

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on April 11, 1997, at 7:00 a.m., in Room 413.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Meg Angell, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 195 (Informational Hearing)
Executive Action: HB 210 (BCIAA)

INFORMATIONAL HEARING ON SB 195

{Tape: 1; Side: A; Approx. Time Count: .4; Comments: None.}

Informational Testimony:

REP. SONNY HANSON, HD 9, BILLINGS

EXHIBITS 1 & 2

REP. HANSON has concerns about SB 195 as it came from the House. He references Exhibit 2, stating 57% of the population lives in the "red, yellow and white" sections of the handout. In HB 590 (Exhibit 1) taxation and revenue are both brought back to neutral. Concerns re: SB 195 are the costs, lost interest and if there's a court case there would be no way to prevent the implementation which would cause double taxing.

Bonnie Ambuehl, Lewis and Clark County Taxpayer is opposed to SB 195. The current system cost \$7 million, which would essentially be thrown away. The market value gives taxpayers a way to defend against questionable valuation. Property taxes should be a local issue.

Alec Hansen, Montana League of Cities and Towns says passage of this bill would leave us right where we've been for the past ten years. Dollars have been depreciated by 42%. This is a real and serious problem.

SEN. FRED VAN VALKENBURG asks **Mary Bryson, Department of Revenue** what the Department of Revenue will have to do regarding the two sets of values, if this bill passes. **Ms. Bryson** responds the Department will have to maintain two sets of property values which will be a huge administrative task. **SEN. VAN VALKENBURG** inquires if the Department has sufficient funding in their current budget to do that. **Ms. Bryson** responds they do not. They estimate it would cost \$490,000 to implement SB 195. **SEN. VAN VALKENBURG** asks what types of problems the Department anticipates. **Ms. Bryson** points out they can't issue notices in a timely fashion which will cause confusion for taxpayers. She can't be sure but there may be litigation.

CHAIRMAN GERRY DEVLIN queries **Ms. Bryson** regarding the implementation estimate on the original form of the bill. **Ms. Bryson** says the cost would be the same; the cost takes the Department back to the 1996 level.

SEN. MACK COLE inquires if there are figures on the statewide interest loss. **Ms. Bryson** says no; the figures could be appreciable, statewide; they would depend on each county's available information and the Department's ability to get needed information to each county.

SEN. DOROTHY ECK asks **Ms. Bryson** if the assessments for 1996 were really done in 1986. **Ms. Bryson** defers to **Judy Paynter, Department of Revenue**. **Ms. Paynter** explains that what we talk about on January 1, 1992 is really the values that went on to the appraisal of January 1, 1993. So the 1992 base is really January 1, 1993 through the 1996 appraisal.

SEN. ECK queries **Gordon Morris, Montana Association of Counties**, how Yellowstone County and others go through the process of getting notices out and what the costs are. **Mr. Morris** refers to the Unified Investment Program (UIP) in Yellowstone County. It would cost the UIP \$1 million based on a two-month delay. Counties will have to budget based on estimates. From the end of FY '97 to the beginning of FY '98 counties will be surviving on their reserves; there are no reserves. **SEN. ECK** asks if the court overturns this bill would everything have to be refunded? **Mr. Morris** responds that if Sections 4-8 are challenged and determined to be unconstitutional (and that could be as late as March, 1998), Sections 1-3 would be implemented and assessment

notices would have to be re-issued and taxes would have to be recalculated and refunds issued or a totally new tax bill tied to a refund.

CHAIRMAN DEVLIN asks **Mr. Morris** if this Legislature should leave town without doing anything about this problem. **Mr. Morris** indicates support of SB 392, suggesting that be used as the base vehicle for a solution with various parts of SB 195 and SB 392 being incorporated into one.

CHAIRMAN DEVLIN asks **Alec Hansen** the same question. **Mr. Hansen** says the Legislature has to do something to balance this out. They are looking for a reasonable solution.

