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Revenue and Transportation Interim Committee

60th Montana Legislature

SENATE MEMBERS

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KIM GILLAN--Vice Chair
JIM ELLIOTT
JEFF ESSMANN
CHRISTINE KAUFMANN
ROBERT STORY JR

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TIMOTHY FUREY
GALEN HOLLENBAUGH
MIKE JOPEK
BOB LAKE
PENNY MORGAN
JON SONJU

COMMITTEE STAFF

JEFF MARTIN, Lead Staff
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

OF THE

HB 488 SUBCOMMITTEE

April 17, 2008

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

SUBCOMMITTEE MEMBERS PRESENT

SEN. KIM GILLAN, Chair
SEN. JIM ELLIOTT
SEN. JIM PETERSON
REP. MIKE JOPEK
REP. PENNY MORGAN

SUBCOMMITTEE MEMBERS EXCUSED

REP. JON SONJU

STAFF PRESENT

JEFF MARTIN, Lead Staff
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The HB 488 Subcommittee of the Revenue and Transportation Interim Committee (RTIC) approved the February 7, 2008, meeting minutes as prepared.

CALL TO ORDER, ROLL CALL, AND APPROVAL OF MINUTES

00:00:00 SEN. GILLAN called the meeting to order at 8:36 a.m. The Secretary took the roll, REP SONJU was excused (ATTACHMENT #3). SEN. ELLIOTT **moved** to adopt the February 7, 2008, meeting minutes as prepared. The **motion passed** on a unanimous voice vote.

OVERVIEW OF PROPERTY TAXES IN MONTANA

00:03:16 **Dr. Douglas J. Young, Professor, Agricultural Economic and Economics, Montana State University, Bozeman**, presented a PowerPoint discussion of Montana's property tax structure, which included a comparison of Montana's rates to those of surrounding states (EXHIBIT #1).

Committee Questions

- 00:09:51 SEN. ELLIOTT asked if insurance tax revenue is listed under sales and excise taxes. Dr. Young said yes.
- 00:13:59 In response to a question from SEN. GILLAN about actual property tax revenues collected, Dr. Young said that there is always a small discrepancy between what is levied and what is collected.
- 00:28:43 SEN. ELLIOTT referred to a comment by Dr. Young that taxes are more likely to depress, rather than encourage, economic development, but said that he is familiar with another study that indicates that industries relocate to areas with relatively high taxes because it is taxes that fund infrastructure. Dr. Young said he was not familiar with that study, but said that the single best thing about taxes is that they do provide revenues for public services. SEN. ELLIOTT asked Dr. Young about his data sources and said that national figures can be misinterpreted or inaccurate. Dr. Young listed his sources and said that those sources have the most relevance to Montana. He said he is aware that misinterpretation can occur and recalled a situation in the 1990s in which the Census Bureau collected data incorrectly and that the Center for Applied Research helped correct the situation.
- 00:33:05 SEN. PETERSON asked about information on market values of property in Montana over the last three years that would indicate the impact of an economic downturn on property values, as compared to the rest of the country. Dr. Young said that he has anecdotal information only, but that it is clear that there has been an economic slowdown. Dr. Young said that Montana has not been hit as hard as many areas.

2008 HOUSING OUTLOOK FOR MONTANA AND SURROUNDING STATES

- 00:36:32 **Dr. Scott Rickard, Director, Center for Applied Economic Research, Montana State University-Billings**, said he changed the numbers five times in last several months because of rapid changes nationwide. He discussed housing statistics of Montana and surrounding states (EXHIBIT #2).
- 00:41:26 SEN. GILLAN said that the sale prices of Montana housing sales are private, and asked how Dr. Rickard accesses his information. Dr. Rickard said that he gathers his data from mortgage activity reports.
- 00:49:30 In response to a question from SEN. ELLIOTT about the availability of affordable housing and how to look at the percent of net annual income that needs to be dedicated to paying a mortgage, Dr. Rickard said there is information from HUD on what it considers to be affordable housing and what percentage of the population have incomes sufficient for that.
- 00:50:13 REP. JOPEK asked, regarding the 11% state average loan to value ratio, if that ratio is higher in the growth areas of the state. Dr. Rickard said that he doesn't have the information.

Public Comment

No public comment was given.

