Chairman Mike Jopek called the meeting to order at 8:01 am

I. Introductions and General Housekeeping information

- **Introductions** - Chairman Jopek provided an introduction for himself and asked that the other members introduce themselves.

- **Meeting Information** - Notebooks with meeting information, presentations and travel reimbursement/expenses and instructions were provided to the meeting members.

II. Opening Remarks, Dan Bucks, Director, DOR

Director Bucks thanked each member for serving on the Agriculture Taxation Advisory Committee. He stressed that agriculture is a major portion of Montana’s economy. The work that was done in the last cycle was significant and yours will be as well. We did the first reclassification in 43 years last cycle.

Director Bucks reviewed the constitution meeting where one member reported that the worst evil in the Montana property valuation system was the unequal assessment of property between counties. There was a bipartisan consensus in the constitution achieving equal taxation. We need equalization in Montana. No one will invest in Montana if they do not think they will be treated equally in Montana. Interestingly enough, we do know that the only part of the valuation system that was left over from prior to 1972 was the Agricultural system. The last time the entire state was done was prior to 1963. They had to update the Agricultural land areas that were done after 1963 and they had the least changes in the updates. The constitution says that we need to have equalization among the taxpayers.

Director Bucks offered a special thanks to Mike Jopek for being willing to chair as he had also been in the legislature and he knows that when they charge that we do all things possible, it is a very strong emphasis. And there is a strong emphasis on equalization. We are still perfecting this. We took a giant leap establishing this objective scientifically based
system. Any time you establish a new system, it is not perfect. We had half the rate of appeals on agricultural land than we had on the residential properties. The only pattern of complaint that we had was from people who had positions of power. From the rank and file, they said that this makes sense.

We overvalued grazing land by 20% across the state. The statute required us to use a thousand pound cow. The standard is a 1200 pound cow. We got a bill passed in the legislature that moved it to a 1200 pound cow. We had some grazing conditions across the state, if we inserted a 1200 pound cow into the formula and the results were close to what the rancher thought it should be.

BLM stocking rights. Push back. We put in language that this was for tax purposes only. There is an inherent conflict that we need to bridge.

Director Bucks stressed that equalization along the borders of the counties is a very important issue. We have to value agricultural land on average management. We have determined management as 12 years of average bushels per acre. At the county boundary the average production was lower. The difference was not equal at the boundaries. We have more of these conditions in other areas. One area is “The Golden Triangle”. We need to get them to meet at the counties borders. Those are some of the challenges. This is all to say that we have a better system now that we have it scientifically based. We just need to build on it.

Questions for Director Bucks:

How do you know how much more a 1200 lb. cow eats than a 1000 pound cow? - The 1000 pound cow was eating 3% of his body rate. It results in a 20 percent change in the Animal Units per Month (AUM’s).

Why the 12 year cycle? - You may want to discuss that. A 12 year cycle takes into account periods of drought and rain. There is so much in taxation. Two questions that you need to ask yourself. What is fair, and what is reasonable. We have complicated sections of taxes in this state. You need to be fair and equal.

There were no further questions for Director Bucks.

Chairman Jopek thanked Director Bucks for the work that has been done on the scientific approach to property valuation.

III. Montana’s Property Tax System: Focusing on Agricultural Land Taxation and the Roles and Responsibilities of the Advisory Committee, Cynthia Monteau Moore, Administrator, Property Assessment Division (PAD)

Cynthia Monteau Moore discussed the department’s authority to administer property tax through the Constitution and applicable statutes; the department’s role in the county budgeting process; the classes of property developed by the legislature; the
taxation process in general; the department’s role and responsibilities and the advisory committee’s role and responsibilities.

There were no questions for Cynthia.

**IV. GIS Presentation, Ted Chase, GIS Analyst, PAD**

Ted Chase provided a power point presentation on the Geographic Information Technology (GIS). The Management Analyst GIS team works primarily with agriculture and forestry lands types. By statute, the Department provides cadastral landownership maps for the State to each County. The cadastral site is available to the public. Soil types and land classification was presented with in-depth explanation. Cadastral data and the NRCS Soil Data base was explained. The three GIS Layers combined to calculate productivity was explained. Explanation on how this is used as a tool for processing.

