



## Revenue and Transportation Interim Committee

### 64th Montana Legislature

#### SENATE MEMBERS

FRED THOMAS--Chair  
DICK BARRETT  
MARK BLASDEL  
BRIAN HOVEN  
CHRISTINE KAUFMANN  
SUE MALEK

#### HOUSE MEMBERS

TOM JACOBSON--Vice Chair  
JEFF ESSMANN  
GREG HERTZ  
RAE PEPPERS  
ALAN REDFIELD  
BRIDGET SMITH

#### COMMITTEE STAFF

MEGAN MOORE, Lead Staff  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

# MINUTES LOG

March 10-11, 2016  
Room 102, Capitol Building  
Helena, Montana

## MARCH 10, 2016

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

#### **COMMITTEE MEMBERS PRESENT**

SEN. FRED THOMAS, Chair  
REP. TOM JACOBSON, Vice Chair

SEN. DICK BARRETT  
SEN. BRIAN HOVEN  
SEN. CHRISTINE KAUFMANN  
SEN. SUE MALEK

REP. GREG HERTZ  
REP. RAE PEPPERS  
REP. ALAN REDFIELD

#### **COMMITTEE MEMBERS EXCUSED**

SEN. MARK BLASDEL  
REP. JEFF ESSMANN  
REP. BRIDGET SMITH

#### **STAFF PRESENT**

MEGAN MOORE, Lead Staff  
JARET COLES, Staff Attorney  
KATYA GROVER, Secretary

## VISITORS' LIST (Attachment 1)

## AGENDA (Attachment 2)

### COMMITTEE ACTIONS

The committee:

- requested that staff prepare for the June meeting a summary of the committee's discussion related to the rereferral of revenue bills to the House Appropriations Committee and Senate Finance and Claims Committee;
- agreed to a stakeholder suggestion to invite a panel of interested parties to present specific legislative proposals related to the committee's study of the valuation of intangible property; and
- wrapped up the following studies, with the understanding that the assigned study monitors will bring recommendations and/or legislative proposals to the June committee meeting: tax increment financing districts study, elderly homeowner and renter credit study, property taxable value neutrality study, nonprofit reporting of community benefits study, and the study of taxation of international corporations doing business in Montana.

### CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Thomas called the meeting to order at 8:00 a.m. The committee secretary called roll. **(Attachment 3)**

### REVENUE ESTIMATING AND MONITORING

#### FY2016 General Fund Revenue Collection Update - Legislative Fiscal Division staff

00:01:47 Stephanie Morrison, Fiscal Analyst, gave a presentation on individual income tax. **(Exhibit 1)**

#### Committee Questions of Ms. Morrison

00:07:04 Sen. Thomas asked about current general fund revenue collections.

00:17:40 Sen. Barrett asked about the table on page 3.

00:20:47 Nick vanBrown, Fiscal Analyst, gave a presentation on property tax and oil and natural gas production tax. **(Exhibit 1, page 6)**

#### Committee Questions of Mr. vanBrown

00:25:05 Sen. Barrett asked how Montana compares with other states in terms of dependancy on oil and gas tax revenues.

00:28:07 Sen. Thomas asked for clarification of the table on page 2.

00:32:56 Sam Schaefer, Fiscal Analyst, gave a presentation on the corporate income tax, vehicle fees and taxes, and video gaming tax. **(Exhibit 1, pages 6 and 8)**

00:37:27 Cynthia Hollimon, Fiscal Analyst, gave a presentation on the insurance tax. **(Exhibit 1, page 8)**

00:39:07 Ms. Morrison discussed her memo "CY 2014 Taxpayer Data Update. ([Exhibit 2](#))

**Update on Revenue Estimating Process Improvements - Amy Carlson, Legislative Fiscal Analyst**

00:44:36 Ms. Carlson ([Exhibit 3](#))

Committee Questions of Ms. Carlson

00:51:36 Sen. Hoven asked about the media affecting economic forecasting.

00:54:44 Sen. Thomas discussed ways to make the estimating process more rapid and expeditious.

01:00:58 Sen. Hoven asked how income tax extensions affect revenue estimating.

**Overview of Joint Revenue Subcommittee Process and Options - Megan Moore, Committee Staff**

01:04:15 Ms. Moore ([Exhibit 4](#))

01:09:23 Sen. Thomas suggested forming a subcommittee that will report back to the committee with a recommendation. He appointed Sen. Barrett, as presiding officer, Sen. Blasdel, Rep. Jacobson, and Rep. Hertz.

**Public Comment on Revenue Estimating and Monitoring Topics**

01:10:51 Bob Story, Montana Taxpayers Association

**Committee Work Session on Joint Revenue Subcommittee Options**

01:18:06 Sen. Hoven commented on the way the revenue estimate came about last session. He would encourage the subcommittee members to take that into account when they come up with their plan.