MICK ROBINSON, Governor's Office

EXHIBIT 3

Mr. Robinson proposes the following:

- 1) We find a temporary solution which would sunset in two years with a study group presenting proposals for a permanent solution to the 1999 Legislature;
- 2) We maintain market value using SB 392 as the mechanism;
- 3) Reduce the phase-in of value from 50 years to 20 years;
- 4) Reduce the statewide mills to allow for tax neutrality at the state level;
- 5) Trust local government and school officials to properly address this 2% average increase in value.

SEN. MIKE HALLIGAN, SD 34, MISSOULA asks if anyone has suggested anything other than market value. (None made yet.)

Karen Fenger, Lewis and Clark County Taxpayer has a different suggestion: keep it simple - lower the tax percentage rate.

Bill Giannonatti, Deer Lodge Taxpayer indicates his taxes have gone up 46% in four years; he can't stand another increase.

CHAIRMAN GERRY DEVLIN inquires if **Mr. Giannonatti** would sign a petition to eliminate property taxes. **Mr. Giannonatti** responds he would look at the option very closely.

SEN. MIKE FOSTER asks **Mr. Giannonatti** if he would support a property tax freeze as a short-term solution and if he thinks it would help. **Mr. Giannonatti** says it would help the Legislature. He probably would support it, but wants a long-term solution.

SEN. FRED VAN VALKENBURG inquires if **Mr. Giannonatti** has made any attempt to find out why his taxes have gone up 46%. **Mr. Giannonatti** says there have been no improvements; no new schools, no increase in the mill levy and the value now is significantly more than he thinks it's worth on the market; he has thought about appealing, but has not done so yet.

SEN. DOROTHY ECK queries **Don Allen, Montana Wood Products Association** regarding the forest tax part of the bill. **Mr. Allen** responds they supported **SEN. TOM BECK'S** bill. The productivity tax in 1991 put them in a transitional mode; formulas have been changed - the rates and values are different. **SEN. ECK** asks if productivity has increased and if the change reflects the change in taxes from the previous system to the new system. **Mr. Allen** responds productivity has increase 124%; the change does not reflect the system change as they have been on the new system since 1993.

CHAIRMAN GERRY DEVLIN inquires how one rate could be applied statewide without penalizing one area and helping another. **REP. SONNY HANSON** responds referring to Exhibit 2, that the white section will be subsidizing the blue and red areas; the values will shift between counties. The taxable value is the only way to address the problem fairly.

SEN. FRED VAN VALKENBURG queries **Mr. Robinson** regarding the "if necessary" language in Exhibit 3. **Mr. Robinson** responds we must trust state officials to implement the appropriate reductions.

SEN. MIKE FOSTER comments **Mr. Robinson's** figures are matching percentages against percentages rather than percentages against dollar. **Mr. Robinson** indicates percentages translate into dollars. He adds the 50 year period for phase-in is too long.

Karen Fenger, Lewis and Clark County Taxpayer notes that in her opinion it isn't the state rate that went up, it is the county rates.

Andree Deligdisch, Great Falls Taxpayer stresses the need for predictability. Counties need predictability to operate; taxpayers need predictability to budget for taxes.

CHAIRMAN GERRY DEVLIN asks **Ms. Deligdisch** if she believes a phase-in approach would work. **Ms. Deligdisch** responds it would help.

Gloria Paladichuk, Richland Development Company states any bill needs to result in taxes being assessed and collected without a delay; a delay will hurt small counties, cities and schools. She believes state-mandated mills are a problem.

John Shontz, Montana Association of Realtors suggests setting up the phase-in value like a contract for deed with a balloon payment that expires.

QUESTIONS FOR GREG PETESCH, Legislative Services Division:

SEN. WILLIAM GLASER: Is there a Constitutional problem with the bill as it is? **Mr. Petesch** responds if there is one it would be tied to an equal protection issue. The previous reappraisal cycle extended over a six-year period; this cycle could be

extended to perpetuity, which makes it hard to have accurate values. The 1993 values are valid and defensible. The further away you get from the base year, the less defensible the values become. **Mr. Petesch** also notes the key from the Albright Decision is that as long as the Legislature makes a "reasonable attempt to equalize values the court will accept that. SB 195 in its current form should not be viewed as anything other than a temporary solution.

