MEETING NOTICE

WYOMING LEGISLATIVE SERVICE OFFICE

Joint Revenue Committee Property Tax Working Group

Senator Cale Case and Representative Steve Harshman, Co-chairmen of the Joint Revenue Committee Property Tax Working Group, have announced the Working Group will meet:

September 1, 2022 | 8:30 AM
Online via Zoom
Livestream available on YouTube - Wyoming Legislature

The purpose of the meeting is to continue the work of the Joint Revenue Committee Property Tax Working Group. The meeting will be held online via Zoom. **Those wishing to provide public comment may register at the following web address: https://wyoleg-gov.zoom.us/webinar/register/WN_vatPwBZrQ5y4EWN892M2hg**

Please direct questions about this meeting to Legislative Service Office staff Josh Anderson, Dean Temte and Emily Wangen at: (307) 777-7881.

Individuals who plan to provide materials to the Working Group during the meeting should provide the materials in electronic format to staff and provide sufficient hard copies for members of the Working Group, LSO staff and interested members of the audience. Hard copies should be on three hole paper.

Persons with disabilities requiring special accommodations to attend this meeting should contact the Legislative Service Office at: (307) 777-7881, or by e-mail at: lso@wyoleg.gov, for assistance.

Members of the Joint Revenue Committee Property Tax Working Group
Senators: Cale Case, Tom James, Stephan Pappas
Representatives: Steve Harshman, Chuck Gray, Bill Henderson, Mark Jennings, Pat Sweeney, Mike Yin

Updated: August 23, 2022

JOINT REVENUE COMMITTEE
Property Tax Working Group

September 1, 2022 | 8:30 AM
Online via Zoom
Livestream available on YouTube - Wyoming Legislature

This proposed agenda sets forth the order in which the Working Group may consider each topic. The agenda is subject to revision and all times listed are tentative and may be subject to change. If a topic is concluded early, the Working Group will proceed to the next topic. For multiple day meetings, topics not completed on the indicated day may be carried over to the next day. Breaks will be taken as necessary.

THURSDAY, SEPTEMBER 1, 2022

8:30 AM **1. Call to Order**

2. Proposals and Discussion
- Property Tax Relief Matrix
  - *Staff, Legislative Service Office*

3. Public Comment

4. Working Group Discussion

5. Meeting Adjournment

**NOTE: In accordance with Management Council policy, opportunity for public comment will also be provided upon the conclusion of each topic.*

WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE	8/29/2022
TO	Property Tax Working Group/Joint Revenue Committee
FROM	Josh Anderson
SUBJECT	Property tax relief – matrix of options

At the June 27 meeting of the Property Tax Working Group (Group), the Group requested a matrix of the options for property tax relief that had been brought to the Committee along with the estimated fiscal impact of those options and an assessment of legal challenges that may arise should the options be adopted.

For the approaches noted below, this memo attempts to provide information on the likelihood that the approach might violate Article 15, Section 11 of the Wyoming Constitution based on existing case law and legal research. Article 15, Section 11 requires uniform assessment of property. The language of that section was amended in 1988 and the current language appears to be unique to Wyoming. As such, there are not many applicable court cases, and the actions of other states are of limited value because those states do not have a similar constitutional provision.

Article 15, Section 11 of the Wyoming Constitution provides, in full:

> (a) All property, except as in this constitution otherwise provided, shall be uniformly valued at its full value as defined by the legislature, in three (3) classes as follows:
>
> (i) Gross production of minerals and mine products in lieu of taxes on the land where produced;
>
> (ii) Property used for industrial purposes as defined by the legislature; and
>
> (iii) All other property, real and personal.
>
> (b) The legislature shall prescribe the percentage of value which shall be assessed within each designated class. All taxable property shall be valued at its full value as defined by the legislature except agricultural and grazing lands which shall be valued according to the capability of the land to produce agricultural products under normal conditions. The percentage of value prescribed for industrial property

> shall not be more than forty percent (40%) higher nor more than four (4) percentage points more than the percentage prescribed for property other than minerals.
>
> (c) The legislature shall not create new classes or subclasses or authorize any property to be assessed at a rate other than the rates set for authorized classes.
>
> (d) All taxation shall be equal and uniform within each class of property. The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.

Wyoming Constitution Article 15, Section 11.

The Wyoming Supreme Court "has consistently interpreted Wyo. Const. art. 15, § 11 to require only a rational method of appraisal, equally applied to all property, which results in essential fairness." *Holly Sugar Corp. v. State Bd. of Equalization*, 839 P.2d 959, 964 (Wyo. 1992) (internal quotation marks omitted).

From the language of the Wyoming Constitution, the options below that place limits on the assessment of property or that are likely to allow for subclasses of property that are assessed at a different rate in contradiction of Article 15, Section 11 are categorized as "strong argument of violation." For example, an option that would set the property tax value based on the acquisition value of the property would appear to create different subclasses of property values based on the last time the property was purchased. Note that some of the proponents of these options have suggested a constitutional amendment. If any of these options are accomplished through a constitutional change instead of a statutory change, the constitutional concerns would not apply.

