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## Revenue and Transportation Interim Committee

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### 62nd Montana Legislature

#### SENATE MEMBERS

CHRISTINE KAUFMANN--Vice Chair  
RON ERICKSON  
JEFF ESSMANN  
KIM GILLAN  
JIM PETERSON  
BRUCE TUTVEDT

#### HOUSE MEMBERS

ROY HOLLANDSWORTH--Chair  
DICK BARRETT  
CYDNIE (CARLIE) BOLAND  
BRIAN HOVEN  
SUE MALEK  
MIKE MILLER

#### COMMITTEE STAFF

JEFF MARTIN, Lead Staff  
MEGAN MOORE, Research Analyst  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

## MINUTES

### April 26, 2012

Room 137, Capitol Building

Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page. You must have Real Player to listen to the audio recording or to view the video.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### COMMITTEE MEMBERS PRESENT

REP. ROY HOLLANDSWORTH, Chair  
SEN. CHRISTINE KAUFMANN, Vice Chair

SEN. JEFF ESSMANN  
SEN. KIM GILLAN  
SEN. JIM PETERSON  
SEN. BRUCE TUTVEDT

REP. DICK BARRETT  
REP. CYDNIE (CARLIE) BOLAND  
REP. BRIAN HOVEN  
REP. SUE MALEK  
REP. MIKE MILLER

### COMMITTEE MEMBERS EXCUSED

SEN. RON ERICKSON

### STAFF PRESENT

JEFF MARTIN, Lead Staff  
MEGAN MOORE, Research Analyst  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

## **Agenda and Visitors' List**

Agenda ([Attachment 1](#))

Visitors' list ([Attachment 2](#))

## **COMMITTEE ACTION**

- The February 16-17, 2012 meeting minutes were approved.
- The committee discussed the decision points of the Revenue Estimating Process Option. The committee decided that the Committee on Committees/Speaker will appoint the members on the committee and the committee will be composed of six members from the Senate and six members from the House, and the revenue estimating process will start in the Senate. The committee was undecided on Decision 5.
- LC9000 will be preintroduced as a committee bill.

## **CALL TO ORDER AND ROLL CALL**

- 00:00:01 REP. HOLLANDSWORTH called the meeting to order at 8:01 a.m. The secretary called roll ([Attachment 3](#)). Sen. Erickson was excused.
- 00:01:51 The minutes from the February 16-17, 2012, meeting were approved unanimously by voice vote.

## **DEPARTMENT OF TRANSPORTATION REPORTS**

- 00:02:21 **Tim Reardon, Director, Department of Transportation**, discussed how the Department of Transportation decides how projects that go before the Highway Commission are prioritized and selected.
- 00:08:06 **Lynn Zanto, Administrator, Transportation Planning Division**, gave a presentation on the Department of Transportation's asset management approach to its fund plan and project selection. She discussed the theory of the Department's asset management program and the Department's Performance Programming Process (P3) ([Exhibit 1](#)).

### **Committee questions**

- 00:32:02 REP. BARRETT
- 00:32:10 Ms. Zanto
- 00:36:11 REP. MALEK
- 00:36:21 Ms. Zanto
- 00:37:53 REP. MALEK
- 00:38:01 Ms. Zanto
- 00:39:44 REP. HOVEN
- 00:40:01 Ms. Zanto
- 00:41:41 SEN. PETERSON
- 00:43:58 REP. HOLLANDSWORTH
- 00:44:02 Ms. Zanto
- 00:44:48 SEN. KAUFMANN
- 00:45:03 Ms. Zanto

00:46:11 SEN. KAUFMANN  
00:46:20 Ms. Zanto  
00:46:37 SEN. ESSMANN  
00:46:53 Ms. Zanto  
00:48:25 REP. HOVEN  
00:48:34 Ms. Zanto  
00:49:52 REP. HOLLANDSWORTH requested that the committee receive updates regarding the Highway bill from Director Reardon.  
00:52:27 SEN. GILLAN  
00:52:34 Ms. Zanto

**Public Comment - None**

**REVENUE ESTIMATING PROCESS OPTIONS - Susan Byorth Fox, Executive Director, Legislative Services Division**

00:54:10 Ms. Byorth Fox gave a presentation on proposed rule changes for the revenue estimating process ([Exhibit 2](#)). She said that the purpose of her presentation is to seek input about the refinement of this proposed rule change from RTIC, Legislative Finance Committee, and Legislative Council.

