

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on April 9, 1997, at 4:05 P.M., in Room 413/415.

PLEASE NOTE: This meeting was held for Informational Testimony only. CHAIRMAN DEVLIN requested roll call not be taken.

Staff Present: Jeff Martin, Legislative Services Division
Gilda Clancy, Substitute Committee Secretary

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

INFORMATIONAL TESTIMONY ON SB 195

Lee Heiman, Legislative Staff Attorney, explained the action on the House Committee and the House Floor on SB 195.

Mr. Heiman said that SB 195, when it was passed by the Senate had a temporary, delaying affect. The House Taxation Committee got rid of that termination and made it permanent. The bill was passed and affected all classes of property and the House Tax Committee took that and limited it to classes three, four and ten properties.

In Section 4, beginning page 5 of the bill, the House Tax Committee made the evaluation of property classes three, four and ten to be the value of the property for the 1996 revaluation cycle equivalent to property value in 1993, except for some of the timberland and agriculture property which has a 1994 date because of productivity determination. Mr. Heiman further stated the market value basis for that property was stripped, so the property isn't literally determined on the market value of the property now. It depends upon the market value of the property as it sat in 1993.

He stated the 'statement of intent' in the beginning of the bill provides the Department of Revenue a means of figuring the value of new construction property since 1993 so that it is valued as if it were the same as 1993 property.

Mr. Heiman referred to Section 8 of the bill which allows the extension of deadlines, everything from mailings to local government mill levies, to allow them to work their way backwards to the 1993 values. When they did that on their computers they were unable to meet current statutory deadlines.

Mr. Heiman said that is basically a summary of what the House Tax Committee accomplished.

He stated on the House Floor, Sections 1, 2 and 3 were added which are the classes three, four, and ten. This reduces the rate for those three classes to adjust for the increased evaluation. Referring to page 10, lines 23 through 24, **Mr. Heiman**, said they provided those three class rate reductions are effective only if the main part of the bill is declared invalid.

Questions From The Committee:

SEN. DOROTHY ECK asked **Mr. Heiman** if the action on the House Floor essentially amended HB 590 into SB 195?

Mr. Heiman answered no, he believes there was also a provision in HB 590 which amended I-105 which was not added to SB 195. Otherwise, he thinks everything else was amended in. He said at one time HB 590 was amended either later or before on livestock which eliminated the class three properties.

SEN. BILL GLASSER said he has spoken to **Mr. Petesch** about concerns **SEN. GLASSER** has had on a permanent freeze as far as the intent of the Constitution to protect the property owners.

Mr. Heiman said that was discussed at length, and he thinks there is a problem with that which is the reason why the bill has the voidness provision.

SEN. GLASSER asked **Mr. Heiman** if it would be his advise as staff personnel to give first-hand information as a capable staff person?

CHAIRMAN DEVLIN announced this is not going to be the only 'informational hearing', there will be another at 7:00 a.m. on Friday morning. That should give more time to the remainder of the public that may not have heard the announcement of this meeting. In this case, the 72-hour notice does not have to be given. But he does believe the public should have a little more time, unless there are objections from the committee.

SEN. BARRY STANG said he would agree with that. He had a number of constituents who were planning to come next week because that is what was announced in the papers. Fifteen minutes notice did not give much time.

CHAIRMAN DEVLIN asked if they would be able to attend Friday morning? He said the time is limited and the committee has a lot of work to do on other bills.

SEN. GLASSER said the time issue raised was important. He asked if they would have the concepts of **SEN. HARP'S** bill, or the potential of loosing it and having the concepts of **REP. HANSON'S**

bill? Because of that, **SEN. GLASSER** said he would like very much to hear from **Mr. Petesch** as to what he feels the risks are.

CHAIRMAN DEVLIN said he would ask **Mr. Petesch** to be there Friday morning.

SEN. ECK asked if the hearing would be at 7:00 a.m.

CHAIRMAN DEVLIN said that is correct and it may take awhile. He said this is a complicated bill and they are making some huge changes.

SEN. STANG asked **Mr. Heiman** if there was any information given on the Floor or in committee as to the effects of the changes in Sections 1, 2 and 3?

