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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

April 30, 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.

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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. 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

- Approved bill draft requests to replace existing property tax relief measures; make improvements on existing circuit breakers; repeal inoperative business equipment tax; simplify entitlement share payments to local government; correct erroneous tax rate related to EPTAP; revise withholding tax rate for lottery winners; clarify provision related to Department operated liquor stores; and repeal the Montana Capital Company Act.

CALL TO ORDER

00:00:01 Sen. Gillan reconvened the meeting at 8:03 a.m.

AGENDA

HB 658 BACKGROUND METHODOLOGY ON SALES ASSESSMENT RATIO STUDIES - Bob Gloude-mans, Property Tax Consultant, Almy, Gloude-mans, Jacobs, and Denne

00:04:48 Director Dan Bucks, Department of Revenue, explained the HB 658 sales assessment ratio studies for residential and commercial property.

00:06:48 Bob Gloude-mans said that his firm was commissioned by the Department of Revenue to conduct a series of studies on residential and commercial property. Mr. Gloude-mans presented a report (**Exhibit 1**) on the second study.

Section 1 - Executive Summary

Section 2 - Methodology

Mr. Gloude-mans discussed the Executive Summary and the Methodology.

Questions

00:19:52 SEN. GILLAN asked about the upper and the lower boundaries for outliers. **Mr. Gloude-mans** said they remove the very low and the very high end of the distribution.

SEN. GILLAN asked if the decision of the outliers is based on the actual data set. **Mr. Gloude-mans** said that there is a benchmark methodology for removing these types of properties that are described in the International Association of Assessing Officers (IAAO) standards for doing sales ratio studies.

00:24:17 REP. HOVEN asked about the example on page 4, ratio equals the assessed value divided by the sale price. **Mr. Gloude-mans** said that is the ratio of the appraised value of the property to the sale price. But for time trend purposes

only, we reverse those. The reason for reversing them is that in the denominator the assessed values are always the same date and the numerator, the prices at which the property sold, reflects the date of sale.

Section 3 - Results for improved residential

00:27:02 Mr. Gloudemans discussed the trends that were used to adjust all the sales to September of 2009.

Questions

00:31:53 SEN. TUTVEDT asked why July 2008 wasn't used because that was the appraisal date. **Mr. Gloudemans** said that they could use any date for analysis. The attempt was to get a picture of assessment performance as close to the present as possible.

00:32:57 SEN. TUTVEDT asked why the date of September 2009 was used. **Mr. Gloudemans** said that the reason for using September 2009 was to give a picture of performance as close to the present as possible. There is a concern that the market might go down after the reappraisal and if so, we wanted to know the ratio of values to market today.

Section 4: Results on Vacant Residential Property

No discussion on Section 4.

Section 5: Results on Commercial Property

00:46:30 Mr. Gloudemans discussed page 16, Section 5 Commercial.

Questions

00:52:56 REP. HOVEN asked about the price-related bias (Exhibit 5.3). **Mr. Gloudemans** said that price-related bias looks at the equity in the assessment of low value and high value properties. Price-related bias indicates specifically how much ratios fall each time price doubles or is cut in half.

00:58:21 SEN. GILLAN asked about the price-related bias co-efficient. **Mr. Gloudemans** said if you look at Exhibits 5.2 and 5.3, on a statewide basis or by economic area, things are good. But when you break it down into these different property types for each of those three areas, there is a number of areas of concern and some of those median ratios for the vacant properties are low.

00:59:21 Mr. Gloudemans discussed the appendix for residential properties on page 21.

Questions

- 01:04:25 SEN. KAUFMANN said that in the Missoula area (page 29, economic area 87) the line decreases. She asked if that indicates some high price sales and the taxpayer got a better deal. **Mr. Gloude mans** said yes, in relation to the lower price of commercial property.
- 01:06:51 SEN. ERICKSON asked if a similar set of graphs nationally would look like this. **Mr. Gloude mans** said that they have two sets of graphs. The first relate to time trends. His observation is that the market in Montana has been similar to other western markets.
- 01:12:32 SEN. PETERSON asked if an analysis like this can be done for agricultural land based on productivity. **Mr. Gloude mans** said that this method doesn't lend itself to property that is assessed on a productivity basis because the standard of assessment is the productivity of the land, not what it would sell for. This method compares the assessment against sales prices, so sales prices would indicate the market value of the land but not the productivity value of the land.
- 01:14:30 SEN. TUTVEDT said that in area 81, there is a feeling that there is some falloff of the market. **Mr. Gloude mans** said that it shows the trends that the sales show in the market and that overall, the market has been flat since June of 2008.
- 01:22:51 REP. BARRETT asked for clarification on how the start and end dates for the price trend periods were selected. **Mr. Gloude mans** said that the starting points are based on the sales for the various groups of properties. For residential, both improved and vacant, the sales start in January of 2007. Commercial property has two extra years of sales, so the first month is January 2005.
- 01:28:58 SEN. TUTVEDT asked Mr. Peura about data points becoming available to an appraiser and data points being included in foreclosure sales. **Alan Peura, Deputy Director, Department of Revenue**, said that verified sales that appear on the graphs are considered arms-length transactions and the prices are reflective of the real market. Foreclosures and sheriff's sales are not included in the data. Secondly, the data points are available, subject to nondisclosure rules.
- Public Comment**
- 01:33:08 **Kevin Nelson, Billings**, distributed documents on levy districts in Yellowstone County (**Exhibit 5**) and commented on his concerns of the newly created TIF districts.
- 01:35:43 Director Bucks said he would have to explore Mr. Nelson's data further. Local governments try to anticipate where the growth will occur in order to draw a TIF