**Committee questions**

01:03:22 REP. HOLLANDSWORTH  
01:03:30 Ms. Fox  
01:04:07 REP. HOLLANDSWORTH  
01:04:12 Ms. Fox  
01:06:29 REP. BARRETT  
01:06:37 Ms. Fox  
01:16:36 REP. HOLLANDSWORTH  
01:16:41 Mr. Johnson  
01:19:30 SEN. PETERSON  
01:27:22 SEN. ESSMANN  
01:27:34 Ms. Fox  
01:27:41 REP. BARRETT

**GENERAL FUND REVENUE UPDATE - Terry Johnson, Principal Analyst, Legislative Fiscal Division**

01:30:50 Mr. Johnson gave the general fund revenue update ([Exhibit 3](#)).

**Committee questions on oil production**

01:45:01 REP. MILLER  
01:45:10 Mr. Johnson  
01:46:06 SEN. ESSMANN  
01:46:11 Mr. Johnson  
01:49:44 SEN. PETERSON  
01:54:32 SEN. GILLAN  
01:54:40 Mr. Johnson  
02:00:26 REP. BARRETT

02:00:36 Mr. Johnson  
02:01:19 REP. MILLER  
02:01:25 Mr. Johnson  
02:08:15 SEN. PETERSON  
02:08:24 Mr. Johnson  
02:08:39 REP. HOLLANDSWORTH  
02:08:45 Mr. Johnson  
02:09:44 REP. BARRETT  
02:09:50 Mr. Johnson

**Break - reconvened at 10:27 a.m.**

**SJR 23 STUDY OF NONPROFIT INCOME TAX AND PROPERTY TAX EXEMPTIONS -  
Megan Moore, Committee staff**

- **Analysis of imposing income tax on nonprofit organizations**  
02:26:21 Ms. Moore discussed the methodology and analysis of the data on Montana corporate tax that certain nonprofit corporations might pay if they were not exempt ([Exhibit 4](#)). Ms. Moore also provided updated data for the organizations in the analysis ([Exhibit 5](#)).
- **Report on nonprofit property**  
02:33:21 SEN. TUTVEDT presented his findings regarding nonprofits that own property in Kalispell.  
02:36:14 REP. BARRETT reported on St. Patrick's Hospital.  
02:37:49 REP. BOLAND said that Benefis Hospital gave a list of all properties that they own and the taxes that they pay on the properties.  
02:38:49 REP. HOVEN talked about a privately owned building in Great Falls that houses doctors and on which property taxes are no longer paid.
- Discussion on the study**  
02:40:51 There was a discussion between members of the committee regarding putting the subject of property tax to bed. REP. BARRETT said there was one issue that Sen. Essmann raised in his email that might still deserve attention: the question of making sure that there is a process of verifying that properties that have been taken off the tax rolls at some time in the past are still eligible for tax exempt status. SEN. GILLAN said that she wanted to make sure that procedurally, the Committee passes an appropriate motion. REP. HOLLANDSWORTH said that he would like to put this issue on the back burner.  
02:45:00 Mr. Martin said that the committee could request a summary of the findings to be presented at the next meeting, or vote to not pursue the study any further.  
02:45:32 SEN. PETERSON said that there will be some bill draft requests with regard to specific issues related to this. The committee should summarize the information and go forward with what Mr. Martin has proposed.

02:47:34 SEN. GILLAN said she has to leave and will give her proxy to Sen. Kaufmann. She wanted to make it clear that she will not support taxing hospitals.

**Motion by Sen. Essmann**

02:48:41 SEN. ESSMANN moved for a bill draft requesting that the Department of Revenue review the status of the tax exempt properties in each jurisdiction and, as part of that process, provide a list of tax exempt properties so that the information is transparent and available.

**Committee discussion**

02:49:36 REP. HOVEN said he is not ready to let go of this issue.

