a difference between what those 101 mills will bring into the county. **Dave Woodgerd** said if the 101 mills had stayed in place the state would not have taken advantage of that.

**REP. HARRINGTON** said there is a problem when they deal with the 101 mills and once they adopt the reappraisal. The reappraisal system is moving away from a fair and equitable system. The last issue he is concerned with is the super-majority vote and he has some serious problems with this bill.

**CHAIRMAN HARP** discussed the town locations on the SB 195 handout (**EXHIBIT 4**).

**Motion:**

**REP. HIBBARD** MOVED TO ADOPT THE FINAL AMENDMENTS INTO A FREE CONFERENCE COMMITTEE REPORT FOR SB 195.

**Discussion:**

**SENATOR HALLIGAN** said they can't predict the recessions and the fact that they are tied to the world economy and they need a back-up plan if this fails. The trust of the taxpayers is on their shoulders to try and create a permanent solution. The two percent phase-in is better than a freeze, but why attack the reappraisal process when the court has already upheld it. He said he is upset that they can't trust the voters with the respect to the voting on the potential of increases. If the court decides this is unconstitutional it could send them back into special session and they have jeopardized the trust they have with the taxpayers.

**SENATOR CRIPPEN** said he shares the concern about the super-majority vote provision. He said they are not dismantling the property tax system. There is going to be a committee that is working during the interim and this shows the taxpayer that they are aware of the problem and the intent to come up with a permanent solution. If they had not done anything and let the 1996 values go in place there would of been lawsuits every where.

**CHAIRMAN HARP** said this Legislature is reasonably treating all taxpayers fairly. He said no tax policy is perfect and the Legislature has made a reasonable attempt to address the affects of reappraisal.

Vote:

MOTION TO ADOPT AMENDMENTS INTO A FREE CONFERENCE COMMITTEE REPORT PASSED 4-2 WITH SENATOR HALLIGAN AND REP. HARRINGTON voting no.

ADJOURNMENT

Adjournment: 9:38 a.m.



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SEN. JOHN HARP, Chairman



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JODI JONES, Secretary

JH/jj