01:18:39 Sen. Kaufman agreed with Sen. Hoven in that the process kept the revenue estimate moving and in the public light.

01:19:24 Sen. Barrett said that he hopes that the other members of the subcommittee would want to hear from everyone on those issues.

**ADEQUACY OF LOCAL GOVERNMENT REVENUE GENERATING CAPACITY STUDY**

**Property Taxes as a Portion of Local Government Budgets - Megan Moore**

01:20:54 Ms. Moore ([Exhibit 5](#))

Committee Questions of Ms. Moore

01:23:56 Sen. Kaufman commented on the general fund as it related to cities and counties.

01:24:59 Rep. Redfield asked about the inclusion of special assessment fees.

01:26:19 Sen. Barrett discussed local governments being dependent upon property taxes and the size of general funds versus all funds.

01:26:49 Ms. Moore responded that other sources of revenue would be the entitlement share payment, licenses and permits, charges for services at the city level, and other fees. She said she could provide more information on the different revenue

sources, if the committee is interested.

**Sales and Services Tax Revenue Model - Aaron McNay, Department of Revenue**

01:28:32 Mr. McNay ([Exhibit 6](#))

Committee Questions of Mr. McNay

01:41:59 Sen. Barrett asked about Mr. McNay's data set on consumer spending patterns.

01:45:25 Sen. Kaufmann asked about regressivity and the elimination of nonprepared foods and medicines.

01:47:34 Sen. Malek asked about the impact of a sales tax on businesses.

01:50:07 Rep. Hertz asked about the exclusion of services or sales in Mr. McNay's theoretical maximum.

01:51:04 Rep. Jacobson commented on the impact of a sales and services tax on Montana families that live below the poverty level.

**Topics For Next Meeting**

01:51:50 Rep. Jacobson suggested that members think about where the committee wants to go with this topic and what instructions to provide to Ms. Moore.

01:54:28 Sen. Kaufmann asked about 15-10-420, MCA.

**Public Comment on Adequacy of Local Government Study**

02:02:05 Dave Nielsen, Montana League of Cities and Towns

Committee Questions of Mr. Nielsen

02:08:32 Sen. Barrett asked if the League of Cities and Counties has a concern about the adequacies of other sources of revenue and how responsive local governments are to growing costs.

02:16:23 Harold Blattie, Executive Director, Montana Association of Counties

02:25:20 Doug Russell, City Manager, Kalispell

02:31:00 Bob Story, Montana Taxpayers Association

02:33:19 Sen. Hoven requested that Ms. Moore look at what other states have done to cope with the issue of regressivity.

02:34:00 Rep. Hertz asked about other sources of revenue coming from the cities.

**BREAK** (reconvened at 10:55 a.m.)

**NONPROFIT REPORTING OF COMMUNITY BENEFITS STUDY**

**Overview of Form 990 - Megan Moore**

02:57:25 Ms. Moore ([Exhibit 7](#))

Committee Questions of Ms. Moore

03:02:07 Sen. Kaufmann asked about specific information requirements regarding states on the Form 990.

### **Public Comment** - None

- 03:04:36 Sen. Hoven asked about a website or an area where someone could go to if they wanted more information on community benefits.
- 03:05:17 Ms. Moore said there is a nonprofit organization called GuideStar that puts together information on the Form 990.
- 03:06:14 Mike Foster, Catholic Hospitals of Montana, explained that community benefits are like an umbrella covering different categories dealing with charity care, uncompensated care, and educational information, and that the Attorney General's report identifies those categories.

### **Public Comment on Nonprofit Reporting of Community Benefits** - None

#### **Requests For Next Meeting**

- 03:10:52 Ms. Moore distributed a copy of the table referenced by Sen. Thomas ([Exhibit 8](#)). She said that she has not received any requests for more information on this study.
- 03:11:24 Sen. Thomas said that he would like to close this study and close as many of the other studies as the committee moves forward.

### **PROPERTY TAXABLE VALUE NEUTRALITY STUDY**

#### **Overview of Productive Value For Agricultural Property and Non-Qualified Agricultural Property Valuation** - Mike Kadas, Director, Montana Department of Revenue

- 03:12:42 Director Kadas ([Exhibit 9](#))

#### **Committee Questions of Director Kadas**

- 03:32:45 Sen. Malek asked about the equality of taxation rates for agricultural land.
- 03:37:43 Sen. Barrett asked about treating the land and the house that is on it as class three property.
- 03:38:51 Rep. Hertz asked about constitutional or discriminatory issues regarding the different classifications on the valuation of that land.
- 03:40:01 Rep. Peppers asked about land that would qualify as an orchard.
- 03:41:41 Sen. Malek asked about timberland designation and how the Department of Revenue appraises land if an airport was put on that land.
- 03:44:21 Rep. Redfield asked about the overall taxes for improvements to a homestead or farmstead.
- 03:46:38 Rep. Hertz asked about the one-acre requirement for orchards.