02:50:48 SEN. KAUFMANN said she would like the Department of Revenue to speak with the committee about the workload involved for Sen. Essmann's proposal.

02:51:43 REP. BARRETT asked Sen. Essmann if he wanted a review to determine whether the exempt properties are still eligible for exemption, or if he wanted the Department of Revenue to value the properties.

**PUBLIC COMMENT - None.**

**ADMINISTRATIVE RULE REVIEW - Jaret Coles, Staff Attorney**

02:54:51 Mr. Coles gave a presentation on rule review ([Exhibit 6](#)).

**Committee questions**

03:02:45 SEN. KAUFMANN

03:02:55 Mr. Coles

03:04:20 REP HOLLANDSWORTH

03:04:27 Mr. Coles

**DISCUSSION ON PROPOSED CHANGES TO REVENUE ESTIMATE**

- **Decision 1 - Who should make the appointment**
  - a) **Committee on Committees/Speaker**
  - b) **Majority/Minority leaders**
  - c) **Senate/House Tax chairs and vice-chairs**

**Committee Action**

03:07:16 After a brief discussion on Decision 1 of the proposed changes to the revenue estimating process, the committee chose Decision 1 (a) Committee on Committees/Speaker should appoint the members on the subcommittee.

**Committee discussion**

03:07:22 REP. HOLLANDSWORTH

03:07:33 SEN. KAUFMANN

03:07:41 REP. HOLLANDSWORTH

03:07:55 REP. BARRETT

03:08:11 REP. HOLLANDSWORTH  
03:08:19 SEN. TUTVEDT  
03:09:01 REP. HOLLANDSWORTH  
03:09:45 SEN. ESSMANN  
03:10:46 REP. MALEK  
03:11:40 REP. HOVEN  
03:11:59 Mr. Martin  
03:12:10 REP. HOLLANDSWORTH  
03:12:15 SEN. PETERSON  
03:13:49 REP. HOLLANDSWORTH  
03:14:14 SEN. KAUFMANN  
03:14:23 Ms. Fox  
03:15:30 SEN. KAUFMANN  
03:16:26 REP. HOLLANDSWORTH  
03:16:46 SEN. PETERSON  
03:19:15 REP. MILLER  
03:19:51 SEN. TUTVEDT  
03:20:48 REP. BARRETT  
03:21:32 REP. HOVEN  
03:22:03 SEN. PETERSON  
03:23:35 SEN. KAUFMANN

- **Decision 2: How many members**

**Committee Action**

03:25:19 The committee members discussed the number of members that should be on the subcommittee.

03:25:21 Ms. Fox  
03:26:57 SEN. TUTVEDT  
03:27:51 Ms. Fox  
03:28:26 SEN. PETERSON  
03:29:07 REP. HOLLANDSWORTH  
03:29:30 REP. HOLLANDSWORTH  
03:29:33 REP. BARRETT  
03:29:39 REP. HOLLANDSWORTH  
03:29:47 Ms. Fox

- **Decision 3 - Should membership be equal or proportional**

03:29:57 REP. HOLLANDSWORTH  
03:30:49 REP. MALEK  
03:30:53 REP. HOLLANDSWORTH

**Motion by Rep. Miller for Decision 2: how many members**

03:31:14 REP. MILLER moved for a decision on the membership of the subcommittee.

**Committee Action**

03:32:38 The committee voted in favor of having six members from each house on the

revenue estimating subcommittee.

- **Decision 4 - Whether to introduce the revenue estimating resolution in the senate**  
Sen. Peterson gave a brief overview of the revenue estimating process. Some committee members asked why the revenue estimate starts in the House and not in the Senate. Clarification of 5-5-227(2)(a) was requested.

03:34:02 Ms. Fox  
03:34:11 REP. HOLLANDSWORTH  
03:34:46 SEN. PETERSON  
03:36:06 REP. BOLAND  
03:36:12 REP. HOLLANDSWORTH  
03:37:34 REP. MILLER  
03:38:13 REP. BARRETT  
03:38:45 REP. HOLLANDSWORTH  
03:39:47 SEN. PETERSON

03:40:15 **Jaret Coles, Legal Staff**, said that 5-5-227(2)(a) states that the committee must have prepared by December 1 for introduction during each regular session of Legislature in which a revenue bill is under consideration, an estimate of the amount of revenue projected to be available for a legislative appropriation. The statute itself does not identify it as a revenue bill.