SEN. DOROTHY ECK: Is there anything relative to the Legislature's attempt to define equalization of property? **Mr. Petesch** responds most of the problems have come under the equal protection issue. He references the Department of Revenue vs the State Tax Appeal Board decision in which the court says uniformity and equality will always override true value. The Legislature has a lot of flexibility as to how we arrive at value. Currently the statutes require market value; the Constitution does not require we use market value. **Mr. Petesch** believes it would be defensible for the State to go to some other methodology of valuation.

EXHIBITS 4,5 & 6

CHAIRMAN DEVLIN passed out copies of Exhibits 4,5 & 6 and encouraged further input from Committee members, the Department of Revenue and the public in attendance at this informational hearing. No further input was provided and the hearing was closed.

ANNOUNCEMENT: CHAIRMAN DEVLIN ANNOUNCED THE FREE CONFERENCE COMMITTEE WILL MEET TOMORROW, SATURDAY, APRIL 12, 1997 AT 6:30 A.M. IN ROOM 325 TO CONSIDER THIS ISSUE. THE FREE CONFERENCE COMMITTEE WILL BE COMPRISED OF SEN. JOHN HARP, SEN. BRUCE CRIPPEN, SEN. MIKE HALLIGAN, REP. CHASE HIBBARD, REP. ROBERT STORY AND REP. DAN HARRINGTON.

EXECUTIVE ACTION ON HB 210

{Tape: 1; Side: B; Approx. Time Count: 0; Comments: None.}

MOTION: SEN. DOROTHY ECK MOVED HB 210 BE CONCURRED IN.

DISCUSSION:

SEN. WILLIAM GLASER noted this is a complex issue; people don't understand the relevancy between their phone and funding services such as 911.

MOTION: SEN. GLASER MOVED AMENDMENTS 21011.ajm EXHIBIT 7

DISCUSSION:

SEN. MIKE FOSTER referenced the "public good" of 911 and supports all telephone users as the funding source.

SEN. GLASER comments there is a difference between fees and taxes on phones. He doesn't believe the phone is relevant.

SEN. BOB DEPRATU is a strong proponent of 911 and states everyone benefits so the phone system is a good way to fund the service.

VOTE: MOTION TO ADOPT AMENDMENTS 21011 FAILED 4-5 with
CHAIRMAN DEVLIN, SEN. GLASER, SEN. SPRAGUE and SEN.
STANG voting yes.

MOTION: SEN. GLASER MOVED AMENDMENTS 21010.ajm EXHIBIT 8

DISCUSSION:

SEN. BARRY STANG notes this amendments doesn't agree with the information provided by Dave Boyer. He questions if this is a publication of services. Barbara Ranf, U.S. West Communications responds access to 911 is included and there is no duplication of services.

VOTE: MOTION TO ADOPT AMENDMENTS 21010.ajm FAILED 3-6 with
CHAIRMAN DEVLIN, SEN. GLASER and SEN. FOSTER voting
yes.

MOTION/VOTE: SEN. BARRY STANG MOVED THE WORD "STATE" BE
INSERTED BEFORE THE WORD "POPULATION" AS
APPROPRIATE THROUGHOUT THE BILL. MOTION CARRIED
UNANIMOUSLY.

MOTION: SEN. BOB DEPRATU MOVED AMENDMENTS 21003.ajm EXHIBIT 9

Jeff Martin explains the is a technical amendment which defines terms and ensure the defined terms are used within the bill.

VOTE: MOTION TO ADOPT AMENDMENTS 21003.ajm CARRIED
UNANIMOUSLY.

MOTION: SEN. GLASER MOVED AMENDMENTS 21001.ajm EXHIBIT 10

CHAIRMAN DEVLIN explains this amendments exempts cellular phones.

SEN. DOROTHY ECK opposes the amendment; cellular phones are relevant and are being used by many people for many different reasons; lives are saved because people can call 911 from a cellular phone.

SEN. STANG asks if this exempts cellular phones from everything. CHAIRMAN DEVLIN explains it does but it's not in the law unless this bill passes with this amendment.

SEN. WILLIAM GLASER objects to the fee on enhanced 911, not on the fee for basic service to cellular phones.

