Memorandum

To: Honorable Doug Burgum, Governor
Honorable Kelly Schmidt, State Treasurer
Honorable Joshua Gallion, State Auditor
Honorable Doug Goehring, Commissioner of Agriculture
Honorable Ryan Rauschenberger, Tax Commissioner

From: Linda Leadbetter, State Supervisor of Assessments

Date: April 20, 2018

Subject: Meeting of the State Board of Equalization

The State Board of Equalization will meet in the Peace Garden Room of the North Dakota State Capitol, Thursday, May 3, 2018, at 10:30 a.m.

The following items are on the agenda:

1. Approval of the minutes

2. Novum Pharmaceutical Research Services – Hearing to review Business Incentive Agreement

2. Third party assessor requirements

3. Other business

cc: Sandra McMerty, Commerce Department
The State Board of Equalization met in the Peace Garden Room of the State Capitol Monday, December 18, 2017, at 2:30 p.m.

The following members were present:
- Governor Doug Burgum, Chairperson
- Kelly Schmidt, State Treasurer
- Joshua Gallion, State Auditor
- Doug Goehring, Commissioner of Agriculture
- Ryan Rauschenberger, Tax Commissioner and Secretary of the State Board of Equalization

Governor Burgum called the meeting to order at 2:32 p.m.

It was moved by Treasurer Schmidt and seconded by Auditor Gallion to approve the minutes from the November 2, 2017 meeting. Upon voice vote, all members voted “aye.” Motion carried.

Governor Burgum invited Kevin Ternes, Assessor for the City of Minot, to address the Board. Mr. Ternes offered insight on how the sales ratio is working throughout North Dakota, as well as concerns of local assessors. Mr. Ternes indicated local assessors would like to open a discussion with the Office of State Tax Commissioner to get a better handle of how to determine commercial assessments, especially in the rural areas, when there is a lack of sales.

Treasurer Schmidt asked Mr. Ternes for suggestions to improve the process. Mr. Ternes stated local officials have suggestions to improve the current assessment practices and the local appeal investigation process.

Commissioner Rauschenberger thanked Mr. Ternes for his insight and indicated, on behalf of the Office State Tax Commissioner; staff would like to continue to work with local assessment officials to improve processes. Commissioner Rauschenberger asked Mr. Ternes for his perspective on the sales ratio tolerance level and how it affects his day to day job duties.

Mr. Ternes spoke about the navigation challenges presented by the sales ratio tolerance level when there is a large market swing in a short period of time. He indicated a wider tolerance level for commercial property could help the local officials correct large market swings without being out of the current tolerance levels of 90 to 100 percent of market value.

Commissioner Rauschenberger thanked Mr. Ternes for his perspective.

Mr. Ternes added, he liked the openness of the board to use discretion when a jurisdiction is out of tolerance, as a specific target can sometimes be detrimental.
Governor Burgum asked Mr. Ternes if the City of Minot uses special assessments. Mr. Ternes responded that generally, Minot did not rely heavily on specials. He spoke about mill levy increases in Minot this year due to the decreased tax base. Governor Burgum discussed the risk of special assessments, how specials are used in other areas and their effect. Discussion continued regarding budget workshops and the tax situation specific to the City of Minot.

Governor Burgum asked Mr. Ternes for his viewpoint regarding the language used on tax statements. Mr. Ternes stated, he feels the current statement is comprehensive. He did indicate budget notices confuse people, but he believed that had been corrected for next year. Treasurer Schmidt added that many taxpayers do not realize their taxes went up until their house payment goes up after the fact. Commissioner Rauschenberger confirmed, the notices will be different next year. A statement will go to each parcel with $100 or more taxes levied. Mr. Ternes said he would also support a letter that goes out to each taxpayer if valuations increase, decrease or stay the same.

Governor Burgum asked about the offer for discussion with the association of assessors. Mr. Ternes said, on the association’s behalf, the association would be willing to open discussion with the Office of State Tax Commissioner. Commissioner Rauschenberger stated the Office of State Commissioner representatives attend the association meetings in January and August. Commissioner Rauschenberger also noted the association is not an elected body so they do not have the ability to lobby. Therefore, the Office of State Tax Commissioner tries to work closely with the North Dakota Association of Assessing Officers (NDAAO).

Treasurer Schmidt asked Mr. Ternes if he felt commissioners have a handle on the way the process works, so when information is presented, it is understood. Mr. Ternes answered; his feeling is the larger cities have backing; however the smaller jurisdictions do not always receive the same support.

Item three on the agenda was addressed. Commissioner Rauschenberger discussed the sales ratio tolerance level set in previous years by the Board. Governor Burgum asked if there was a tolerance level recommendation from the Office of State Tax Commissioner. Commissioner Rauschenberger stated, on behalf of the Office of State Tax Commissioner, the recommendation is to remain at a tolerance level of 90 – 100 percent. A recommendation to discuss the process for those out of tolerance was made, on behalf of the Office of State Tax Commissioner by Commissioner Rauschenberger.

