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Revenue and Transportation Interim Committee

60th Montana Legislature

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KIM GILLAN--Vice Chair
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JEFF ESSMANN
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JEFF MARTIN, Lead Staff
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

HB488 Subcommittee on Property Reappraisal

September 9, 2008

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
SEN. JIM PETERSON
SEN. JIM ELLIOTT

REP. MIKE JOPEK
REP. PENNY MORGAN
REP. JON SONJU

STAFF PRESENT

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

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

CALL TO ORDER AND ROLL CALL

00:00:04 Sen. Gillan called the meeting to order at 1:37 p.m. The secretary called roll. All members of the HB488 Subcommittee were present. The minutes of the July 10, 2008 meeting was approved unanimously.

AGENDA

Department of Revenue Agenda Items - Dan Bucks, Director

Reappraisal cycle alternatives

00:00:22 Mr. Bucks discussed alternatives to the reappraisal cycle (**Exhibit 1**):

- The advantages and disadvantages of changing the reappraisal cycle to 3 or 5 years.
- The effect of extending the reappraisal cycle by 2 years because of the housing market.
- The effect of postponing implementation of new values by one year - appeals process.

Mr. Bucks discussed the document, "Four-Quarter Price Change by State" from the Office of the Federal Housing Enterprise Oversight (**Exhibit 2**).

Questions

00:18:48 SEN. PETERSON asked if the Department could do the reappraisal process in a shorter period of time? Mr. Bucks said that the Department has become faster in processing information but they are still scrambling to do the verification of the validity of realty transfer certificates that requires field work. The Department has made progress with the computer system being able to handle the data better. Mr. Bucks said that there has been no change in technology on the way the Department has conducted field reviews, which is the bulk of the reappraisal work.

SEN. PETERSON asked Mr. Bucks if the January 1 to the July 1 change in date is going to add any significant credibility to the reappraisal cycle. Mr. Bucks said yes. Realtors and the public say that the more current values are in the housing environment, the more confident they are going to feel.

00:29:01 SEN. ELLIOT said that Mr. Bucks mentioned that the field reviews are spread over 4 to 5 years. He asked how a field review that is done in the first year is kept current over the cycle. Mr. Bucks said that the field review updates the physical

characteristics of the property. You do a new field review if you have reason to believe that there has been a physical characteristic change to that property.

SEN. ELLIOTT said that Sen. Story had an idea of having the next reappraisal cycle being 5 years and then going back to a 6-year cycle. He said that homes are never taxed on their current value but rather on the value of their property 6 years prior. Sen. Elliott discussed the idea of adding a year onto the current cycle, maintaining the current values as they are now, delaying the findings of appraisal values until this time next year, and then go to a 6-year cycle so that the appraisal comes in the year before the Legislature meets. Mr. Bucks said that the way the system works now is that the Legislature gets the new value data some time before the session begins. The Legislature takes that data, processes it, comes up with a formula, takes inflation out of the equation, and by the end of the session, prepares a new assessment notice that informs the taxpayers not on what their new market value is, but what their new taxable value is.

00:37:17 SEN. PETERSON said that several committee members think that a better part of the interim has been wasted talking about mitigation measures for numbers that the committee has yet to see. He said that Sen. Story's argument is, let us discuss mitigation after we have seen the numbers. Sen. Peterson said that he doesn't understand the logic of the risk involved with citizens waiting a year until they have had a chance to mitigate. Mr. Bucks said that the Department of Revenue has more responsibilities for parts of the state and local tax system than any other state revenue agency because they have residential and commercial property valuation. He said that, as a professional administrator, giving taxpayers less than full and complete information is not always a good idea.

No Public Comment

00:40:46 Committee Discussion
SEN. PETERSON said that he would like to go in one of two directions. One is the idea of delaying it for a year or going to a 5-year cycle. The pros outweigh the cons of having the reappraisal information available during the interim so that this committee can use its time effectively. He said that he finds it hard to believe that a taxpayer is going to appeal a tax bill that isn't going to change. Typically, if your house is worth more money in six years, that's a good sign, and delaying the tax mitigation will probably be a sigh of relief for 95% of the taxpayers because it is about mitigating the increase, not mitigating the decrease. He said that he would like to see this committee make a movement in that direction rather than after

working a year on something that they don't know what they are working on.

SEN. ELLIOTT said that he would like to defer the discussion to the full committee. SEN. GILLAN and SEN. PETERSON both felt that it is hard to manage an issue that has not been measured, which is what the committee has been trying to do for several months.

Department of Revenue's response to Sen. Story's request regarding valuation information for the last reappraisal cycle of 2002

00:49:50 Mr. Bucks discussed the Department of Revenue's memo in response to Sen. Story's question that was raised at the July 9, 2008, Revenue and Transportation meeting (**Exhibit 3**). Sen. Story had asked the Department when the first valuation information for the last reappraisal cycle was made available for review, that cycle being completed on December 31, 2002.