boundary to determine why taxable value rises.

DEPARTMENT OF REVENUE TAX COMPLIANCE TOPICS

01:39:04 Director Bucks introduced the Real Estate Post-Transaction Compliance Projects (**Exhibit 6**), and Pass-Through Entities Compliance Program (**Exhibit 7**).

Montana Real Estate Post-Transaction Compliance Projects - Gene Walborn, Business and Income Tax Division Administrator, Department of Revenue

1099-S Compliance Project

01:43:36 Mr. Walborn discussed cross-matching real estate data with individual and business income tax data to identify non-filers and under-reporting of income.

Questions

01:50:03 SEN. ESSMANN asked who prepares the 1099-S in a normal transaction. **Mr. Walborn** said it would be the information agent.

01:53:25 SEN. GILLAN asked if the Department prioritizes cases based on the estimated taxes due for people who do not respond to the second letter. **Mr. Walborn** said that the letter campaign is straightforward and after there is no response to the second letter, the Department looks at the tax liability and which cases it wants to pursue.

01:56:36 REP. BARRETT asked how important is it in terms of success in pursuing the 1099 compliance, that the 1099s have not been recently filed. **Mr. Walborn** said that the more timely the compliance project, the more compliance they are going to get from the taxpayer.

01:57:46 SEN. ESSMANN asked if Mr. Walborn could run a bracket analysis that analyzes the gross sale price of the property to see if there is any correlation with respect to that number. **Mr. Walborn** said they will take a look at that to see how much they have captured.

Realty Tax Certificate Compliance Project

01:58:44 Mr. Walborn said that the project captured 400,000 property transactions in the state.

Questions

02:04:16 SEN. GILLAN asked if the cost to the state per dollar recovered. **Mr. Walborn** said that a lot of the new compliance initiatives have a higher rate.

02:05:02 REP. HOLLANDSWORTH asked if the Department keeps the name and ID number of those non-residents who say they are not returning to Montana in the database for any length of time. **Mr. Walborn** said that if they are in the database, they keep it for some time.

Pass-Through Entities Compliance Program - Gene Walborn, Business and Income Tax Division Administrator, Department of Revenue

02:11:30 Mr. Walborn discussed an example of a pass-through entity to illustrate the complexity of compliance. He said that the different types of pass-through entities are partnerships, S. Corporations, and trusts.

Questions

02:18:12 REP. NOONEY asked if there were other reasons that people have these kinds of entities for tax purposes. **Mr. Walborn** said that it is based on business ownership liability. They are not structured for tax purposes.

02:25:51 Director Bucks said that the federal report on pass-through entities and the Department's data on realty transfer certificate project show that over 35% of non-residents who sold property in the state did not file and are not willing to communicate with us.

02:28:30 Director Bucks discussed several areas that will have long-term impacts on the work of the Legislature.

- Mr. Rich Bechtel, Taxpayer Assistance and Public Outreach, distributed information regarding his office but did not discuss it. His office offers taxpayer assistance.
- The installation and development of the imaging project.
- Liquor Warehouse renovation.

MONTANA DEPARTMENT OF TRANSPORTATION REPORTS - Jim Lynch, Director

Montana Department of Transportation Employees Residences

02:35:30 Director Lynch distributed and discussed the documents showing where MDT employees live (**Exhibit 8**).

Questions

02:38:01 SEN. TUTVEDT asked if the tabulation is by where they live or where they work. **Director Lynch** said that is where they live.

02:39:07 SEN. ESSMANN asked if the Department could breakdown the larger urban

areas where the regional headquarters are located by number of engineers or design personnel. **Director Lynch** said that he can give him that information broken down by financial districts.

02:40:27 SEN. ESSMANN also asked for a breakdown on the labor pool.

Indirect Costs

02:41:01 Director Lynch discussed Indirect Costs (**Exhibit 9**).

