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Revenue and Transportation Interim Committee

61st Montana Legislature

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RON ERICKSON
JEFF ESSMANN
CHRISTINE KAUFMANN
JIM PETERSON
BRUCE TUTVEDT

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CYDNIE (CARLIE) BOLAND
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BILL NOONEY

COMMITTEE STAFF

JEFF MARTIN, Research Analyst
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

Residential and Commercial Property Tax Reappraisal Subcommittee

April 29, 2010

Room 137, Capitol Station
Helena, Montana

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.

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COMMITTEE MEMBERS PRESENT

REP. DICK BARRETT, Chair

SEN. KIM GILLAN
SEN. CHRISTINE KAUFMANN
SEN. BRUCE TUTVEDT
REP. BILL NOONEY

COMMITTEE MEMBERS EXCUSED

SEN. RON ERICKSON

STAFF PRESENT

LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment #1.

CALL TO ORDER AND ROLL CALL

00:00:01 Rep. Barrett called meeting to order at 8:07 a.m. The secretary took roll visually. Sen. Erickson was excused.

AGENDA

DEPARTMENT OF REVENUE REPORT - Alan Peura, Deputy Director

00:00:48 Mr. Peura gave an overview on what will be presented on the subject of residential and commercial property reappraisal. He distributed the Department of Revenue's report (**Exhibit 1**) that will be discussed today.

Executive Summary of Sales Assessment Ratio Studies - Robert GlouDEMANS, ALMY, GLOUDEMANS, JACOBS & DENN

00:05:23 Mr. GlouDEMANS gave a presentation on the sales assessment ratio studies.

Questions

00:13:18 SEN. ESSMANN asked Mr. GlouDEMANS if he reviewed any of the data sets that were removed. **Mr. GlouDEMANS** said that the data that the Department removed were sales that were sales between related parties, forced sales, or sheriff's deeds.

00:14:41 SEN. ESSMANN asked what reasons did Mr. GlouDEMANS use to conclude that the data that was removed was invalid. **Mr. GlouDEMANS** said that first they removed data that was low sales prices in each area for each type of property they looked at. The second group of sales that were removed were those that had extreme ratios of the assessment to the sale price. They generally follow the trimming procedures recommended by the International Association of Assessing Officers (IAAO). In addition to that, he looked at logical break points and at times adjusted those break points so that they were at a more representative cut point for that group of properties.

00:17:32 SEN. ESSMANN said that he would like to know how many data points you removed based upon your trimming exercises and whether they were high or low, and how many were removed because of the ratio discrepancies. **Mr. GlouDEMANS** said that he can provide that information to him. He said that in the report he lists the number and percentage of sales that were excluded based upon using extreme ratios in the different areas.

Panel discussion on criteria and choices for particular methods

Ross Halvorson, Management Analyst, Department of Revenue
Mike Walker, NEI Business Properties, Billings, Montana
Robert GlouDEMANS, ALMY, GLOUDEMANS, JACOBS & DENN

00:25:21 REP. BARRETT said that the committee should address their questions to the panel.

Questions

00:26:11 SEN. ESSMANN asked Mr. Halvorson about the procedures that the Department's agents use in choosing which valuation method is the appropriate one for the property involved. **Mr. Halvorson** discussed the Department using the cost approach to value property and that the information that is found is what drives the income approach. Regarding the income approach, the Department sends out income and expense forms to each property owner in the state and those returned forms give them a picture of the operating statement for each property that returns the form. Mr. Halvorson distributed the Income and Expense Form (**Exhibit 2**) to the committee.

00:31:17 SEN. ESSMANN asked Mr. Halvorson how many forms were mailed out in the last reappraisal cycle? **Mr. Halvorson** said approximately 37,000 in the years 2005, 2006, 2007, and 2008.

00:35:54 REP. NOONEY asked if one set of data is compared to the other to come up with a decision about the value? **Mr. Halvorson** said that they use other sources to verify whether the information that they are using in their model is reasonable and reflective of current market in particular areas in Montana.

00:48:02 SEN. GILLAN said that one of the concerns that she has in both residential and commercial is that if you did file the request for additional information and you were able to achieve a change in your assessment, does that impact the overall system, or does that introduce more or less inequities. Have you had any experience working with other states? **Mr. GlouDEMANS** said that when he was with the Arizona Department of Revenue, they would run ratio studies on the value before changes and after changes. The uniformity got a little bit worse after the changes. You would like to minimize the number of changes that need to be made as much as possible to get the values as correct as possible.