CYCLICAL REAPPRAISAL UPDATE AND THE RELATION OF REAPPRAISAL TO MARKET TRENDS

- 01:05:04 **Randy Wilke, Property Assessment Division, Department of Revenue (DOR)**, discussed a bar graph identifying the key activities of the reappraisal cycle (EXHIBIT #3) and a written update on the current property reappraisal cycle (EXHIBIT #4). Mr. Wilke also discussed a regional market model areas with the number of residential parcels in each area (EXHIBIT #5). Mr. Wilke also provided examples of how DOR is able to provide very detailed reappraisals for counties (EXHIBIT #6) and city neighborhoods (EXHIBIT #7).
- 01:14:22 SEN. GILLAN asked how changes in a specific market area, such as through renovation or boundary changes, are taken into consideration. Mr. Wilke said that neighborhood boundaries are identified all through out the modeling process and are adjusted and changed as needed. Mr. Wilke said that the model is able to look at very specific areas, including individual neighborhoods, and rural and remote areas.
- 01:16:47 SEN. PETERSON said that the assessment phase is to be completed by June 30, 2008, and that the complete reappraisal cycle is due to be completed by December 31, 2008. He asked what activities will occur between those dates, and when RTIC would have complete reappraisal information. Mr. Wilke said that DOR would be able to provide fairly complete information to RTIC in late fall. SEN. PETERSON said that DOR final reappraisal report will be released after RTIC's final meeting in November. **Dan Bucks, Director, DOR**, said that key steps will occur between June and December, such as benchmarking sales, and establishing market models, which are necessary steps in order to be able to translate raw data into usable information. He said the schedule has not

changed from past cycles and that DOR would provide relevant information to RTIC as early as possible.

01:21:15 SEN. PETERSON said that the DOR's final analysis would be very helpful to RTIC in making its recommendations to the 2009 Legislature. Director Bucks said the DOR will attempt to make information available to RTIC as early as possible so that RTIC will be able to make recommendations. He acknowledged that the information would not be available until late in the process, but said that the reappraisal process is a big job and that his staff is working at full speed.

01:23:44 SEN. ELLIOTT asked how the values for a high-end home and a low-end home in the same reappraisal district are determined. Mr. Wilke said that the model will be used to make a comparison and adjustments, but if a great deal of disparity exists, other approaches may be used. SEN. ELLIOTT said that many people believe that the value of their home may be increased because of new construction around them, and that their property taxes will increase accordingly. He said it is his opinion that the land value would increase, but not the value of the home. Mr. Wilke said that if a property sells in a given market area, the model will use that information to make decisions on the values of other properties in that area that have not sold. He said DOR's charge is to find the market values of all properties in a market area and that some properties may require special attention.

01:28:31 SEN. GILLAN asked, if a property owner of older property in an area experiencing new construction requests and is granted an adjustment, if the adjustment is reflected in the model or if it becomes an outlier. Mr. Wilke said that the timing of the reappraisal cycle does not allow for that. SEN. GILLAN asked if property value adjustments are made at the state or local level. Mr. Wilke said that if a property owner can demonstrate that the market value of their property is not correct, the DOR will correct it. Additionally, the DOR will abide by most of the decisions of appeals made to local county tax appeal boards. SEN. GILLAN asked if an individual county tax board appeal decision could throw the state system out of whack. Mr. Wilke said a very small number of people appeal their tax values and that it does not upset the balance. Mr. Wilke said he would prepare more information for a future meeting.

01:33:11 Mr. Wilke discussed agricultural land and forest reclassification (page 2 - EXHIBIT #4).

BREAK

DAN BUCKS ON PROPERTY REAPPRAISAL CYCLE

01:48:52 Director Bucks emphasized that DOR uses a very sophisticated and locally sensitive model for property valuation. He said that what happens in rest of a city does not translate into value of homes in a certain neighborhood, and that it is important that the public understands this.

01:51:46 Director Bucks discussed the relationship of reappraisal to market trends, including measures the DOR is taking to identify and respond to "late breaking trends" in the housing markets (EXHIBIT #8).