**Question for Ted Chase:**

*How are the polygons developed?* It could have been from the original CLU data that we got from the farm services. Or it could be from new data imagery that digitized around the pivots. It is a manual process for digitizing around the areas.

*What do you get on the corners of the pivots?* It is a classification question and what the appraisers see when they are out there. Sometimes it is irrigated and sometimes it is grazing or summer fallow. It will depend on what the farmer tells us.

*Does this mean you do this every year?* What happens if the land is fallow one year at a time? It is a continual process. Once it is fallow, it remains fallow until you change it to something else. It depends on what the producer plans to use it for.

*How is the valuation done on a homestead?* We remove that acre from the soil polygon. That is a separate valuation that is done in ORION. We remove it from the agriculture. The one acre is valued on agriculture value – the highest value. The improvements are done based on Cost. Frank McCall interjected that the FSA could provide you with a different measurement because if they measure a field or an area out, and you have one again the next year, you may get a different measurement as GIS does not have the ability to balance out right now.

*What is CAMA? – Computer Assisted Mass Appraisal. All of our tax data is in one computer system. Orion is the program that holds all the property data for the state.*

*What is the schedule for the appraisers? Are they out in the field right now?* Every time they go out they could pick up a change if they see something that has been done when they are driving past a property. So there is not really any schedule, they are just out in the field. It is based on discovery, visiting with farmers. It is easier to keep up with classification because farmers will share information very readily.
In eastern Montana you can have one farm with timber forest on it, and the one right next to it has none that is merchantable on it. How do you handle that? You are asking whether we can classify something as forest as opposed to grazing. We promise to talk about forest. The short answer is that it could be based on two separate things. 1) It may not have enough acres of forest on it. 2) It must have 15 contiguous forest to qualify. Could be a case where it is not meeting the minimum board feet of productivity 100 BF per acre. If it does not meet those, it is not forest.

Is grazing your fall back classification? Yes, if it is not meeting the minimum productivity classification.

How many people does it take to update the system? The big job came when we were building this in 2006-2008. We had 5 – 7 GIS staff building this. We went through the FSA data to see if we needed to change it. Now, we have 9 statewide GIS tech that go to the share point site to maintain this information. Last year there were 5000 agricultural and forest changes to make. On average it takes 30 minutes per change.

Could you explain some of the challenges of the line work and the layers that we are using and the issues that arise because we do not have the lines exact? The main challenge would be the accuracy of the cadastral data. It was implemented back in the ’90s. It utilized the public land survey. Some of the data is from the 1800′s. The survey control in that data base is not accurate. If the control point is 2-300 feet off, then the data is 2 -300 feet off. In some of the cases, we have physically moved and visually aligned it to what we see in the imagery. It is a very time consuming process. The other thing is the soil data base is a new data base. The NRCS has been collecting soil information for a long time. This is the data that we get the productivity information out of. We will see soil polygons that do not match just right. Soils on each side of the county may not be aligned. The use of County data it would be nice if the counties had it all mapped for us. But there are some counties that do not have the line work, the layers and the roads are not consistent. There are 8 counties that maintain their own data. They have their own GIS departments. It is not a big priority for them.

You have a data system that does not correspond to the legal system on the ground? It corresponds to the legal descript.

You can be a number of feet off? When you use a cadastral today, you could be off. The monument would be the control. You will always have a data conflict unless you use the monument on the ground.

We as producers have satellite trackers in our combines. You think you would be able to locate the corners. The monuments might have been moved or changed? – Satellite imagery would be nice to pick up our agricultural changes and classifications.
How come we are not using the satellite data? – We had looked at that when we were building this. We had the national aerial imagery program from the NSA, it is a nationwide program where they fly the entire county. And they provide information to within one meter. There is none available that will click into our system. - Ted will do more research on this prior to the next meeting.

Explain the difference between the oblique imagery and the satellite imagery? – You can see all sides of a building as it takes pictures from all 4 directions. Agriculture would be better from the top down as you would see the changes.

How much of Montana is Agriculture? What is that total valuation? What percent of valuations is that? We have millions of acres of agricultural land in Montana – do not know the exact amount. We will find out.

V. Applicable Montana Codes and Administrative Rules, CA Daw, Chief Legal Counsel, DOR

C.A. Daw introduced himself and explained his role with the Department. He introduced his legal staff – Michele Crepeau who was in attendance in the meeting and Amanda Myers, who was not in attendance, who is also familiar with the statutes.