00:59:27 **Adoption of an administrative rule change**

Mr. Bucks discussed the adoption of a rule that changed the benchmark date for valuation from January 1, 2008 to July 1, 2008. At the hearing, it was suggested that there be a statistical tool that could bring the valuations up-to-date. The Montana Taxpayers Association said that there was some language in the rule that was premature and less definite than it should have been. The Department then chose not to adopt that language because it would not have set a definite date and would have allowed the Department to pick a date that they thought was a right date, and set that in the rule. The date needs to be definite and in the rules so that it is publicly accessible. They are evaluating and considering this further proposal, which would be a new rules process devoted to that and conforming to the criteria that Mr. Bucks has outlined.

01:02:17 **Update of reappraisal of agricultural land**

Mr. Bucks gave an update on the Department of Revenue's Agricultural/Forest Land Reappraisal Project (**Exhibit 4**).

Questions

01:10:22 SEN. PETERSON said that there were three areas that he hopes Mr. Bucks will consider for discussion purposes: 1) what kind of a forage baseline will be used; 2) the need to look at qualifications and status exemption for agricultural land; and 3) how will the local appeal process work.

01:15:10 REP. JOPEK said he is intrigued by the classes of property that are reappraised every six years. From an agricultural perspective he can understand why reappraising every year would be problematic. His question is that since those

three classes are appraised every six years, is there a rationale for why they are lumped together and can you appraise class four at a different cycle than class three, etc., or is there some type of historic perspective on those three classes being in that same cycle? Mr. Bucks said that his assumption is that in one way or another, they are all real estate, commonly traded and commonly owned.

REP. JOPEK asked Mr. Bucks if he could look into that further because Mr. Bucks mentioned that they are all real estate and that seems a whole different realm of law. If we change class four, do we have to change class three? Mr. Bucks said that, within constitutional bounds, you can treat different classes of property and apply different policy measures to different classes of property as long as you meet the standards of equal protection of the laws and you have a rational basis for distinguishing the two.

No Public Comment

BREAK

01:36:56 **Simulation model demonstration on property reappraisal mitigation - Ed Caplis, Department of Revenue**

Mr. Caplis gave a demonstration of the simulation model regarding mitigation on property reappraisal (**Exhibit 5**).

Questions

01:43:49 REP. JOPEK said that in 2002, the statewide average increase was 20%. Early indications are that the slower parts of our state are growing faster. He asked Mr. Caplis how that plays out, not on the broad spectrum, but on the individual spectrum. Is it easier to mitigate or more difficult? Mr. Caplis said that at this point they are unsure because they don't know how it actually played out. However, if you put the actual numbers in the model, you will have some differences, because they are patterning this model on the 2002 growth patterns.

SEN. PETERSON asked when the actuals will be available. Mr. Caplis said that there will be preliminary numbers around Thanksgiving and reappraisal numbers committed by January 1.

02:01:32 **Sen. Jeff Essmann, Billings**, said it might be useful for analysis purposes to have some mix of percentage homestead exemptions, including a mixture of percentage and flat, rather than just a flat or percentage exemption. Mr. Caplis said that putting in any basic simulation model where you can play with it would require having 500,000 records. If you have some suggestions of different levels

that you would like to try, they would be more than happy to model them against the 2002 reappraisal.

02:04:25 **Discussion of issues related to property reappraisal mitigation - Rep. Wayne Stahl**

REP. STAHL said that Montana's tax system is one of the most complicated systems in the United States and needs to be changed by narrowing it down and making it more fair and more equitable. Rep. Stahl discussed reappraisal periods, phase-in periods, and the homestead and the comstead exemptions **(Exhibit 6)**.

Questions

02:12:53 REP. JOPEK asked Rep. Stahl about basing the exemption on residential standards similar to what other states have done. Rep. Stahl said the inequity still remains because the exemption is not reasonable as compared to others. You would then create something even more unconstitutional in a class of property because not only would you have a 32% homestead and a 20% comstead exemption, you would also have a taxpayer who doesn't get the exemption in a class four property.

SEN. PETERSON asked Rep. Stahl if he could highlight some of his solutions to the problem of inequity in exemptions. Rep. Stahl said that the proposed legislation would probably solve several problems. One of the things he wants to do is eliminate the 22 and the 33 mill county school equalization levies that money goes to the state general fund exactly like the 40 mill levy does. By eliminating the 22 and 33 mills and adjusting the 40 mills so that it collects the same amount of money as was collected in the last tax cycle, it may be 60 or 80 mills. But if you eliminate the 22 and 33 mills, all you would have is the statewide mills and those mills would be readjusted to the dollars every time we have reappraisal. The mill levies would be readjusted downward and the whole state would benefit from that equalization of the taxes. He would also eliminate the homestead and comstead exemptions and the phase-in and require a two-year reappraisal cycle.