MOTION: **SEN. MIKE FOSTER MOVED THE SEGREGATION OF #3 OF AMENDMENTS 21001.ajm.**

DISCUSSION:

SEN. VAN VALKENBURG asks if the Committee takes it out, would the Legislative Intent be recognized as stating we don't want the 25 cents charged to cellular phones? **Mr. Tony Herbert, U.S. West Communications** responds that is how he would interpret it.

SEN. VAN VALKENBURG comments the money for enhanced 911 is diluted if we exclude cellular phones. He sees this as a fairness issue and thinks they should be charged.

SEN. MIKE SPRAGUE notes cellular phones were first used for businesses; now there are many uses. He agrees with **SEN. VAN VALKENBURG**. He also favors lowering the price per unit.

VOTE: **MOTION TO ADOPT SEGREGATED AMENDMENT #3 OF AMENDMENTS 21001.ajm FAILED 4-5 with CHAIRMAN DEVLIN, SEN. DEPRATU, SEN. GLASER and SEN. FOSTER voting yes.**

MOTION WITHDRAWN: **SEN. GLASER WITHDREW HIS MOTION TO ADOPT AMENDMENTS 21001.ajm.**

MOTION: **SEN. GLASER MOVED AMENDMENTS 21003.ajm** **EXHIBIT 11**

Jeff Martin explains this would reduce the "nickel" allocation to all communities; we would need to amend the amendment if we want to target the less-populated counties.

SEN. DOROTHY ECK comments the Committee needs to remember all the testimony in support of this bill; she believes the 911 system is supported by the people of Montana. **CHAIRMAN DEVLIN** disagrees based on the people he heard or didn't hear testimony from.

SEN. VAN VALKENBURG asks if we adopt the amendment will the counties need to use their reserve funds to make the system work. **Mr. Herbert** indicates the counties will probably have to use some the funds.

SEN. MIKE SPRAGUE asks if the anticipated increase in cellular phones was considered in coming up with the numbers. The answer is no.

VOTE: **MOTION TO ADOPT AMENDMENTS 21003.ajm FAILED 4-5 with CHAIRMAN DEVLIN, SEN. GLASER, SEN. SPRAGUE and SEN. FOSTER voting yes.**

EXHIBIT 12

MOTION/VOTE: **SEN. GLASER MOVED AMENDMENTS 21005.ajm**
 MOTION CARRIED 5-4 with SEN. DEPRATU, SEN. ECK,
 SEN. STANG and SEN. VAN VALKENBURG voting no.

SEN. MIKE FOSTER comments regarding his concern about the disparity between counties relative to their reserve accounts.

SEN. GLASER comments on the disparity between Valley and Beaverhead counties which have relatively similar populations.

MOTION/VOTE: **SEN. ECK MOVED SB 210 BE CONCURRED IN AS AMENDED.**
 MOTION CARRIED 7-2 with CHAIRMAN DEVLIN and SEN.
 GLASER voting no.

SEN. BOB DEPRATU will carry the bill.

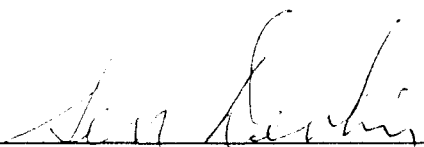
AMENDMENTS 21020.ajm

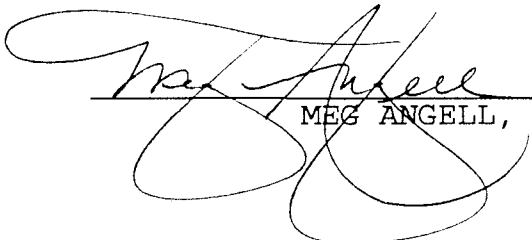
EXHIBIT 13

NOTE: Amendments 21020.ajm were presented to the Secretary following adjournment and are a composite of the amendments approved by the Committee during today's hearing.

ADJOURNMENT

Adjournment: 10:06 a.m.


SEN. GERRY DEVLIN, Chairman


MEG ANGELL, Secretary

GD/ma

Minutes were recorded on Sony BM 89-T at 2.4 speed control.