He encouraged the committee to review the code and rules if they feel the need as it is within their scope.

C.A. Daw explained that the rates are reviewed by legislature. There is a difference between the class 4 and the agricultural. He went into what is revenue neutral and what is not. This all depends on what the legislature wants. You can find information in 15-7-201. It contains many of the rules that you may wish to review. He explained that the links to all of the agricultural valuation rules can be found on the Secretary of State’s webpage in Part 42 subchapters 5 and 6.

C.A. Daw explained that at this point at up until the last reappraisal cycle, we had declared productivity based on the NRCS survey. We had sent out the maps to owners and asked for feedback. We had some issues with this system. We still have the Lucas case about phase in values that is still out there undecided. For the most part we survived and the process yielded values. Things will change on the ground this time through. We will be talking about a common base and refining a common base. We are looking forward to this round of appraisal as the changes will be applicable and on the markets. You are basically at the first revision of the agricultural appraisal process. The changes this time will be smaller.

C.A. Daw offered to share any expertise or advice that he or his legal staff could assist with.

Questions
One committee member shared that he had been on the Agricultural Advisory Committee last time. He shared that the feeling he had then was that if the reappraisal were to increase the value would be phased in over 5 years. And a decrease would be on immediately. C.A. Daw stated that he is litigating that case now. It is the Lucas case which consists of the Farm Bureau, Montax and the Lucas ranch in Meagher County. Changes in productivity, in other words if you had land that had the same acreage and stayed in the same agricultural classification and all it did was change productivity or price levels. Originally we had a misstep and we corrected it before it went into law. If you changed classification – from grazed land to irrigated on any part of the parcel – or from irrigated to graze – that change in classification was not phased in. That hit right up front. I do not think we clearly communicated to everyone out there how many parcels would be affected by the classification change. It was a vast majority of the parcels in the state that had some change to them so the change did not get phased in. The general price levels were phased in.

If you had been in that classification in the prior cycle, what was the price level for that crop? What the new price level? That part was phased in was universal for everyone. The ones we did not phase in and we had statutory justification for. This has occupied a considerable portion of my job for the last 4 years.

Do you have any specific ideas on statute or rule changes? - No. I am not the guy who formulates policy. The director will provide direction. I am reluctant to make suggestions.

You mentioned that we might see some small changes in. What are those changes? - I have a specific reference but I do not want to make them. The changes will be driven by you. The one point I see is we need to come up with some sort of a minimum acreage change to deal with the phase in. I hope we get rid of the phase in and get a shorter reappraisal cycle. The phase in process causes more confusion and trouble. People do not like the sticker shock of a 6 year appraisal cycle.

The last legislature chose to do nothing about the diminished acreage. – There was not a good solution last time because there was not a common base. It will be easier for us to say that “we got a better map” now we have the administrative capacity to deal with it now. In 2011 the legislature did not take it up. Why would the next one take it up? It was in litigation, and they would not take it up.

What is the common base? - Last cycle, what we had was declarations from farmers across Montana that said “I own 640 acres. 500 are irrigated and 100 are fallow. When we did the GIS aerials we found that 300 of Graze, 200 is irrigated, 140 of Irrigated. Changes that we know did not occur in the last 6 years that had not been short changes, things that had been going on for a while. The old declarations had not been updated and were not current. There was too much change that had been declared. This time we will
have aerial photos, NRCS contour maps, and current information. We have this across the state now. It was a huge task and we used technology to get it done.

There were no further questions for C.A. Daw.

VI. Agricultural Land Assessment Presentation, Frank McCall and Bonnie Hamilton, Management Analysts, PAD

Frank McCall and Bonnie Hamilton provided a power Point that went in depth on how agricultural land in Montana is classified and valued.

Agricultural land in Montana is known as a Class 3 property. There are also non-qualified and nonproductive mining claims. There are approximately 50 Million agricultural acres in Montana with approximately 35,000 land owners. This means that there is land value in excess of 5 billion dollars. We count this as the productivity value. When there is a homestead on the agricultural property, the homestead is valued at one acre under the home is classified at agricultural use and the house is valued at Cost.