Committee Questions

- 02:05:36 REP. MORGAN said that at the last meeting, Director Bucks had said that Montana had been untouched by a drop in housing sales, but that current information may indicate otherwise. Director Bucks said that there is not a downturn in the housing market at this point, but that the sales growth rate has slowed down.
- 02:10:56 SEN. GILLAN asked to revisit this issue in September, saying that while home values may not be falling, sales volume is, which could affect prices. Director Bucks agreed that volume is falling, and said that would be factored into the process.
- 02:11:48 REP. JOPEK said much has been heard about markets softening in localized regions in fast-growing areas, and that when inventory is not moving, a decrease in prices follows. He asked Dr. Rickard if there is any way to look at market values to predict this. Dr. Rickard said that there is a way to look at this through market timing indicators. He explained how homes are valued and said if transactions in 2007 significantly differ from a time before or after, prices could be affected. He said that in Southern California with the massive foreclosures and unsold new homes, buyers have a great deal of choice, which affects prices. Dr. Rickard also said that the subprime market is just about gone and the supply of mortgage funds will be a factor. Dr. Rickard said that Montana has been affected very little by these situations, but that it will be included in the analysis.

Public Comment

- 02:16:59 **Dud Mahler, private citizen, Whitefish**, asked to clarify a statement made by Director Bucks regarding Governor Schweitzer's statement that there will be no tax increase on a statewide basis. Mr. Mahler said that doesn't mean that there will not be a tax increase, because the reappraisal cycle will result in increases in property taxes, some of which will be significant.

REVIEW OF SELECTED STATES' METHODS FOR REAPPRAISAL OF RESIDENTIAL PROPERTY

- 02:18:14 **Mr. Martin, Research Staff, Legislative Services Division (LSD)** discussed property tax valuation in selected states (EXHIBIT #9). Mr. Martin reviewed property tax valuation methods used in Colorado, Oregon, Maryland, Michigan, Utah, and Florida.
- 02:41:39 SEN. ELLIOTT asked, for states that have quicker reappraisal turnaround time, if Mr. Martin knew the ratio of appraisal staff to housing units. Mr. Martin said no, but thought it was quite likely that those states have more reappraisal staff than Montana.
- 02:42:34 REP. JOPEK asked Mr. Martin, from homeowner's standpoint and the ability to predict what their tax bill might be from year to year, if he could tell the predictability level of other states. Mr. Martin said no, but that Proposition 13 in California does make predictability easier than in other states.

REP. JOPEK said that at the last Subcommittee meeting, he discussed using Montana's 2003 reappraisal numbers in other states' reappraisal models in order to formulate meaningful information; and that in a subsequent conversation with Mr. Martin, Mr. Martin had indicated that it would take more time to prepare that information than was available, in order to have it for today's meeting. He asked how much effort and expense it would entail to move such a concept forward, considering that the DOR's reappraisal information is not going to be available until very late in the year. Mr. Martin said that a number of factors would have to be considered, including how many states would be considered, how each state's model deals with mitigation. He said he would have to discuss such a proposal with DOR and Legislative Fiscal Division (LFD) staff to see what level of effort would be required, and if results would be meaningful in determining various alternatives. REP. JOPEK asked if Mr. Martin could get that information to him today. Mr. Martin said yes.

02:46:40 SEN. GILLAN said that state property taxes increase due to factors such as mill levies or local taxes. She asked Mr. Martin if was able to determine, in his study of the other states, which was more of a factor in property tax increases: state level or local level taxes. Mr. Martin said that he did not make that type of assessment.

02:51:56 REP. MORGAN asked if DOR hires additional staff to help with the reappraisal cycle workload. Mr. Wilke said no additional staff is added, but that work duties and assignments are rearranged.

Public Comment

No public comment was given.

BREAK

STATUS OF CONSTITUTIONAL INITIATIVE 99 FOR LIMITING RESIDENTIAL PROPERTY TAXES

02:55:50 **Lee Heiman, Staff Attorney, LSD**, provided copies of CI-99 (EXHIBIT #10) and noted that it is available on the Secretary of State's website. He said that the initiative has been approved for gathering of signatures and that the signatures must be delivered to the Secretary of State's Office by June 20. Mr. Heiman said the initiative deals with the substantive value of property and would institute an acquisition value system. He said that under CI-99, the taxable value of a home could not increase by more than 1.5% percent per year. He said it would also allow transfer of property to a spouse or children without increasing the acquisition value. Mr. Heiman reviewed other aspects of the initiative.

03:00:11 Mr. Heiman said it is his legal opinion that there are problems with the language of the initiative because of the lack of proper use of strike through or underlining in the text of the initiative. He said he has notified Secretary of State's Office but is unsure of what the outcome will be. He discussed a Montana Supreme Court case in the 1980s relating to a similar situation and said that he is hopeful that this can be corrected in the voter information pamphlets.