00:50:09 SEN. GILLAN said as she looks through this sheet that will be filled out by the owner or the bookkeeper. Is this information shared with the people in the income tax? **Mr. Halvorson** said that the income tax people could review this information. Likewise, they could also go look at income tax information but there

is a compelling need to do so. We have not done it yet and to the best of his knowledge, the income tax people have not looked at or used any of the information they have collected.

00:52:03 SEN. KAUFMANN asked Mr. Walker to talk more about disclosure versus a non-disclosure state. **Mr. Walker** said that there was no recommendation, it was more of a discussion point in talking about the amount of data that is brought in or lack thereof and ways that other states may look at these. There are several states that use disclosure where all the sales are public information, where in Montana they typically are not.

00:53:05 SEN. KAUFMANN said then it has to do with the voluntary nature of this form that people aren't required to return, is that what we are talking about? **Mr. Walker** said that is part of it. The biggest thing with the form is the complexity of it and the time it takes to fill out.

00:53:44 SEN. KAUFMANN asked about disclosure versus nondisclosure and if we want to get more information, how might we remedy that part of the problem. **Mr. Halvorson** said that a change in the law will have to happen. **Mr. Peura** said that Montana is one of four states that is a nondisclosure state. Both for residential property transactions as well as commercial property transactions, it would be up to the Legislature to propose a bill to make Montana a nondisclosure state.

01:01:24 SEN. ESSMANN asked about the Department using the income model for the ones that reported whether they had a higher rent value or a lower rent value within that group. **Mr. Halvorson** said that when the Department is assigning the rating to the rent of the property, they are not looking back at a specific reporting form. By that point the information has been developed in the model and the model is waiting to be applied to the properties, they just need to pick the appropriate rent that is representative to that property due to its location, condition, whatever attributes are there. They could end up using a different rent than what is actually reported. In the AB26 process, they can then look at a property's operating statement and then make adjustments either to the model or to the individual's income.

01:04:44 SEN. ESSMANN asked Mr. Halvorson to distribute maps of the city of Billings. **Mr. Halvorson** distributed and discussed a map showing Office Rent per Square Foot (**Exhibit 3**), and a map showing Retail Rent per Square Foot (**Exhibit 4**).

Questions

01:08:53 SEN. ESSMANN asked Mr. Walker about his experience in dealing with

developers and buyers and sellers of retail property, how many retail markets exist within the city of Billings? **Mr. Walker** said that he could come up with a range of five to maybe seven different retail areas.

01:10:54 SEN. ESSMANN said to Mr. Halvorson, providing an accurate and equitable appraisal process, does he think that it might improve the work of the Department staff in some of these larger metropolitan markets where there is greater diversity to have an advisory committee that could help define those potential markets so you could evaluate whether you have sufficient information to reflect the market as investors in that property regard it. **Mr. Halvorson** said it is always possible to start looking at more micro neighborhoods or economic areas within a jurisdiction such as Billings, but he doesn't think that the results would change. The results that the Department comes up with would be slightly different but in the end.

01:13:34 REP. BARRETT asked Mr. Gloudemans if he would regard accounting for these neighborhoods effect as such a factor and what kind of priority would you put on that in terms of doing something right away, is it important, or is Mr. Halvorson correct in saying that the impact would be minor. **Mr. Gloudemans** said it is hard to say what the impact would be, but that would be another approach. Even though Billings is one model, the model would still have to be broken out into those six or seven different areas.

01:17:53 SEN. ESSMANN asked Mr. Gloudemans if zoning of a parcel be a factor that would play a role in terms of a reappraisal or valuation process? **Mr. Gloudemans** said that normally not but for property valuations are usually based on current use.

01:18:54 SEN. ESSMANN said that he can see Mr. Gloudemans' statement with respect to the income approach, but if they are using a cost approach to value the property because they have not been able to prepare an income model, would zoning then be critical to factor in? **Mr. Gloudemans** said that in the cost approach they developed a separate value based on the cost of construction plus depreciation for the building and then a separate estimate of land value. In land valuation, then the zoning of the property should be considered.

Extended Property Tax Assistance Program Report - Larson Silbaugh, Department of Revenue

01:20:42 Mr. Silbaugh gave a report on the Extended Property Tax Assistance Program

(Exhibit 1, Tab 1).