Questions

02:49:51 SEN. ERICKSON asked about the difference between the 2010 rate and the 2011 rate and why there was an under-recovery in 2010. **Director Lynch** said that it is not unusual to have an under- or over-recovery because of the "look back" for two years.

02:53:14 REP. HOLLANDSWORTH asked about the wide load situation. **Director Lynch** said that the High and Wide Project is moving as scheduled.

02:55:28 REP. BARRETT said that the environmental groups in Missoula are concerned about the potential environmental impact of the pullout construction and they are concerned about whether an environmental impact statement would be prepared. **Director Lynch** said that the Environmental Policy Act operates in stages. First, an action taken by a state agency has to have an environmental review which is a checklist to see what is going on. That information drives what type of environmental document would need to follow, which is the issuance of a 32J Permit.

02:59:27 REP. BARRETT said that the state agency is allowing this permit to transport. But in this particular instance, the issuing of that permit will be conditioned that you will be requiring them to construct some of these turnouts. The question of the impact of the turnouts is an aspect of you issuing the 32J Permit. **Director Lynch** said that is correct and they are using existing turnouts, modifying existing turnouts, and building new turnouts. Director Lynch discussed the need to look at what environmental impacts are to turnouts and the need to weigh the benefits.

03:00:53 SEN. ERICKSON said he recalled the equipment would be moved through Missoula at 2 a.m., but it was unresolved on the way back. **Director Lynch** said that when the trucks drop off their load, they become smaller and narrower and do not impact those communities with wide and slow loads. The trucks will actually travel back on the interstate.

The Conoco/Phillips Project and the Berry Y&V Project

03:03:07 Director Lynch said that the Conoco/Phillips Project is still moving forward with their tank replacement work in Billings. They need to bring large loads from the ports in the west to Billings. The Berry Y&V has similar projects as the Imperial Exxon Mobile Project. They are proposing to manufacture them in Billings and if that transpires, they will need to develop a route and a permit process to go from Billings to fields north of Edmonton, Canada.

Public Comment

None.

BREAK

03:25:57 The committee discussed the revenue estimating process. The committee discussed having a panel discussion on the process and how some of the models are put together to have a better understanding of the analytical tools before getting into the specifics of the data. The committee also discussed the importance of understanding where the estimation errors occurred and how Global Insights got the optimistic, middle, and pessimistic views.

POTENTIAL OPTIONS FOR REVISING PROPERTY TAX ASSISTANCE PROGRAMS - Jeff Martin, Research Analyst, LSD

03:48:23 Mr. Martin gave a presentation on Property Tax Circuit Breaker Options (**Exhibit 10**).

Questions

04:04:46 REP. HOVEN asked if the current EPTAP and the Rep. Barrett's proposal apply just to primary residences or does it also apply to second and third homes. **Rep. Barrett** said that if you occupy two homes in Montana for a total of seven months, his proposal would apply to both of those homes.

04:07:20 SEN. TUTVEDT asked about the fiscal note. **Larson Silbaugh, Department of Revenue**, said because of how the estimate worked, the high estimate of the property tax benefit to homeowners would be between \$35 million and \$44 million. But by eliminating existing programs, the cost was between \$19 million and \$27 million.

04:17:40 REP. HOVEN said he thinks that the existing system has worked well. There was a proposal in the reappraisal mitigation bill (HB 658) to increase the income levels. He would prefer seeing it done that way because it targets very specific groups. He would like to fine tune the existing programs.

Motion by Sen. Kaufmann

04:22:29 SEN. KAUFMANN **moved** to request a bill draft to replace the existing property tax relief measures. The motion **passed** with Rep. Hollandsworth voting no.

Motion by Rep. Hoven

04:28:39 Rep. Hoven **moved** to request a bill draft to make improvements upon existing circuit breakers. The motion **passed** with Sen. Tutvedt voting no.

Other committee business

04:29:45 SEN. ESSMANN requested that the committee discuss potential alterations of the EPTAP program and deferral programs.

04:32:45 REP. HOVEN asked about the problems of the appraised value of the land in the Whitefish area. He said there have been studies done in the past on just taxing the improvements rather than the actual property itself. Mr. Martin said that he is not aware of any studies that just looked at taxing structures.

SJR 16 STUDY OF UNINSURED AND UNDERINSURED MOTORISTS - Jeff Martin

04:35:12 Mr. Martin gave a presentation on mileage-based motor vehicle insurance **(Exhibit 11)**.

Questions

04:53:31 REP. HOLLANDSWORTH asked if there were any savings by doing the mileage-based insurance or was it more of a convenience for people who don't drive as much. **Mr. Martin** said that one of the reason that this is promoted is for savings.