- 03:03:37 SEN. GILLAN asked if there is ambiguity in the terms used in the initiative language. Mr. Heiman said yes, that terms would have to be defined in statute. Mr. Heiman said his opinion is that if the initiative is approved by voters, it should not be implemented for two years in order to provide time to clearly define terms, but that those proposing the initiative want it to be adopted immediately.
- 03:05:35 REP. JOPEK asked if CI-99 would apply only to owner-occupied homes and not to other types of property. Mr. Heiman said that was correct.
- 03:06:52 SEN. GILLAN asked if there is a clear definition of an "owner-occupied" home. Mr. Heiman said that there is a definition, but there are situations that could cloud that language, such as if the resident is in a nursing home for an extended period of time. He said that such details would have to be worked out.

Public Comment

- 03:07:40 **Dud Mahler, Whitefish**, said that he has studied acquisition value systems implemented in other states and has concluded that the tax burden is shifted to non-owner occupied, commercial, and agricultural property. He said the initiative is "a bad bill" and that he hoped the information on the ballot would show what the real impact on Montana taxpayers would be. Mr. Mahler said he represents *Montanan Residents for Fair Property Taxation* and that the group opposes CI-99.

LUNCH BREAK UNTIL 12:55

PROPERTY TAX ASSISTANCE PROGRAM & EXTENDED PROPERTY TAX ASSISTANCE PROGRAM

- 04:30:35 **Debbie Jurcich, Property Assessment, DOR**, reported on the property tax assistance program (PTAP) and on the extended property tax assistance program (EPTAP), as requested by REP. MORGAN at the February meeting (EXHIBIT #11).
- 04:35:08 In response to a question from SEN. GILLAN on how a homeowner would qualify for the PTAP program, Ms. Jurcich said that a homeowner had to own the property in 2002 in order to qualify.
- 04:35:33 REP. JOPEK asked why participation is declining in the PTAP program. Ms. Jurcich said she doesn't know why, and that DOR attempts to get as many applicants as possible.
- 04:37:04 SEN. ELLIOTT asked if the reduction in the property tax rate is at the expense of local governments and if there is no reimbursement to the local government. Ms. Jurcich said that is correct.
- 04:37:57 Ms. Jurcich also discussed the Disabled American Veteran's disability program (page 9 of EXHIBIT #11).

Public Comment

04:39:48 **Dud Mahler, Whitefish**, said that he receives notice by mail every year that he has to re-apply for the reduction. He said that he has calculated that at 6% a year, that would compound, over six years to 41%, and is the actual limit. Ms. Jurcich said she was not sure what the question was but that the statute does indicate that an inflationary rate is applied every year.

OVERVIEW OF PROPERTY TAX RELIEF MEASURES IN SELECTED STATES

04:42:55 Mr. Martin discussed a report listing property tax relief programs adopted by other states. He said he focused mainly on surrounding states, but included Michigan (EXHIBIT #12).

Committee Discussion and Questions

05:07:27 REP. JOPEK referred to page 5 of EXHIBIT #12 - New Mexico's county options for low-income property tax rebates - and asked if a local government with self-governing powers could offer that under Montana law. Mr. Martin said that he did not have that information, but would find out.

05:08:12 SEN. GILLAN said before Mr. Martin begins a comprehensive re-do of the NCSL, she asked the DOR to comment on other sources of information that may have the same type of information. Mr. Wilke said there may be other sources and that he would work with Mr. Martin to see what could be found. SEN. ELLIOTT said that unless there is a terribly innovative idea in NCSL, he didn't think further work was necessary.

05:11:38 Regarding circuit breaker ideas, REP. JOPEK said that other states' models could be analyzed using data from the last reappraisal cycle in Montana. He said that tax reform is in the best interest of Montana citizens, in certain areas in particular; and that if something isn't done, legislators will once again be facing this issue in another legislative session. SEN. GILLAN asked him to identify a particular state for analysis. REP. JOPEK said that Michigan would work well, but that other options were available. Mr. Martin said that he has not had an opportunity to visit with DOR or LFD staff about the feasibility of using 2003 data for evaluating other states' methods, but said it was likely that DOR would have to do much the work requested by REP. JOPEK because the legislative branch doesn't have the appropriate information to make the calculations.