Mr. Heiman responded there was a significant amount of fiscal data from the Department showing the effects.

SEN. STANG said the committee should be able to get those, then, from the Department.

SEN. GLASSER asked **Mr. Heiman** if in the process of working with **REP. HANSON'S** and **SEN. HARP'S** bills, was it ever addressed by the House Floor or House Taxation Committee that if **REP. HARP'S** bill is pulled and **REP. HANSON'S** bill becomes part of the bill, is it possible to take the taxable impact of the reappraisal process and phase that in over a three-year period if it is in excess of 5%?

Mr. Heiman responded he does not recall any discussion about phasing it in.

SEN. ECK said that people are looking at the possible melding of I-105 and this bill, but they are also going to be looking at the phase-in provisions in **SEN. CRIPPEN'S** bill. She believes it would be useful to have that information and what will happen is that they will have one super conference committee which will try to put the workable parts of these bills together.

SEN. STANG said they had a bill earlier in the session which dealt with **SEN. BECK'S** bill on taxation of forced property. He asked **Mr. Heiman** how that would coordinate with Section 3?

Mr. Heiman answered on page 4, line 27, the .35% is the same as in **SEN. BECK'S** bill. He thinks the sections are identical.

{Tape: 1; Side: A; Approx. Time Count: 4:19 p.m.}

Testimonial Information:

Alec Hansen, Montana League of Cities & Towns, stated he spoke earlier in the week in support of SB 392, which is **SEN. CRIPPEN'S** bill which was considered by Senate Taxation, sent down to the

Floor and passed over to the House. There are parts of that bill which work much better for Cities and Towns than SB 195.

Mr. Hansen stated by leaving the reappraisal in effect, what he understands from talking to finance officers and people from the Department of Revenue, it will be easier to get the budget mill levy information to local governments in time for them to do their budget with real numbers instead of shooting in the dark.

He said the other advantage of SB 392 is that it does phase in reappraisal at the rate of 2% per year. He said that is not a lot of money, and statewide that would be about .76% increase in the taxable value. In some places, taxable value is only increased 3% which, if phased in over 50 years, it may not raise 12 cents on a mill in smaller towns in eastern Montana. He said at least the 3/4 of 1% does make a little difference.

Mr. Hansen said this committee put an amendment on SB 392 which he feels was absolutely necessary. This amendment said that a 3rd class city or town, which has under a population of 5,000, one time could raise taxes 2% in the coming fiscal year. Again, that is not a lot of money, and he does not think that if this amendment were taken full advantage of across the State of Montana, it would raise property taxes more than \$300,000 to \$400,000. He said that money is desperately needed by the cities and towns, particularly on the eastern part of the state, where there has been an increase in taxable value, because they have been frozen under I-105 for ten years. He said he would like the committee to consider one thing, if their principal source of revenue is income tax, which has been frozen for ten years and they had to balance their budget with the amount of money that was available from the income tax ten years ago, the financial difference discussed in the newspaper, would be much broader than it is today.

Mr. Hansen said he hopes this committee and those who will make this decision, will remember that local governments are a big part of this state and this should be a partnership. He hopes they think of their partners who will be working under this arrangement for at least two more years.

Don Waldron, Montana Rural Education Association, said he has a request. They have a copy of 'What It Means To Every School District' if the freeze on SB 195 would take affect, which has been circulated to 200 school districts this week. He would urge the committee to take a look at this copy to see how this would affect the schools.

Mick Robinson, Governor's Office, said he spoke as a proponent on this bill in the Senate and when it was introduced in the House as a vehicle to flow into the discussions. He said people saw the major changes amended into this particular bill in the House. He said he thinks it is important to address the significance of some of those changes.

Mr. Robinson said as **Mr. Heiman** indicated earlier, the freeze was a temporary freeze with the understanding it would be coupled with a study group which would come back in a year or so and try to fashion a permanent, long-lasting solution. In addition, the freeze applied to all classes of property as originally introduced.

Mr. Robinson further stated that now we have a bill which applies to classes three, four and ten which is a significant change. In terms of earlier discussions, he voices the same concerns as to the constitutionality of a freeze affecting only selected properties and perhaps not the entire spectrum of classes. He said obviously, **Greg Petesch** would be more of an authority on constitutional issues.