Questions

- 01:25:14 SEN. ESSMANN asked about the \$250 whether that was an increase over one year before the taxpayer could qualify for the program, or was that a \$250 increase over the 6 years before the taxpayer could qualify for the program? Would he clarify his understanding of it. **Mr. Silbaugh** said that it is a \$250 increase based on the 2008 mills.
- 01:29:52 SEN. TUTVEDT asked why this program isn't working for the people in the Whitefish area. **Mr. Silbaugh** explained the process of applying for EPTAP, the number of applicants from the Whitefish area who applied, and the number of applicants that were approved for assistance, and the explanation provided to homeowners who were denied.
- 01:40:57 SEN. ESSMANN said that one of the statutory requirement is that the residence is occupied for seven months out of the year, so basically vacation property would not qualify. **Mr. Silbaugh** read the Montana statute on what constitutes a qualified residence and said that when he read that it sounds like vacation properties as long as it is owned by a Montana resident would qualify.
- 01:42:15 SEN. ESSMANN asked Mr. Silbaugh if he would report back to the committee with an estimate on the cost of doing a survey on residents in the Whitefish area who chose not to apply for property tax assistance.

Status of AB 26 Review and Tax Appeals, Potential Property Tax Revenue Implications - Cynthia Monteau Moore, Administrator, Property Assessment Division, Department of Revenue

- 01:47:30 Ms. Moore gave a presentation on the AB 26, tax appeals, and the implications of the potential property tax revenue **(Exhibit 1)**.
- Questions**
- 01:50:46 SEN. TUTVEDT asked what the taxpayers in Flathead County can do about their property taxes if they didn't file an AB 26. **Mr. Peura** and **Ms. Moore** explained the process of how the AB 26 works. Mr. Peura said that the policy decision as to whether the tax needs to be protested is a county treasurer policy. It is his understanding that Flathead County Treasurer requires that a taxpayer pays the tax under protest.
- 02:02:34 Mr. Peura said that he would encourage the legislators to recommend to their

constituents to contact their county treasurer, or to call the Department of Revenue's local office, or call Rich Bechtel, Director, Office of Taxpayer Assistance, at (406) 444-5845.

02:04:53 Ms. Moore discussed the clarification of the AB 26 formal review process, that they are accepting AB 26s through June 30, 2010, for those individuals who missed filing an AB 26 in 2009.

IMPLICATIONS OF SALES ASSESSMENT RATION STUDIES ON POSSIBLE LEGISLATION - Lee Heiman, Staff Attorney

02:07:02 Mr. Heiman discussed his memo on implications of sales assessment ratio studies on possible legislation (**Exhibit 5**).

Questions

02:12:13 SEN. TUTVEDT said if we are going to revalue, would we have to have the Department of Revenue appraise every property, or would the sales assessment ratio assist us in doing that? **Mr. Heiman** said that the sales assessment ratio cannot be use to autopilot valuation whether it is small or large. You don't have to revalue the whole area, there may be other methods of handling this.

SUBCOMMITTEE DISCUSSION OF RESIDENTIAL PROPERTY REAPPRAISAL

02:16:30 REP. BARRETT said that Mr. Heiman prepared a summary statement (**Exhibit 6**) of some of the issues that we have heard from the public that might serve as a basis for discussion.

Discussion

02:17:26 The committee discussed having the Department of Revenue looking at different methodologies of a one year cycle and a two-year cycle and the fiscal impacts of those, looking into the state becoming a disclosure state, broadening the parameters of the EPTAP program.

Public Comment

02:44:47 **Ed Bartlett, Attorney, Billings**, suggested looking at a three or four-year cycle and do a third or a quarter of the properties annually and keeping the reappraisals in motion all the time.

Other Business -- member topics -- schedule next meeting -- agenda items

02:47:19 SEN. ESSMANN said that he would like to have a commercial appraiser present to discuss their method of appraising properties, would like the Department to discuss what factors they use in deciding on whether to use an income approach versus a cost approach, comparisons between the regions using an income approach versus using a cost approach, what additional data the Department would need to move a higher percentage to an income approach, and what percentage of other states' properties are valued on a cost or income approach to see whether Montana's experience is similar to other state. SEN. GILLAN said she would like to discuss the pros and cons of mandatory disclosure of sales price.

Public Comment

None.

Adjournment

03:34:21 REP. BARRETT adjourned the meeting at 11:40 a.m.

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