The options that do not affect assessment but that still could potentially be interpreted to create a subclass of property or that may affect taxation being equal and uniform within each class of property as provided in subsection (d) of Article 15, Section 11 are categorized as "possible argument of violation." For example, while a homeowner's tax credit or a homestead exemption would not affect the assessment of property, those provisions could potentially be argued to affect whether taxation is equal and uniform within each class of property. Note that it may be advisable to structure this type of relief as a tax exemption, rather than a tax credit, because Article 15, Section 12 of the Wyoming Constitution authorizes the legislature to provide exemptions for "such other property as the legislature may by general law provide." Currently there are various exemptions to property tax including exemptions for snowmobiles and personal property held for personal or family use which have not been challenged under Article 15, Section 11 of the Wyoming Constitution. See W.S. 39-11-105(a)(xi) and (xv).

The options that do not affect the assessment of property and do not appear to create any new subclass or otherwise result in taxation being unequal within any class under Article 15, Section 11 are categorized as "little to no argument of violation." For example, a statutory reduction of the current 9.5 percent assessment ratio that would apply to all property within the "all other property" class would not likely be subject to any kind of successful challenge under Article 15, Section 11 of the Wyoming Constitution.

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As noted above, because the current language of Article 15, Section 11 has not been widely interpreted by the courts in the context of this type of property tax relief, this memo is conservative in categorizing the property tax relief options and is intended only to provide information for policymakers.

The fiscal impact is provided below for options that can be estimated with available information. For some options it may be necessary for the Committee to provide additional details or specific inputs for staff to provide the fiscal estimate.

Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
1. Decrease number of mills assessed	FY25 impact of 1 statewide mill: $22.7 M	Little to no argument of violation	Jan. 2022 CREG 2024 tax year total assessed valuation times 1 mill
2. Reduce 9.5% assessment ratio for "all other property"	FY 2025 decreases based on 72 mills: ($6.2 M) SFP ($16.0 M) local res. ($15.0 M) all other ($37.2 M) total	Little to no argument of violation	This would impact commercial property in addition to residential property
3. Implement or amend elderly and disabled program: W.S. 39-11-109(c)	Current program $3.8 M/year claims $163,173/year admin. $125,821 startup	Little to no argument of violation **	Program not currently funded Estimate from Dept. of Health Startup costs requested effective immediately
4. Amend veterans exemption: W.S. 39-13-105	Program currently for honorably discharged combat veterans. $6,243,876/year per 23-24 appropriation. Addl. $2.4M/year to include non-combat veterans and surviving spouses at 100% utilization	Little to no argument of violation **	Fiscal impact depends on the details of the amendment. 11,184 non-combat veterans and surviving spouses, per Veterans Commission. Estimate to include non-combat based on full $3,000 exemption at 72 mills
5. Amend property tax deferral program W.S. 39-13-107(b)(iii) and W.S. 9-4-715(j) (repealed in 2019)	Cannot be determined. Depends on participation and program structure	Little to no argument of violation	Fiscal impact may also depend upon established interest rate and competing investment options

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Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
6. Amend property tax refund program W.S. 39-13-109(c)(v)	Current income limit is 3/4 of county or state median household income. Current funding $1.5M/year per 23-24 appropriation. Increasing income limit to median would increase refunds by at least $900,000/year	Little to no argument of violation**	1,587 applications in 2020. Applications in 2022 up > 150% (rough est.). LSO estimate based on 2019 tax year refunds, 2021 rough est. of application count and 2021 Census data Increasing utilization likely to impact estimate in future years
7. Implement and amend homeowner's tax credit	$342 x owner-occupied homes 165,530 = $56.6M/year	Possible argument of violation	$50k market value credit 9.5% assessment rate 72 mills Census Bureau est. of owner-occupied homes
8. Homestead exemption	$342 x owner-occupied homes 165,530 = $56.6M/year	Possible argument of violation	$50k market value exemption 9.5% assessment rate 72 mills Census Bureau est. of owner-occupied
9. Renewable energy property tax exemption	Cannot be determined without more guidance from Committee. May still be indeterminable	Possible argument of violation	There are existing exemptions for pollution control equipment and snowmobiles
10. Tax Relief from Existing Income Sources – Similar to Alaska	Cannot be determined without more guidance from the Committee	Possible argument of violation	The category of this relief will depend on the details of the approach. If not income limited it could be restricted by Article 16, Section 6