He said the bill now talks about the permanent movement away from market value which is a major question. **Mr. Robinson** said he has personally been a supporter of looking at something other than market value in our property tax situation, but he believes this is a major change and does need significant consideration.

He stated he was an advocate of acquisition value because he believes one problem we have in our property tax system is a very low level of trust in the system. He believes that objective type of approach would certainly heighten the trust. But moving away from the market value is a very major extent, and he said he would be willing to discuss that, but this particular bill makes that change and he thinks we all need to recognize the significance of that.

Mr. Robinson further stated that many have been willing to perhaps take legal action on the freeze portion of SB 195. Obviously, that was one reason for amending in HB 590 which would be the tax rate reduction. He thinks we need to look very carefully at the reality of that. If it is a reality, we need to look at the impacts of HB 590 as the taxes are reduced. He said there is discussion of wanting to be able to address the property tax situation from the standpoint of the impact on the individual taxpayers.

Mr. Robinson said HB 590 is more of a system-wide approach and does not directly impact or address the taxpayers. In terms of his review of the bills and his discussions with the Governor, they lean toward the **CRIPPEN** bill as the best vehicle at this point in terms of trying to address the individual taxpayer while not making such dramatic changes in the property tax system in terms of a long-lasting solution. He stated the **CRIPPEN** bill will give them the ability to temper the increases in the reappraisal activity, and coupling that with the study mechanism will also give them the ability to determine whether or not they can find a long-term solution to this problem in property tax.

Gordon Morris, Director, Association of Counties, said SB 195 has come back from the Senate and the House as a disaster waiting to

happen. He said with all due respect to **SEN. HARP**, as the bill went to the House the idea of the freeze raised a lot of legal questions as to whether or not it could be constitutionally challenged. This bill still has that question as to whether it would hold up in court. Then it gives an out in the last section of the bill which says that if sections of the bill are found to be invalid by virtue of a court of law to be unconstitutional, then class three, four and ten properties will be ratcheted back into the bill.

It concerns **Mr. Morris** as to the events which will have to follow after the passage of this bill on passage and approval. He said the Department of Revenue will send out assessment notices, local governments will move to collect taxes in November, and all this will be based upon the freeze. **Mr. Morris** stated somebody will file a class action suit on the constitutionality of the freeze.

Then **Mr. Morris** assumes we will collect November taxes and there will be an appearance before a court someplace in Montana and sometime in March of 1998 the court will render a decision saying that SB 195 and those sections pertaining to the freeze are declared invalid. If that happens, they are back into the situation of taking classes three, four and ten and ratchet down the values, recalculate the taxes, issue refunds, send out new appraisal notices, new taxes and that is a recipe for disaster for our schools, our cities, our towns and our counties and the State of Montana.

Dennis Burr, Montana Taxpayer's Association, said they originally supported SB 195. He said there have been several bills which have tried to take the sting out of the reappraisal and, in his opinion, SB 195 is the only one which really did that. He said they have looked at mill levy reductions and could reduce statewide mills by 40%. Revenue would be the same after the reappraisal in the State of Montana as it was before, but there are property values that went up 20%, 50%, 100%, and 150% and a good number of those people are going to be paying more if all we do is reduce statewide mills.

Mr. Burr stated we can reduce local mills and the same thing will happen, this will hit property owners differently, partly depending upon where they live but mostly not in relationship to their ability to pay anymore because outside influences, in his opinion, have changed Montana property values more than they would be changed if Montanans were circulating property amongst themselves within the state as we use to do.

Mr. Burr said we have done that before, and it was not a bad solution but the reason it wasn't too bad a solution in the past is because the legislators did not have good information. When the taxes were lowered from 12% to 8.55% **Mr. Burr** said he was working at the Department of Revenue at the time and told them that would be the proper percentage. But he didn't tell them about how it affected individual counties or individual taxpayers

because they did not have the facilities to provide that information. In this particular case, he said you have counties going up 70% and counties going down in value, changing that classification rate is not going to be a very good solution among counties and it is going to be a terrible solution among taxpayers, for those who have massive rises in their assessed value. If you don't want taxes raised, you don't change values and that is what SB 195 did.