15-7-201 and 15-7-202 are important as they pertain to the value of agricultural properties and that they must be valued due to their use. There are 5 classes of land which is then sub classified due to productivity. We use the NRCS soil values for this. 201 provide the formula that is used to determine the value.

We set the value of say $10,000 – and we have the phase in of the VBR – and then it is multiplied against the current tax rate. Current is 2.63% for 2012 and 2.54% for 2013, then this is what the mills from the county is applied against.

Average grazing land for the state is .31 AUM.

Questions for Frank McCall and Bonnie Hamilton:

What if one year the cherry orchard makes the $1500, and then the next three it is nothing? Do they re-qualify each year? - We do not make them qualify each year. It is part of our job to keep up on these issues. There is no requirement that they apply each year. Our field staff will follow up for two or three years to confirm that they a have proven that they will have the income coming in we do not go every year. We carve out the homestead and classify it as an agricultural rate.

Is it fair to say that we were booming that there was significant protest from Flathead Lake; was there any protest from the orchard property owners? – Not that I am aware of.

I am puzzled when you talk about that $1500 that you have grazing land that qualifies as grazing land, but is not really grazing land. We have several sections of steep rocky cliffs? Are we missing a classification of land that would be “Waste”? – In the last cycle we had waste land. We had .08 AUM’s per acre. In this cycle we do not have “Waste”.
We look at the soil use and the lowest is .043 AUM we do not have a category of waste land we rely on the underlying soil productivity. That can reflect land that would be considered “Waste”.

**Some of the land I am describing cannot be used for grazing.** We default to grazing because it is the lowest productivity. We do not have a classification that would separate it from our other grazing classification. –

Looking at the big picture I know you wanted to skip over the mining claims, but many farms have quarries. Those have no economic value for the ranch. But it is classified as grazing. It is a misnomer. **Are the 5 classifications set by statute?** Statute is a minimum of 3, Irrigated, dry land, farm and grazing. If it were not qualified as grazing it might go back to market which might be higher on the market basis. It is to the advantage to call it grazing. It just seems to me that there are some lands in Montana that are waste. Michele Crepeau interjected that part of this committee is to research what parts of lands could be considered waste and it is for the committee members to make suggestions to the legislature to suggest these recommendations to make the changes.

**The last time we had considerable discussion on having the 5 definitions. This is all part of the discussion.** In describing waste land it is difficult. I cannot define it but I know it when I see it. NRCS soil survey does define some of it. We are charged with valuing and assessing all land in the state. We cannot give someone property value of Zero.

**Where are we seeing the non-qualified agricultural land?** – It is scattered all over. There are many reasons that a farmer might leave his property as non-qualified agricultural land.

Frank McCall provided information on the values of non-qualified agricultural land and qualified land values. He explained the 5 classifications and how specialty crops are valued at a different rate. Information on how the NRCS data includes the soil types down to ¼ acre and if needed, the department will adjust the soil data, per statute so that the data then reflects the production that the average landowner could expect under average management. When calculating the productivity of the agricultural land, the Department is charged with measuring the inherent capacity of the soil, not measuring what is actually on the ground.

**What happens with gardens?** - $1500 is low for gardens, if they can prove that they grew the produce then they could qualify. If you have property that is capable to do so, but you are not doing so, then he could come in and argue that he could do so. He would have to qualify based on the use he is using it for, even if it is capable of producing the garden.

**Where do golf courses come in? How do they qualify?** - Most are classified as commercial. There is industrial, agricultural, residential, golf courses are not agricultural.
What about that $1500 dollars in 20 years due to inflation? Is there a way to include inflation? A good point, one that you may want to consider.

Looking at the future – some forward people are looking at the green approach and gardens. Where does a hydroponic approach come in? – It must be from the land. It cannot be a container garden. The roots must be in the land itself. You have a greenhouse with $1500? If it’s in a greenhouse and it is sheltered, it would be disqualified.

Michele Crepeau interjected that there was a case that was litigated up through the State Tax Appeal Board involving a family that had less than 20 acres and had a huge garden and raised goats. They did not sell anything. They were able to put a value on those items showing that it produced $1500 that they consumed and they were able to qualify. If someone produces $1500 of hay and he can prove that he produces the hay, we can qualify him. It all boils down to what the land is capable of producing.

Taxes are also used for policies – policies that allow people to grow food without the chemicals are a good policy.