#### **Public Comment on Property Taxable Value Neutrality Study**

- 03:51:46 Harold Blattie, Montana Association of Counties ([Exhibit 10](#))
- 03:53:31 Bob Story, Montana Taxpayers Association ([Exhibit 11](#))

#### **Requests For Next Meeting**

- 03:59:59 Ms. Moore said that the two monitors for this study are Rep. Hertz and Sen. Kaufmann and nothing has been planned for the next meeting. She pointed out that for the November meeting, the Department will report on the tax rates for

- 04:01:32 the upcoming reappraisal cycle that will result in property taxable value neutrality.  
Sen. Kaufmann asked about possible legislation on equalizing taxes that are paid on agricultural land with improvements.
- 04:02:23 Rep. Hertz said he would like to know the number of farmsteads out there and how many people might be impacted.
- 04:02:40 Rep. Redfield asked about looking at services required by class of property.
- 04:03:23 Sen. Thomas asked Sen. Kaufmann and Rep. Hertz if they could get some data from the Department of Revenue on the proposal and bring that back to the committee.
- 04:04:00 Rep. Hertz said that part of the issue with the Department will be the difficulty of valuing that one-acre parcel on the homestead when there may not be a comparable sale.

**LUNCH** (reconvened at 1:00 p.m.)

### **AGENCY OVERSIGHT: DEPARTMENT OF REVENUE**

#### **Update on Appeals - Mike Kadas, Director, Department of Revenue**

04:59:45 Director Kadas ([Exhibit 12](#))

#### **Tax Season Update - Mike Kadas**

05:00:08 Director Kadas ([Exhibit 13](#)).

#### **Committee Questions of Mr. Kadas**

05:16:11 Sen. Hoven asked about red flags that come up that would cause the Department to question whether a return is fraudulent.

#### **Major Case Update - Dan Whyte, Chief Legal Council**

05:18:21 Mr. Whyte ([Exhibit 14](#))

#### **Committee Questions of Mr. Whyte**

05:23:14 Sen. Thomas asked about the settlements of the Phillips 66 Pipeline and Verizon Wireless cases and the process the Department used to settle those cases.

#### **Public Comment on Agency Oversight Report**

05:25:13 Mike Foster, Catholic Hospitals of Montana

### **LEGISLATIVE SESSION PROCEDURE FOR REVENUE BILLS**

#### **Overview of Current and Historical Process - Megan Moore**

05:28:59 Ms. Moore ([Exhibit 15](#))

#### **Committee Discussion**

- 05:35:07 Sen. Hoven commented on the House process and would like to put that process in the Rules.
- 05:36:15 Sen. Barrett commented that these bills go through second reading, go to the Appropriations Committee, and never come back.

05:38:23 Rep. Jacobson wanted to hear other options regarding the revenue estimating process.

05:44:08 Rep. Hertz discussed a super majority process.

05:45:41 Sen. Thomas recommended that a motion be made for the committee to draft a memo to the Rules Committee with language taken from the Senate Rules stating that a tax bill would not be rereferred to the Finance or Appropriations Committees as a practice.

05:46:37 Sen. Hoven commented that he liked Rep. Hertz's idea of a super majority.

05:48:22 Sen. Malek said that she doesn't want to rush any bills from a committee to the Finance and Claims or Appropriations committees without a hearing on the Senate floor. She liked Rep. Hertz's idea of recommending that a 3/4 majority would be required to go to the Appropriations and Senate Finance and Claims with the caveat that it be included in the budget.

05:50:38 Rep. Jacobson said that he supports Sen. Thomas and his thoughts are that it would make the committees more responsible in the bills that they do pass out.

05:52:49 Sen. Hoven thinks there are two different issues here. One is as a bill comes out of committee, it goes to the floor of the House and Senate for second reading, and then goes wherever it goes, but it should not go from committee straight to Finance and Claims. The other is that all tax revenue bills out of House Taxation go to the floor and whatever happens to them happens.

05:54:20 Sen. Barrett said that you have to disallow the "without objection", disallow the authority of the President to rerefer the bill without a floor vote.

05:55:15 Sen. Kaufmann said that there is this informal agreement that if the fiscal note is over \$50,000, the bill will be rereferred without any process on the floor. The point should be that legislators shouldn't have to object, there should be an affirmative vote to do a rereferral which is in the rules right now.

05:56:44 Rep. Hertz agrees with Sen. Malek that the standard rule should match the House Rules.

05:58:18 Sen. Kaufmann commented informal agreements.

05:58:53 Rep. Redfield commented on tax committees setting policies.