05:15:47 SEN. ELLIOTT said that REP. JOPEK's request entails quite a lot of work, and suggested that before looking at particular tax structure, a policy for tax rebates should be in place first. SEN. ELLIOTT said that there are various organizations that could provide policy discussion. He said he would like to pursue a policy first. REP. JOPEK said he did not care how the information was gathered, so long as it was gathered. He said his concern is that nothing will happen if no action is taken. SEN. ELLIOTT agreed that action is needed. SEN. GILLAN said this issue will be on the July meeting agenda, including a discussion of whether property taxes need to be adjusted, or just those in high growth areas.

05:19:22 SEN. PETERSON said that he didn't object to having a policy discussion, but thought that major policy decisions should go before the full Committee. SEN. ELLIOTT agreed. Mr. Martin said there are two separate but related issues:

1. what to do about increases in property value, and
2. how to provide additional property tax relief through circuit breakers, and other property tax relief measures.

PROPERTY TAX BURDEN RELATED TO PERSONAL INCOME AND EFFECTS OF EXPANDING RESIDENTIAL INCOME TAX CREDIT BASED ON INCOME

05:22:50 **Dan Dodds, Tax Policy Analyst, DOR**, discussed a DOR report, *Household Income and Property Tax on Primary Residences* (EXHIBIT #13).

05:33:46 REP. JOPEK said that it has been difficult to connect the property tax and income tax systems in the past, and asked if the new DOR computer system will make it easier to connect systems and programs. **Mary Craigle, Tax Policy Analyst, DOR**, said the main reason better information is available is because the \$400 residential property tax refund captured social security numbers and allowed DOR to match income and property. Social security numbers and employer identification numbers (EIN) will be required, which will help the DOR establish patterns and the relationships to property taxes.

05:37:46 SEN. ELLIOTT said the report basically points out that the lower the income, the higher the proportion of the income has to be dedicated to the basic necessities of life, such as housing. Mr. Dodds said generally that is true.

05:38:42 SEN. GILLAN asked if there is a need to adjust for people who live in areas with higher levels of mills than for areas with lower mills. Mr. Dodds said DOR has looked only at inside city limits versus outside limits, but that it would be possible to look at the data geographically.

05:40:09 SEN. ELLIOTT said that if property taxes paid are restricted to a certain proportion of income, it wouldn't matter where one lives because the outliers would be taken care of. Ms. Craigle said that local millage would not matter under that scenario.

05:42:26 Mr. Dodds provided information on the elderly homeowner/renter credit, including the costs of expanding the homeowner credit, and an explanation of how credit works (EXHIBIT #14).

06:05:57 REP. JOPEK asked if there is any demographic information for the whole state or just certain areas - high-growth or low-growth. Ms. Craigle said she could come up with geographic information.

06:06:58 SEN. ELLIOTT said that a gross income of \$10,000 is not a lot to live on, and asked what factors cause people to move in and out of that income bracket. Mr. Dodd said that it is usually due to variable income levels from year to year, and that this group is made primarily of retired persons.

Public Comment

06:09:19 Dud Mahler, Whitefish, said that he represents 2,000 outliers. Mr. Mahler said that he has attended many property reappraisal meetings since 2002. Mr. Mahler presented a taxpayer's perspective of reappraisal (EXHIBIT #15).

Mr. Mahler also provided an explanation of taxing jurisdictions (EXHIBIT #16) and copies of NCSL's report, "*Guide to Property Taxes: Property Tax Relief*" (EXHIBIT #17).

SEN. GILLAN said that time constraints prevented further discussion and asked Mr. Mahler if he would be willing to attend the next Subcommittee meeting, and to work with DOR on a model to present at the July meeting. Mr. Mahler said he would send Mr. Martin a copy of his model and would give a rationale for each decision contained in the model. He said he would also include discussion of problems in other states. SEN. GILLAN asked DOR to work with Mr. Mahler.

06:30:03 SEN. GILLAN asked that all future presentations to the HB 488 Subcommittee begin with a brief and concise summary and/or conclusions, and that Subcommittee members could read full reports at a later time, if time limits prevented a full presentation from being made. SEN. PETERSON agreed that it can be frustrating to be given a lengthy document and not know the salient points until the very end of discussion, particularly if time is an issue.

ADJOURNMENT

With no further business before the HB 488 Subcommittee, SEN. GILLAN adjourned the meeting at 3:11 p.m. The Subcommittee will next meet on June 17, 2008, in Helena.

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