This was similar to the map that was mailed out to the taxpayers in the last cycle, the last one showed the boundary and the content. This is similar to the NRCS map survey. You would see the exact same polygon.

Is NRCS using true averages or production averages? Are they throwing in the years that they hail out? Frank thinks that if they tried to grow a crop it was included.

There is some confusion when we tell them that they can so many bushels per acre. On the acres that lay fallow every other year it does not say that I get that every other year. I would put it put arc reader map? This does not make sense. How do we handle a situation where we have a flex crop? - This may be something that you want to look into. Some places grow a crop every year. They vary the crops and so there is no real fallow land. Currently it is still classified as summer fallow because the long term use cannot support yearly growing. If you call it continuous crop it will almost double the amount.

There is a payment on summer fallow farmland screen replacing the cap rate – the productivity is doubled. As part of your packet, there is a 2009 reappraisal report. On page 19 there is a brief discussion on how that is developed.

What percentage of irrigated land is above the statutory minimum? If you are getting 3 tons an acre or less you are probably if above the statutory minimum.

Do any other classifications of land have these mitigating costs? No, only agriculture. Dan Bucks provided some background on this subject. There is some professional criticism. Everybody has some costs of production. This one the criticism made is that we are double dipping. The irrigated land member of the committee is not here to provide input today. He would be able to provide us with information as to why it is appropriate.
FSA does not classify their land use the same way that we do. We classify according to its current use.

**What do you mean by “change the carrying capacity for grazing on air dry herbage”?** Air dried herbage is when they throw a hoop and cut everything in a hoop to determine what is grown. Then they dry it. This is what could be expected to be achieved as productivity. There are three levels.

**What does this year’s precept mean when it is above?** The NRCS is looking at 30 years average. It is the grazing version of the 12 year wheat production.

**Did all of the recommendations from the past committee get approved?** I believe that all of them are either in rule or statute. Whatever recommendations we accept should be included in the rule. It is our final decision. These were very sensible recommendations. After you get the major issues reviewed, we will get back to you about any missing information. After you review this we will come back to that particular one.

**What type of timeline do we move through before we move into those recommendations?** The time line is dependent on when we have the data available so we have something on which to make policy calls. By the end of 2013 we should have most of the data on where things are going. We will have commodity data and decide how we want to react to the market. The preliminary data on wheat is that they are up. Some of the others are also. The agricultural statistics will finalize in 2013. You will have all but one year to look at. I do not know what the implications are. You may be looking at major changes. The last two years were fairly stable; the next ones may have major changes.

One way that the NRCS determined the average deductions for purposes of payments is they dropped the high and they dropped the low. This year we are on a high. We do drop the high and the low.

**Assuming that all the prices go up, then all the values go up. But then the legislature can say we are having a flat tax?** Yes, it all comes back to political numbers. The county has to meet its budget. Just keep in mind that 15-10-420 limits the amount of funds a local government can raise. They cannot grow their budget past that number unless they have a voted levy.

The goal last time we had the Agricultural Advisory Committee, we tried to be a tax neutral decision. Overall our system that they worked on should not have changed the tax revenue. The definition of revenue neutral on the AG some other groups may take from one group to even it out across the board, but we want to stay AG revenue neutral.

**On the cost bases for homesteads – you still get from that cost market base you still qualify for the homestead exemption?** Yes, you do.

**VII. Discussion Continued**
The committee members stated that they appreciated the presentations. One suggestion that was presented was that they would like more specifics and more specific examples so they can apply to the rules.

**What are the total taxes coming from the total agriculture compared to the rest of the taxes in the state? What percentage from agriculture?** Agriculture is roughly 6 percent?

**Are we heading into the right direction?** About 20 years ago, he brought in people from Michigan. They used an unbiased and scientific based, unbiased method.

The good is we have a good system in Montana. In Michigan they took advantage of the system and took too much of a good break and threw it out. Now they have a market based system. He hopes that the public sees what we are doing and appreciates what we have to keep agriculture competitive but not in an unfair way.

**I am curious if you see something from the outside asking why agriculture is getting such a break?** We have not seen a lot of that, but you are always going to see some. I don’t see a general uprising.