REP. JOPEK said that there is a pitfall developing if we are not careful. Rep. Stahl talked about doing things with the mills in conjunction with eliminating homestead/comstead exemptions. He asked Rep. Stahl to comment on Sen. Essmann's discussion about percentages versus a flat rate approach. Rep. Stahl said that percentages is just another way to do what he would like to do, only it doesn't prevent the inequities that he thinks are unconstitutional. It is one of the tools that actually has some fairness to it when you adjust taxes statewide. When

you lower the percentage, everybody in the state gets that lower percentage.

Public Comment on Property Reappraisal

02:36:30

Sen. Jeff Essmann, Billings, discussed weaknesses that he thinks exists in the Department of Revenue's simulation model:

- On the commercial side where certain properties are zoned only for office use and others that are zoned for a wide range of commercial uses.
- Equality on the residential side where you can throw out the low sale of a house that is being compared to others in a group for reasons of duress. The Department's model does not permit the taxpayer to argue that a high value sale in the group should also be thrown out. The process that the Department follows should allow the taxpayer and the appeals process to argue for a high value sale to be thrown out as well as a low value being thrown out.
- The model in the last cycle did not allow distinction for homes that lie on busy arterial streets.

02:43:57

Harold Blattie, Executive Director, Montana Association of Counties, commented about reappraisal and the role that it plays in local government revenue. He said that he has had an unprecedented number of calls and emails from county commissioners this year about the difficulty of balancing their budgets. There is concern about being able to provide public safety with the revenue that is generated.

02:54:24

Mary Whittinghill, Montana Taxpayers Association, said that every time class four is mitigated, it has the effect of shifting the tax burden to other classes of property. Most classes are revaluated annually and as they go through the mitigation process, the reappraisal issue becomes greater. She said that new research on property taxation shows that circuit breakers are preferred rather than across the board mitigation similar to what Rep. Stahl referred to. She said that as you reduce the tax rate for class four over time, you will see that class four is reduced to 26% of the value. That is the fastest growing class of property in the state and at some point, having to reappraise annually thousands of pieces of property, the question is, does that become more of a nuisance tax at a cost greater than imposing some other tax on property as that rate reduces.

Other business - Jeff Martin, Research Analyst, LSD

02:57:11

Mr. Martin said that the HB488 Study contains a termination date of September 15, but the subcommittee could still proceed under the authority to undertake studies of statewide importance. He said that the Revenue and Transportation Committee's budget is in good shape and can have an additional meeting. Mr. Martin discussed timing issues for pre-introduced draft legislation. The deadline

for pre-introduction is December 26. Mr. Martin said that his concern is the date by which the committee will receive reappraisal numbers from the Department of Revenue and if the committee only has a couple of weeks for reviewing any recommendations coming out of the RTIC on mitigation, that would be cutting it close.

SEN. PETERSON asked if there was enough money to add a meeting in December and does the committee have to have the meeting on the 17th of November or could we delay it? Mr. Martin said that the primary purpose of meeting November 17 is for the revenue estimate.

SEN. PETERSON asked if there is enough money for a meeting after Thanksgiving? Mr. Martin said that the committee's budget is in good shape because they were able to save money by paying for this subcommittee through HB 488.

SEN. ELLIOTT said that one option is to put an extra year on the reappraisal cycle. SEN. PETERSON said that he has a note for three bill draft requests that might give the committee some placeholders to do things when the time comes. Mr. Martin asked if those are committee placeholders or Sen. Peterson's placeholders. SEN. PETERSON said that they could be either, but somebody should be putting in bill draft requests and he thought that as chair of the Revenue and Transportation Committee, he could do it, but the committee could do it and put some general placeholders for various mitigation activities that this committee might want to consider. One, is revising the reappraisal cycle itself and the second one would be revising property tax rates and exemptions. We could do bill drafts as individual legislators or as a committee, but we need placeholders for this purpose. It may be that we want to delay the reappraisal for a year depending on the outcome or it may be that we want to move it to 5 years to get us on the odd years. He said that there are a number of opportunities but it is hard to make strong recommendations.

SEN. GILLAN said that her concern is that we could put in placeholders, but in terms of the substance of those, if they are going to be committee bills, then the whole committee has to vote on them.

SEN. GILLAN asked Mr. Martin if there is one committee placeholder in already. Mr. Martin said that the committee requested a bill draft simultaneously with the Department of Revenue's bill draft request. He said that the Department of Revenue is under the same time constraints that this committee is.

REP. JOPEK said that he would be happy to return any time in December to continue work on this. The other thing is the political landscape after the election. If we are committed to working together, we should look at a joint subcommittee of both the senate and house taxation where we can have some of this discussion early in January or February.

SEN. GILLAN said what was discussed is on target and that she will report to the full committee that the HB488 Subcommittee members would like to meet in December after getting some revenue numbers. Even if there isn't any conclusion on what will go into a committee bill, one thing that is positive is that there has been a lot of good ideas with people getting a chance to refine those ideas. She said that Rep. Jopek's idea of a joint subcommittee has merit.

ADJOURNMENT

03:11:53 SEN. GILLAN adjourned the meeting at 4:57 p.m.

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