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Revenue and Transportation Interim Committee

61st Montana Legislature

SENATE MEMBERS

KIM GILLAN--Chair
RON ERICKSON
JEFF ESSMANN
CHRISTINE KAUFMANN
JIM PETERSON
BRUCE TUTVEDT

HOUSE MEMBERS

ROY HOLLANDSWORTH--Vice Chair
DICK BARRETT
CYDNIE (CARLIE) BOLAND
BRIAN HOVEN
MIKE JOPEK
BILL NOONEY

COMMITTEE STAFF

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

MINUTES

April 29-30, 2010 Meetings

April 29, 2010

Room 137, Capitol Building
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.

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.

COMMITTEE MEMBERS PRESENT

SEN. KIM GILLAN, Chair
REP. ROY HOLLANDSWORTH, Vice Chair

SEN. RON ERICKSON
SEN. JEFF ESSMANN
SEN. CHRISTINE KAUFMANN
SEN. JIM PETERSON
SEN. BRUCE TUTVEDT

REP. DICK BARRETT
REP. CYDNIE (CARLIE) BOLAND
REP. BRIAN HOVEN
REP. BILL NOONEY

COMMITTEE MEMBERS EXCUSED

REP. MIKE JOPEK

STAFF PRESENT

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

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

- The committee approved the minutes of February 18-19, 2010, meeting as written.
- The committee formed an ad hoc committee with Sen. Peterson and Rep. Barrett serving on it. There will be a panel discussion on the process of putting together an economic modeling. Members of the panel will be chosen later.

CALL TO ORDER AND ROLL CALL

00:00:08 Sen. Gillan called the meeting to order at 1:04 p.m. The committee secretary called roll. Rep. Jopek was excused.

AGENDA

MONTANA'S ALCOHOL REGULATORY SYSTEM - Pamela Erickson, President, Public Action Management, PLC

00:02:48 Ms. Erickson gave a presentation on preserving Montana's Alcohol Regulatory System (**Exhibit 1**).

Questions

00:27:08 SEN. KAUFMANN asked about comparative tax rates in Montana and other states and countries? **Ms. Erickson** said the United Kingdom is trying to control alcohol through high taxes.

00:28:27 SEN. ERICKSON asked if Ms. Erickson could give the committee some insights on changes that could be made on the DUI side of her experience. **Ms. Erickson** said that there should some emphasis on underage drinking and some method of keeping the DUI offenders in the community and not on the highways endangering other people.

00:31:37 SEN. ESSMANN asked if the studies that look at volume metric consumption rates per capital take into account the number of tourists that pass through Montana in the summer that could cause a spike in consumption? **Shawna Helfert, Administrator, Liquor Control Division, Department of Revenue**, said that to the best of her knowledge, they do not take into account the fluctuation of visitors into our state, it is just based upon our population.

Public Comment

None.

Approval of February 18-19, 2010 minutes

00:34:44 REP. HOLLANDSWORTH **moved** to approve the minutes of February 18-19, 2010, meeting as written. The motion **passed**.

SUBCOMMITTEE REPORTS

Agricultural Land and Forest Land - Sen. Peterson, Chair

00:35:37 SEN. PETERSON summarized the topics of the Agricultural Land and Forest Land Reappraisal Subcommittee:

- Department of Revenue extended the e-filing and appeal process of the AB26 filings to June 30, 2010;
- how the value before reappraisal of land was not communicated clearly and how that will be done in the future;
- litigation regarding phase-in;
- additional information on 2010 tax notices regarding the value before reappraisal; and
- a new rule regarding the value before reappraisal for agricultural land that had a change in productivity only.

Residential and Commercial - Rep. Barrett, Chair

00:43:22 REP. BARRETT summarized the topics of the Residential and Commercial Property Reappraisal Subcommittee:

- a report on sales assessment ratio studies from Gloudemans;
- the commercial property reappraisal process;
- a report on the extended property tax assistance programs;
- the sales assessment ratio studies and how they might impact future legislation;
- implications from the public concerning residential property reappraisal and ideas to consider that might be helpful and will seek more information on making Montana a mandatory disclosure state for real estate transactions; and
- a request to the Department of Revenue to investigate the possibility of accelerating reappraisal so that it will be performed on a 1- or 2-year cycle rather than on a 6-year cycle.

Questions

00:51:13 REP. HOVEN asked if there was any discussion on what to do about the people in the Whitefish area and Flathead Lake whose valuations have increased significantly and that the property owners might be forced to sell their property because they can't pay taxes. **Rep. Barrett** said that they discussed the

extended property tax relief. There will be other circuit breaker possibilities discussed on April 30.