Mr. Burr stated he liked SB 195 better when it left the Senate. He said it left as a temporary measure which lasted until the year 2000. He said we are making a seven-year appraisal cycle from a three-year appraisal cycle. The past two appraisal cycles were seven years. He thinks this body has the authority to determine the length of an appraisal cycle so he thinks you could call it delaying implementation of the reappraisal but it is essentially extending that cycle.

He said the way the bill is now gives some problems as to a permanent full time solution, essentially using 1993 market values. He stated the word 'current' is crossed out so that it does not say current market values. But it is still the 1993 market value and the way the bill is now, it could go on forever. **Mr. Burr** believes the legislature should look at that. He said people come back to the sessions every two years with new ideas.

Mr. Burr stated that **SEN. CRIPPEN'S** bill was to go on top of SB 195. He said it did not have any changes in values, but established an appeal procedure and a committee to study a long-term solution to the property tax problem. It now moves towards a re-appraisal in a constitutional manner. Everyone's evaluation increase is phased in at the same percentage. Someone whose values went up a lot, their property tax will go up a lot and for someone whose values went up a little, their property tax will go up a little each year, and people's whose values went down, their property tax will go down each year. He said this is converging towards market value for everyone at the same rate and feels that is legitimate. He said it takes 50 years because of the manner in which this bill is currently structured, but maybe in a few years we could do something different.

Mr. Burr said **SEN. CRIPPEN'S** bill is almost a freeze and the only way to effectively tell property owners in the state that a tax increase has been prevented as a result of the reappraisal, is to adopt SB 195 or SB 392 which has a very small change. The concept of not changing values is the only way not to affect a lot of people's property tax.

He said in the Yellowstone County case, they had gone up 33% in value and the statewide average was 40%. Lowering the classification rate overall, they will pay less in statewide levies than the west. But even with the bill, 48% of the property owners in Yellowstone Counties will have a property tax

increase. He believes when the intentions are not to change the property tax much, you come back to this concept.

SEN. JOHN HARP said it is clear why the motion was made a couple days ago to reject the House amendments. There were some massive changes which occurred in the House Tax Committee and on the House Floor.

He appreciated **Mr. Burr's** comment that it was always their intent when this bill was introduced that it was going to serve the taxpayer and that the taxpayers in Montana would be assured that there would not be an increase in property taxes. He said obviously, there were people who were concerned about it but the greatest concern about the methodology in what they are hearing are really the people who collect taxes and spend tax dollars, but not hearing much from the taxpayer himself. He is glad **CHAIRMAN DEVLIN** is scheduling another hearing to get taxpayers into speak.

SEN. HARP said the taxpayer probably does not understand everything that is going on today, which is not unique to Montana's Legislature. It is his vote by late Friday or early Saturday that the Free Conference Committee will meet. He is looking forward to the additional information on Friday and then on to the Free Conference Committee so they can come to a solution and let the Montana taxpayers know that they are concerned and that they would like to achieve a piece of legislation that one will meet the needs of Montanans and ensure there will not be an increase in property taxes.

Questions From The Committee

SEN. FRED VAN VALKENBURG stated that **SEN. HARP** said it should be obvious by now that he moved to reject the House amendments and **SEN. HARP** indicated his desire to go to Free Conference Committee and to craft something which will protect the taxpayer of the State of Montana.

{Tape: 1; Side: B; Approx. Time Count: 4:45 p.m.}

SEN. VAN VALKENBURG asked **SEN. HARP** what he thinks is the most unacceptable amendments that the House put on the bill and what he thinks are areas within the realm of workability and where the Free Conference Committee is headed.

SEN. HARP answered the **SEN. VANVALKENBURG** has been at the legislative sessions long enough to know what a free conference committee is all about. He said it is great latitude, particularly with the way the bill is after the House amended it. He said it is the only proper way to craft something that both chambers agree with.

SEN. HARP further said that he feels there are a couple of provisions which need further discussion. One is market value in

the sense of whether or not we are prepared to move away from market value and if we are, are we going to do it now or two years from now? Also, the affects of this. If we move from market value, what will be the mechanism that replaces market value?