04:55:22 REP. BOLAND asked if anything was said about the possibilities of what a deductible would be if there were an accident. It would be hard to believe that you could pay for mileage by a penny and have a thousand miles into it as a minimum. She would think that for an insurance company to make a profit and if you were in an accident, they would have to put that costs somewhere else in the policy. **Mr. Martin** said that he did not get into that kind of detail, that he just researched what this program involves.

04:57:05 SEN. ERICKSON asked how much is this type of insurance being used in the state of Oregon. **Mr. Martin** said that it is not being used that much.

04:59:29 REP. BOLAND asked if there was a way to get more information from the pay-as-you-go companies to see what they actually offer other than sell something as

pay-as-you-go and not know the ramifications that might be in the policy. **Mr. Martin** said that it would be good to followup and contact the insurance companies to get a better idea of how that type of insurance would work.

Public Comment

None.

PROCEDURE FOR INTERIM COMMITTEE REVIEW OF AGENCY LEGISLATION

05:03:28 Mr. Martin reviewed the procedure for interim committee review, request, and drafting of state agency legislation (**Exhibit 12**). It was the general consensus of the committee to schedule the review of agency proposed legislation at the next meeting.

CLARIFY CERTAIN PROVISIONS UNDER TITLE 15, TITLE 16, AND TITLE 90

05:24:45 Mr. Martin discussed a memo regarding proposed bill draft requests to clarify, simplify, or repeal certain tax provisions and to clarify a liquor law provision (**Exhibit 13**).

Repeal inoperative business equipment tax

05:27:41 SEN. ESSMANN **moved** to request a bill draft to repeal the inoperative business equipment tax. The motion **passed**.

Simplify entitlement share payment to local governments

05:30:05 SEN. KAUFMANN **moved** to request a bill draft to simplify the entitlement share payment to local governments.

Discussion

05:34:23 SEN. ESSMANN asked if there is a working group on this bill or is there a proposal for a working group? Mr. Martin said that the language will be basically the same as what it was in personal property tax reduction bills in prior sessions.

05:36:50 **Harold Blattie, Executive Director, MACo**, said that this bill would contain language that was drafted three years ago and has been a part of every bill for property tax reduction or elimination. This proposal would be a cleanup bill and needs to be passed.

Public Comment

05:41:26 **Rhonda Wiggers, Montana Coin Machine Operators**, said that the reason they are asking that the history remain in this bill is because of comments made to

taxpayers.

Motion by Sen. Kaufmann

05:44:04 SEN. KAUFMANN **moved** to request a bill draft to simplify the entitlement share payment to local governments and to make sure that the history remains. The motion **passed**.

Correct erroneous tax rate related to extended property tax assistance program

Motion by Rep. Barrett

05:45:27 REP. BARRETT **moved** to request a bill draft to correct the erroneous tax rate related to extended property tax assistance program in 15-6-193. The motion **passed**.

Public Comment

None.

Revise withholding tax rate for lottery winnings

Public Comment

None.

Motion by Sen. Erickson

05:49:07 SEN. ERICKSON **moved** to request a bill draft to revise the withholding tax rate for lottery winnings in excess of \$5,000. The motion **passed**.

Clarify provision related to conversion of Department of Revenue employee-operated liquor stores to agency stores

Public Comment

None.

Motion by Rep. Hollandsworth

05:51:00 REP. HOLLANDSWORTH **moved** to request a bill draft to clarify a provision related to the conversion of Department of Revenue employee-operated liquor stores to agency stores. The motion **passed**.

Repeal Montana Capital Company Act

Public Comment

None.

Motion by Sen. Erickson

05:52:15 SEN. ERICKSON **moved** to request a bill draft to repeal the Montana Capital Company Act. The motion **passed**.

Public Comment on any topic

05:54:19 **Kevin Nelson, Billings**, commented on his concerns with the tax increment districts and asked the committee to consider the 95 mills for school equalization funding to be added to the section that already allows for the 6 mills for the University System.

06:05:15 **Casey Hill, Liquor Stores Association of Montana**, said that the Association agrees that the legislation related to liquor stores needs to be cleaned up. He mentioned removing the two words "its stores" in the code section and the Association agrees that that is a good clarification of the law.

06:06:16 **Lawrence Grosfield, Big Timber**, has concerns over the budget picture for next session. He suggested a bill that would have a trigger that says if at the beginning of the session you have a hole, then all earmarked accounts are open to the process.

OTHER BUSINESS - SCHEDULE NEXT MEETING - INSTRUCTIONS TO STAFF

06:17:36 The committee discussed on the next meeting date for the full committee and the subcommittees. Sen. Tutvedt suggested, as a topic, to look at Mr. Grosfield's proposal.

ADJOURNMENT

06:19:31 With no further business before the committee, REP. HOLLANDSWORTH adjourned the meeting at 2:23 p.m.

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