The objectivity is the crux and the beauty of what we have gotten to where we are at. Is the objectivity and scientific. Transparency of what I could show the public about how their land was valued. All were from someplace else, agriculture statistics, NRCS, none of it was numbers that we produced from thin air. This is a major improvement than what we had over last year.

The capitalization rate system may cause issues in the future and will need to be evaluated.

**The five classifications last time got a lot of discussion. Do you think it should be simplified?** I think it would be time well spent. We do not have problems with the classifications we currently have. The only one we have issues with is the dryland hay or grazing. We try and look at look at long term use. That is the one class that is problematic.

**When you were talking about the long term, I come from Flathead, I want to keep the cherries on the market, but you get neighbors talking about the taxes that allow them to perceive inequities.** It is thought that next reappraisal cycle will show some depression and we are no longer in the boom years.

If you think again about policy and think about agriculture it is a high risk business. The rate of return is nationally 1-3 percent as compared to other businesses. It has a high risk physically with high risk of injury. The other thing to keep in mind is what you put into your pocket after taxes. We have to be careful that we need to keep in mind the nature of the beast. The returns are low.
The average age in agriculture is 55-60 years old. We have a responsibility to encourage more to become farmers. In tax rates for agriculture as compared to a pharmaceutical company it is not the same. It is our responsibility to encourage them to be in there.

VII. Committee Schedule

Dates for next meetings were discussed. The next meetings are November 19th and December was unscheduled. The November date was scheduled as November 9, 2012. It was stressed that it is important for people to show up in these initial stages. There is a huge block of information that needs to be shared.

It was perceived by one member that the people in the department are hesitant to put out specific recommendations. He would like to know what the problems are. He did not hear today what you people think you need. He would like to hear what you will need; otherwise he thinks we are missing out on your expertise.

Jerry was wondering if someone might contact Jim? About the 6.4 percent he is an economist and he may be able to provide a scientific reason as to why. Let him know ahead of time so he can come prepared.

Buck would like to have a detailed discussion on what role the committee will play as opposed to the interim Revenue and Transportation Committee as it appears that there is some overlap. They are requesting a bill to be drafted that will change it to a two year cycle. He thinks we should try and dovetail it.

How do you feel about having a shorter cycle? Last session we had asked about a shorter cycle as we had some response to “sticker shock” the values were higher in some instances. There was talk about changing the cycle to make it shorter as it would capture the market more readily. People would see the values more quickly. Another issue is that the sales prices are not disclosed in Montana. We are only one of 13 places that do not disclose sale prices. Last year we asked for a 2 year cycle and sales prices. We went through the session and no action on either bill. Now the Revenue and Transportation Committee is looking at a one year cycle. As a department we were looking at a 2 year bill so we could have more time to get info for our models and then Revenue and Transportation Committee said that they would give us a 2 year, and then more to a one year. Property Assessment Division will need to review how our processes will change and how we will get all of this work done. Oblique imagery is 1.5 million per flyover. Then we would have the appraisers go out to the changes. It is going to take money. It will not be funded. Biannual will start January 1, 2015 and then annual on January 1, 2017.

Revenue and Transportation Committee is focusing on class 4 properties. That is where the bulk of the revenue and protest is coming from. Mike anticipates more protests coming from the oil areas, not the flathead areas.
If you have a 6 year cycle, don’t you have a more year crash that brings things down, you would have an increase in mills? No you have a more reliable tax strength for the state than if you have an annual cycle. There is some benefit to both. Our focus is just getting the value right. Someone else worries about the taxes. A shorter cycle lets you get that done. With class 4 it is easier to get the prices right on the shorter cycle. With agriculture it is more spread out.

It touches on the general person’s perception. With rising food prices and despite what we know, there is some resentment out there.

Chairman Jopek stressed that he wanted the Committee to feel vested. If we are comfortable, we can move us forward.

Bonnie Hamilton provided the information that it is in code 15-7-201 sub 7 what the committee is charged with doing.

Cynthia Monteau Moore reviewed that the primary purpose today was to give an introduction, not to give our views. To see what you are thinking. We will go back and look thorough our informal review process and check to see what the issues were on the AB-26. We would like to hear from you on what your thoughts were. What you had as issues from the last agriculture meeting.

**IX. Public Comment**

- There was no public comment.

**X. Adjourn**

- Meeting ended 1:43 pm.