Governor Burgum asked if other states break out classes of property and use different tolerance ranges for each class. Linda Leadbetter, State Supervisor of Assessments, stated the information reviewed indicated the tolerance level remains the same, in most states, across all classes of property. Ms. Leadbetter handed out analysis from the International Association of Assessing Officers to support remaining at 90 – 100 percent. Discussion of the data presented continued.

Commissioner Goehring posed the question, if a wider tolerance was adopted, would anything change going forward? Commissioner Goehring indicated he thought the increase to 93 percent for jurisdictions out of tolerance, as done in the past, was a good practice. Commissioner Goehring also wanted to ensure the Board was not over-reacting. Kevin Ternes, Minot City Assessor, addressed the Board. Mr. Ternes indicated he agreed with the points made by Commissioner Goehring and asked the Board have an open mind when jurisdictions are out of tolerance.
Commissioner Goehring moved to adopt a tolerance level of 90 – 100 percent. Commissioner Rauschenberger seconded the motion. Auditor Gallion asked if the 90 – 100 percent includes rounding. Ms. Leadbetter responded that the statistics will not be perfect, so rounding does come into play. Discussion followed. Governor Burgum suggested a conversation with Nebraska to discuss best practices when jurisdictions are brought into compliance.

Auditor Gallion moved to amend the motion, removing the rounding on both ends of the tolerance. Motion failed for lack of a second.

Governor Burgum asked, if a jurisdiction is at 100.4 percent, and no one is to be over 100 percent, is the Board in violation of statute? Dan Rouse, Legal Counsel, commented that statutorily 100 equals 100. Anything over 100 percent should be rounded down. Mr. Rouse also reminded the Board additions or reductions have to be done by even, not fractional numbers. Therefore, some degree of rounding may occur before arriving at the final metric.

Auditor Gallion moved to amend the amended motion to remove rounding on the 100 percent end of the tolerance and cap it at 100.0 percent. Commissioner Goehring seconded the amended motion.

Treasurer Schmidt asked for clarification, questioning why a motion is needed to do what the law requires. Mr. Rouse clarified that the rounding practice in place for prior years is correct. Commissioner Rauschenberger added that current practice is if a jurisdiction is at 100.49 percent, no adjustment is made because .49 is rounded down to 100 percent. Commissioner Goehring retracted his second to the amended motion.

The motion on the floor was to adopt a tolerance level of 90 – 100 percent with 89.5 rounding to 90 percent and 100.49 rounding to 100 percent. Upon roll call, Commissioner Rauschenberger yes, Auditor Gallion no, Treasurer Schmidt yes, Commissioner Goehring yes, Governor Burgum yes, motion carried.

The Board discussed past practice of bringing a jurisdiction below 90 percent to 93 percent. Ms. Leadbetter indicated each situation had been reviewed on a case by case basis. The Board has brought jurisdictions to 93 percent when below tolerance; however it has not been consistently used, every year and in every case. Ms. Leadbetter added different percentages have been applied to classes of property in order to bring a jurisdiction within tolerance. Discussion followed about the flexibility and discretion available to the Board.

Commissioner Goehring moved and Treasurer Schmidt seconded, if a jurisdiction is below 89.5 (90 rounded) percent, the practice of the Board will be to bring the jurisdiction to 93 percent, with flexibility to adjust depending on the circumstances of the situation. Auditor Gallion asked for consideration to manage at both sides of the spectrum.

Auditor Gallion moved, if a jurisdiction is below 89.5 (90 rounded) percent, the practice of the Board will be to bring the jurisdiction to 93 percent and if a jurisdiction is above 100.49 (rounded to 100) percent, the practice of the Board will be to bring the jurisdiction to 97 percent, with flexibility to adjust depending on the circumstances of the situation. The Board discussed what happens when a jurisdiction is above 100.5. The motion failed for lack of a second.
The Board returned to the original motion by Commissioner Goehring, seconded by Treasurer Schmidt. If a jurisdiction is below 89.5 (90 rounded) percent, the practice of the Board will be to bring the jurisdiction to 93 percent, with flexibility to adjust depending on the circumstances of the situation. Upon roll call, Commissioner Rauschenberger yes, Auditor Gallion no, Treasurer Schmidt yes, Commissioner Goehring yes, Governor Burgum yes, motion carried.

Governor Burgum asked to move Treasurer Schmidt’s request to discuss Third Party Assessors to the January meeting. Treasurer Schmidt exited the meeting at 3:59 p.m.

Ms. Leadbetter presented information currently submitted to the Office of State Tax Commissioner regarding special assessments using the Property Tax Statistical Report. The Board discussed the provided information. Governor Burgum asked Ms. Leadbetter if a yield category could be included. Ms. Leadbetter indicated it could possibly be added next year.

Governor Burgum thanked the Board and staff for their work in 2017.

A motion to adjourn was made by Governor Burgum and seconded by Auditor Gallion. Upon voice vote, all members voted “aye.” Motion carried. The meeting adjourned at 4:14 p.m.