00:52:51 SEN. ERICKSON asked about the complexities of going to a 1- to 2-year cycle. **Rep. Barrett** said that the Department is in the early stages of putting together a proposal.

00:54:19 **Alan Puera, Deputy Director, Department of Revenue**, said it is too early to tell what the upsides and what the downsides might be, including the fiscal impacts of a 1-year and a 2-year reappraisal cycle.

Public Comment

None.

ADMINISTRATIVE RULE REVIEW - Lee Heiman, Staff Attorney

00:58:27 Mr. Heiman discussed Rule Review (**Exhibit 2**).

LEGISLATIVE FISCAL DIVISION GENERAL FUND COLLECTION UPDATE - Terry Johnson, Fiscal Analyst

01:03:46 Mr. Johnson gave an update on the general fund revenue collection (**Exhibit 3**).

Questions

01:07:48 SEN. PETERSON said oil and gas production taxes in previous reports were ahead and now they are behind. **Mr. Johnson** said that the previous chart is comparing it to 2009 and that was a good year for oil and gas.

01:15:30 SEN. TUTVEDT asked if the two quarters of estimated payments are through April 15th or full year payments. **Mr. Johnson** said the other two are through the end of April.

01:27:40 SEN. TUTVEDT asked if that is 10% on top of the Governor's cuts? **Mr. Johnson** said that they looked at those recommended cuts to see if they will impact the next biennium and take those into account in coming up with this projection.

01:28:16 SEN. PETERSON asked if the 10% is over and above the 5% that is currently taken. **Mr. Johnson** said that some of those proposed reductions that the Governor is implementing will affect 2012 and 2013, and they have built that in their projections.

- 01:32:20 SEN. ERICKSON asked Mr. Johnson to comment on corporation taxes and if the Department of Revenue is experiencing any problems with income tax returns as compared to processing them last year. **Mr. Johnson** said the Department of Revenue will provide more tax return data for corporations, how much corporations paid, and how they paid it.
- 01:45:16 SEN. ERICKSON asked Budget Director David Ewer, Office of Budget and Program Planning, why the current numbers for the state aren't as good. **Mr. Ewer** said that it has been difficult to get accurate revenue estimates and even tougher to get corporate estimates. He would suggest using a different methodology to get those estimates.
- 01:52:47 SEN. ESSMANN asked about the increasing number of building permits and if Mr. Ewer had any basis for optimism that the small business economic activity is going to be improving to erase the \$60 million shortfall in the next 6 months? **Mr. Ewer** suggested that the concern should be not the next six months but in the budget process that starts with the revenue estimate for the next two years.
- 02:01:32 SEN. TUTVEDT asked about the solvency of the retirement accounts. **Mr. Johnson** said that it is about \$32 or \$33 million per year, based on what is recommended by the actuary to get the retirement accounts back on track. He said that the State Administration and Veterans' Affairs Interim Committee is looking at options.
- 02:04:32 SEN. GILLAN suggested that someone from the SAVA committee speak on that issue at the next meeting.
- 02:06:34 SEN. GILLAN asked if the long term general fund outlook is both positive and negative. **Mr. Johnson** said that staff is working on that and will have more information, but he doesn't have specifics right now.
- 02:07:18 SEN. GILLAN asked what the loss of federal funds is. **Mr. Johnson** said the loss of federal funds is when you have the level of federal deficits that the state is currently operating under. If it results in fewer federal dollars to the state, then the state has an issue to deal with for continuing those services.
- 02:08:01 SEN. GILLAN asked about the passage of the jobs bill and whether there will be additional resources coming to the state. **Mr. Johnson** said that based on what he has read, the jobs bills will have very little impact on individual states.

Public Comment

None.

REVENUE ESTIMATING PROCESS - Jeff Martin, Lead Researcher, LSD

02:09:25 Mr. Martin gave a presentation on what other states are doing in their revenue estimating process (**Exhibit 4**).

Questions

02:24:42 REP. BARRETT asked if the studies reached any conclusions about the relative accuracy of the estimates arising from the different processes? **Mr. Martin** said that he did not look at that type of comparison.

Discussion on estimating process

02:28:44 SEN. TUTVEDT talked about the need for a process that keeps the executive's and LFD's budget numbers from being in the same legislative houses at the same time. He asked if that would be rulemaking or legislation. **Mr. Heiman** said that it would have to first address the provisions in the statute and then transmittal would be part of the rules.