### **Public Comment**

06:02:26 Bob Story, representing himself

06:05:02 Ms. Moore discussed the Legislature changing the revenue bill transmittal deadline last session to match the appropriation transmittal deadline. She said that this could be added to the discussion.

06:05:50 Sen. Kaufman said that she would like to see a summary of the points discussed, take some action at the next meeting, and let the appropriate committee know of the committee's concerns in this regard.

06:06:20 Sen. Thomas asked Ms. Moore to draft a memo for the next meeting summarizing the discussion.

## **TAX INCREMENT FINANCE STUDY**

### **Who Pays For TIFs And How Is It Done? - Kenneth Nordtvedt, Former Legislator and Former Department of Revenue Director**

06:08:29 Mr. Nordtvedt ([Exhibit 16](#))

**BREAK** (reconvened at 2:00 p.m.)

### **Overview of Laws Providing For the Release of Increment - Megan Moore**

06:46:49 Ms. Moore ([Exhibit 17](#))

### **Discussion of School District Remittance Law Changes (HB 114)**

Mike Kadas, Director, Department of Revenue  
Kevin Patrick, Business Manager, Anaconda Public Schools

06:58:18 Director Kadas

07:06:39 Mr. Patrick

#### **Committee Questions of Mr. Patrick**

07:09:17 Sen. Thomas asked about revenue derived from TIF districts annually.

07:10:52 Sen. Thomas asked about allocation of the TIF revenue going to the schools.

07:12:54 Sen. Barrett asked if a school district was capturing the state's 95 mills and commented on the state getting the 95 mills back in the form of remittance agreements.

07:15:04 Ed Caplis, Department of Revenue, responded to the Sen. Barrett's question.

07:19:20 Sen. Hoven asked Director Kadas about using TIF districts for economic development to subsidize businesses.

07:21:55 Sen. Malek asked Mr. Patrick about bonds remaining in the district because no one borrowed money for the roads and sewer in order to promote business because no work has been done.

07:24:18 Sen. Malek asked Director Kadas about addressing the law to say that remittances need to be returned to the various taxing entities.

07:26:22 Sen. Thomas asked Mr. Patrick which districts are in litigation and whether there are any other governmental entities other than school districts that are receiving TIF net revenue.

07:27:51 Sen. Thomas asked Director Kadas about excess revenue.

### **Overview of Bill to Exempt 95 Mills From Tax Increment Financing (SB 404)**

07:31:42 Ms. Moore ([Exhibit 18](#))

#### **Public Comment: Alleged Abuses of TIF Laws**

07:33:44 Kevin Nelson, Billings ([Exhibit 19](#))

07:48:32 Harold Blattie, Montana Association of Counties

#### **Public Comment on Tax Increment Finance Study**

07:52:01 Madalyn Quinlan, Chief of Staff, Office of Public Instruction ([Exhibit 20](#))

07:55:22 Denise Williams, Executive Director, Montana Association of School Business Officials ([Exhibit 21](#)) ([Exhibit 22](#))



08:01:29 Kevin Nelson, Billings  
08:04:23 Greg Krueger, Development Director, Downtown Billings Alliance.  
08:09:24 Doug Russell, City Manager, Kalispell  
08:12:42 Kevin Myhre, City Manager, Lewistown  
08:14:02 David Nielsen, Montana League of Cities and Towns  
08:18:53 Ed Bartlett, City of Billings ([Exhibit 23](#))  
08:23:04 Bruce MacIntyre, Billings Chamber of Commerce

### **Requests For Next Meeting**

08:27:04 Ms. Moore discussed presenting data on remittance at the next meeting. The monitors of this study are Sen. Blasdel and Sen. Kaufmann.  
08:28:00 Sen. Hoven said that he would be interested in oversight of tax increment finance districts.  
08:32:05 Sen. Barrett said that he would be interested in looking at the question of whether or not the law allows for remittance agreements that produce remittance payments to the taxing jurisdiction.  
08:32:09 Sen. Thomas discussed clarifying the language in the enacting clause that a percentage of the money raised by taxes in a tax increment finance district had to go into the tax increment finance district as an investment.

### **AGENCY OVERSIGHT: MONTANA TAX APPEAL BOARD**

#### **Montana Tax Appeal Board Update - Dave McAlpin, Chair** (conference phone)

08:34:00 Mr. McAlpin ([Exhibit 24](#))

#### **Committee Questions of Mr. McAlpin**

08:43:29 Rep. Hertz asked about updating the hearing schedules on the Montana Tax Appeal Board's website.

#### **PUBLIC COMMENT on Any Other Topic Within the Committee's Jurisdiction**

08:45:24 Kevin Nelson, Billings, asked the committee to ask the Department of Transportation about the chances of installing a light at the I-90 west interchange in Livingston, going south to Yellowstone National Park.

#### **RECESS**

08:47:25 With no further business before the committee, Sen. Thomas recessed the meeting at 4:50 p.m.