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Proposed Relief	Estimated Fiscal Impact	Category*	Notes / Assumptions
11. Use of acquisition value as a base for property taxation 2019 values or last sale	Total impacts based on 72 mills: ($242.0 M) FY 2026 ($268.0 M) FY 2027 ($296.0 M) FY 2028	Strong argument of violation	Also proposed as a constitutional amendment to avoid constitutional concerns Based upon prior assessed value growth, and modeled estimate of new construction and sales trends
12. Multi-Year Average Assessment	FY 2025 decreases based on 72 mills ($3.2 M) SFP ($8.2 M) local res. ($7.7 M) all other ($19.1 M) total Decreases higher in higher growth years	Strong argument of violation	Maryland uses a three-year rolling average to phase in property value increases. Estimates based on three-year rolling average and A.V. growth in Jan. 2022 CREG forecast.
13. Implement a percentage cap on property tax increases	Indeterminable, as impact depends on future market value increases on individual properties. Fiscal impact increases each year that percent increases exceed cap. 3% cap from 1993-2021 would have resulted in cumulative ($4.67B) tax decrease, in aggregate. 5% cap from 1993-2021 would have resulted in cumulative ($3.88B) tax decrease, in aggregate.	Strong argument of violation	This relief has also been proposed as a constitutional amendment to avoid constitutional concerns Cumulative estimates based on 72 mills

*The description of these categories is noted above.

**This type of relief has been found to be within the ability of the legislature to provide for the necessary support of the poor under Article 16, Section 6. A removal of the income requirements may change the category listed for the proposed property tax relief.

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Property Tax Reform Discussion

Those in attendance included:

Senator Case, Representative Sweeney, Representative Henderson, Department of Revenue Director Henson, Property Tax Division Administrator Judkins, State Board of Equalization Chairperson Jayne Mockler, and Assessors from all across the State of Wyoming.

The discussion started with the question, whom are we trying to help?

After much discussion, it was determined that **any reform should be based on NEED and it should be for residential, primary residences.** We also wanted to base the help on criteria within each County, similar to the Property Tax Relief Program. The taxpayers in Niobrara County have different tax obligations than those in Teton County and programs should be jurisdiction specific.

If we are going to make significant changes to the property tax system, we feel like **renters need assistance as well.** They may not fall into a specific program from this discussion, but counties are losing workers because they cannot find affordable rents. The Emergency Rental Assistance Program provided by the Federal Government is a start, but something in statute funded by the state or the individual counties, could give these communities relief for their workforce as well.

Now that we have a who, how do we help?

The Property Tax Refund Program is the quickest way to help the taxpayers in need. Small tweaks to the program could help and would just require additional funding from the Legislature to the DOR.

The Homestead Exemption language in the statutes could be updated in the next session and provide another measure of relief. Again, the exemption amount would have to be county specific to provide appropriate help to those taxpayers. This is the Niobrara/Teton County comparison…values are significantly different and exemptions would need to be county specific. This program needs to be simple for the taxpayer to qualify, and simple to administer. The Assessors would like to avoid looking at tax returns and having a long intense application process. This would require a statute change and would have to navigate through the legislative process.

Property Tax Deferral was bought up by Senator Case and it would allow taxpayers to borrow money on proceeds from future sales to help them meet the current tax burden. Lending institutions would administer the program, or possibly the WCDA. This deferral program would need language in the statutes and potential DOR Rule updates.

Monthly Tax Payments was an option that was not discussed at the meeting, but mentioned in some research provided by the Lincoln Institute of Land Policy. Having a monthly bill rather than 2 large installments seems to help taxpayers.

Acquisition Value was discussed as an option and should be investigated. This is the Proposition 13 language from California, but the program would need to be crafted carefully to avoid the need to create additional taxes due to revenue loss like California experienced.

Valuation Caps on increases were discussed, but may require a Constitutional change due to the "at full value" language in the Constitution. The cap number would need to be looked at very carefully to avoid unintended consequences of giving lower value properties less of a value reduction than the higher value homes.

Assessment Rates were brought up by State Board of Equalization Chairperson Mockler. She would like to see the flexibility in the assessment rates, rather than the market value, to continue the very important uniformity advantage our system currently has.

Full Disclosure was brought up by Assessor Huxtable, which would not be direct relief of any kind, but having sales no longer confidential would make our process more transparent.

The Assessors believe our current system is fair, however, we need some "circuit breaker" tools to help taxpayers who are at the point of being taxed out of their homes. The high sales prices, or stupid money, that we see driving up the residential values is starting to dwindle in some counties, but not all. Assessors are the first line of communication the taxpayer has regarding home values and we do want to help, but the tools need to be available in the Constitution, the Statutes, and the DOR Rules.

During the discussion, it was obvious all parties were on the same page and working together to come to a solution to rising property taxes. Our focus was on changes that did not require a constitutional amendment, if possible. A vote by the residents of Wyoming on a Constitutional amendment would not happen until 2024, and that will be too late to help our taxpayers. There was also mention of the system being flexible enough to adjust the burden down when values are rising and adjust the burden up when revenues are short. It was not that long ago that the legislature was looking at RAISING the assessment rate to generate more revenue.

One thing that needs to be considered with all of these options is revenue loss. If the system is changed so significantly that the loss in revenue has to be offset with a new tax…we haven't really accomplished anything.

We hope these collaborative ideas can be put in the legislative "Matrix" for discussion.