02:33:12 SEN. PETERSON said that it might be a good idea for this committee to start on this early and once we have a good idea what this cycle produces, we could then think about a more specific process of taking input from people who forecast economic activity. He also suggested that those entities who make the economic forecasts come to a meeting, along with the Executive Branch, and give an evaluation of where we are.

02:43:18 Mr. Martin said one suggestion is that the committee should start looking at the revenue estimating process in July by looking at the modeling, the data requirements, and other factors that go into the revenue estimating process so that the committee has a better understanding of the kinds of things to consider when they meet in November. He said that one of the states requires a revenue-estimating resolution that starts in the Senate. Last interim the RTIC requested a bill to introduce the resolution in the Senate, so that the revenue estimating resolution and the budget go in opposite directions.

02:45:18 SEN. GILLAN suggested forming an ad hoc committee to have a panel discussion on the process of putting together an economic modeling. The members of the committee decided that Sen. Peterson and Rep. Barrett would be on the ad hoc committee. **Rep. Barrett** said that he would like to discuss the revenue estimate errors that we have in the past that are due to bad data going into the models as opposed to model error.

DEPARTMENT OF REVENUE REPORT - Dan Bucks, Director

Income Tax Season

02:54:18 Director Bucks gave a presentation on the Income Tax Season (**Tab 3 of Report**).

Questions

03:04:12 SEN. PETERSON asked why the Department has processed twice as many large corporate income tax returns this year than in previous years. **Director Bucks** said it is because of the electronic filings.

03:08:02 SEN. ERICKSON asked if small businesses file earlier than the larger corporations. **Director Bucks** said that as like individual income taxes, there are people who start filing at the end of January even though the due date is April 15th. The general pattern is that by May 15, those who file are the smallest corporations. The largest corporations do not file until November 15 because of the complexities.

Update on Tax Compliance Activities

03:10:42 Director Bucks gave an update on tax compliance activities (**Tab 3 of Report**).

Report by Almy, Gloudemans, Jacobs & Denne on Sales Assessment Ratios Study

03:23:09 Director Bucks gave a preview of the sales assessment ratios study (**Tab 4 of Report**) that was mandated by the Legislature in HB 658.

Questions

03:28:17 SEN. TUTVEDT asked about the timeliness of sending out mobile home tax notices. **Cynthia Monteau Moore, Administrator of Property Assessment Division**, said that they are in the process of printing and mailing those assessment notices and will start this week. She added that as they get the information from their field offices, they will start their process working with the Information Technology Division and getting those printed and mailed.

ADMINISTRATIVE RULE REVIEW - Lee Heiman, Staff Attorney

03:34:33 Mr. Heiman reviewed administrative rules (**Exhibit 2**).

Questions

03:43:32 SEN. ESSMANN asked about denied access land. **Mr. Heiman** said that is in

agricultural land when productivity is determined, they use federal soil charts that are determined by soil testing. Either the people didn't want soil testers on their land or maybe they were not home at the time, but there is a fair amount of land in the state that isn't tested and is then determined as denied access land.

03:44:35 SEN. GILLAN asked about the administrative rule on Correction of Value before Reappraisal [change in productivity only]. She asked if Mr. Heiman's concern is that the rule is going to contradict other statutes. **Mr. Heiman** said that he doesn't have a problem with the rule. Right now the phase-in says six years and with this rule, there is going to be a 5-year phase-in. The idea was to bring it to the committee's attention the fact that there is no one-to-one correlation because this isn't a rule that is implementing a statute in the normal course of events. It is a matter of correcting a problem.

03:45:54 SEN. GILLAN asked if the committee should think about a committee bill? **Mr. Heiman** said no because this has to be done quickly. **Sen. Peterson** said that the rule is in response to the litigation. He said that he would like Director Bucks to address that in tomorrow's meeting because of the inconsistencies on the phase-in process. This rule is to try to address that but since a year has gone by and there are only 5 years left, they want to do it over 5 years. That still does not address all the land and that became apparent at the end of the agricultural subcommittee meeting.

SEN. GILLAN said that is why she asks that question whether some of these things are candidates for committee bills. **Sen. Peterson** said that the answer to that question is yes.

03:47:45 SEN. GILLAN said that the committee should come prepared tomorrow to discuss what they want to see at the July meeting for a panel discussion on the revenue process.

RECESS

03:48:46 Sen. Gillan recessed the meeting at 4:54 p.m., to reconvene at 8 a.m. on April 30, 2010.

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