He said obviously the House has made a very strong indication, with 67 members of the House supporting SB 195 as it left the House Chamber. **SEN. HARP** said he would like to feel comfortable with whatever we leave in place in the bill. This may not occur right now, it may be two years from now.

SEN. HARP stated he has supported reduction in mills rates, because ultimately his goal is to craft something in which the taxpayer does not see an increase in taxes. This has been his mission when he came to the session.

He said possibly they could look at a percent increase with the reappraisal phased in over several years and at the same time offset any potential increase to taxpayers by a reduction in the mill rate statewide to achieve a true zero increase in property taxes into the future. He said there are concerns about that and he included all classes, but that is not the case now.

He said that one thing that occurred when the bill left the Senate, is that they had a Supreme Court decision on the Albright case, which really changed the dynamics of this discussion on the latitude of the Montana Legislature. They had a debate on the Senate Floor on market value and according to the framers of the Constitution they do not have to tie this to market value. Discussions in the House led to the possibility of looking of market value. He stated then it was clear that the Legislature, by law, has great latitude in limiting increases and maybe allowing a freeze and treating different classes of property in Montana.

SEN. HARP said there were strong feelings in the House particularly with **REP. HANSON** when HB 590 was amended on the House Floor. He thinks this is a lot to consider.

SEN. VAN VALKENBURG stated when **SEN. HARP'S** bill left the Senate, he would describe it as a temporary solution with the idea that in the 1999 session the legislature would be looking at a more permanent solution regarding property taxes. Now he thinks they have what appears to be an attempt to put in place a permanent solution, although it obviously has serious flaws. He would like to know when they go to Conference Committee if it is **SEN. HARP'S** desire to come up with a temporary solution which would get them through the next two years so they would be looking at comprehensive tax reform in 1999 or if he is attempting to do something in the next ten days in this Legislature that amounts to a comprehensive property tax reform?

SEN. HARP responded he believes they can achieve an immediate relief to taxpayers in Montana. If they do not, they will see an increase anywhere from \$80 to \$100 Million in property taxes. He thinks we need deal with the way property is assessed and valued in Montana. He believes they need to make the decision whether or not to keep market value. He thinks that is very likely to occur in the next ten days. He also said, as far as comprehensive tax reform, that is a much bigger issue and obviously we need to include a lot of other issues but that is not going to occur because they do not have the time.

SEN. HARP stated he thinks in the future in Montana as far as the funding of corrections, institutions, and K through 12, etc. there is no question this state will have to address something with a comprehensive tax reform which goes well beyond what they are discussing today.

SEN. VAN VALKENBURG asked if it is safe to assume that anything can happen with this bill regarding property taxes in the next ten days, but that they will not be looking at comprehensive tax reform in the next ten days?

SEN. HARP responded that comprehensive tax reform involves much more than property taxes. It involves income tax, special use taxes and a whole spectrum of things.

SEN. VAN VALKENBURG asked if that includes property tax?

SEN. HARP responded that is something they will continue to look at. He said they plan to ensure the citizens of Montana that they will not see a massive increase in taxes and they may also give them direction on how they will continue to assess and value and treat property in Montana.

SEN. GLASER stated that they are plowing new ground with the issue before them. Furthermore, he said the leadership and the chairman have put this committee in a position where they are advise and counsel to the Free Conference Committee. He also feels the Free Conference Committee and the leadership have put the Committee in a position of filtering information from the public and the professional lobbyists to the Free Conference Committee, which is the only way they will get honest public input. He asked if that is the case, has the president determined who will be on the Free Conference Committee?

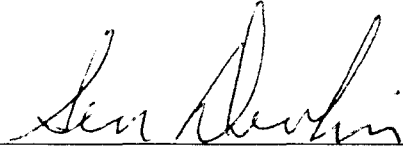
SEN. HARP answered "no".

SEN. GLASER asked if the president has not decided and this is so important, would it be possible for the president to make this decision by 7:00 a.m. Saturday so that the committee can interface with the Free Conference Committee during the input period so they can get the most benefit from public input?

SEN. HARP answered "yes".

ADJOURNMENT

Adjournment: 5:00 p.m.



SEN. GERRY DEVLIN, Chairman



GILDA CLANCY, Secretary

GD/GC