03:41:17 Mr. Martin  
03:41:53 Ms. Fox  
03:42:03 Mr. Martin  
03:44:33 REP. HOLLANDSWORTH  
03:44:59 SEN. TUTVEDT  
03:45:30 REP. HOVEN

03:45:55 REP. HOLLANDSWORTH asked for a vote about whether to start the revenue estimating resolution in the Senate.

#### **Committee Action**

The committee voted in favor of starting the revenue estimate in the Senate. Sen. Essmann and Rep. Miller voted against starting the revenue estimate in the Senate.

#### **Discussion on Decision 3: membership equal or proportional**

03:48:09 REP. BARRETT questioned whether the membership should be equal or proportional (Decision 3).

03:49:01 REP. BARRETT said the decision about whether to include the full committees or a smaller number is not a decision about party balance, it is a decision about whether this is an educational exercise or whether it is an attempt to come up with a depoliticized revenue estimate such as would come out of RTIC, only doing it all over again in January.

#### **Committee Action on Decision 3**

03:49:40 The committee voted to have equal membership in the subcommittee.

- **Decision 5 - Specify transmittal deadlines for revenue estimating resolution**

03:48:57 REP. HOLLANDSWORTH

03:50:01 Ms. Fox

03:51:02 SEN. ESSMANN

03:55:10 **REP. HOLLANDSWORTH said that the committee was undecided on Decision 5.**

03:55:35 REP. HOVEN

03:55:40 Sen. Peterson

03:58:05 SEN. TUTVEDT

03:58:12 Mr. Coles

03:59:04 SEN. KAUFMANN

03:59:10 Ms. Fox

04:01:22 Ms. Fox

04:04:02 SEN. ESSMANN

04:04:10 Ms. Fox

04:04:50 REP. HOLLANDSWORTH

**LUNCH - reconvened at 12:27 p.m.**

**MONTANA TRANSFER OF WEALTH STUDY: Montana Community Foundation - Linda Reed, President/CEO**

04:26:25 Ms. Reed gave a brief overview of the Montana Community Foundation and said that the Montana Community Foundation focuses on creating permanent wealth, keeping Montana wealth in Montana.

**Committee questions**

04:34:51 SEN. ESSMANN

04:34:59 Ms. Reed

04:43:15 SEN. ESSMANN

04:43:20 Ms. Reed

04:44:16 SEN. KAUFMANN

04:44:30 Ms. Reed

04:45:24 REP. HOLLANDSWORTH

04:45:30 Ms. Reed

04:47:25 SEN. GILLAN

04:47:30 Ms. Reed

**REPORT ON CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT - Dan Dodds, Department of Revenue**

04:52:22 Mr. Dodds gave a report on the Charitable Endowment Credit ([Exhibit 7](#)).

**Committee questions**



04:59:50 REP. MILLER  
04:59:59 Mr. Dodds  
  
05:06:07 Mr. Dodds discussed credits in Montana law that have a parallel in federal law.  
  
05:07:09 SEN. TUTVEDT  
05:07:15 Mr. Dodds  
05:07:59 Ms. Reed  
05:08:32 SEN. ESSMANN  
05:09:23 REP. HOLLANDSWORTH  
05:09:25 Mr. Dodds  
05:10:06 SEN. TUTVEDT  
05:10:10 Mr. Dodds  
05:10:52 SEN. TUTVEDT  
05:11:01 Mr. Dodds

**RECAP OF BILL DRAFT TO REVISE UNIFORM TAX PENALTY AND INTEREST PROVISIONS - Jeff Martin, Lead Staff**

05:12:16 Mr. Martin discussed the bill draft LC9000: revising certain provisions related to the administration of taxes ([Exhibit 8](#)); and a Summary of LC9000 Table ([Exhibit 9](#)).

**Committee questions**

05:18:00 REP. BARRETT commented that this brings Montana into conformity with federal law.

**Public Comment**

05:20:14 **George S. Olsen, Montana Society of CPAs**, said that LC9000 incorporates the provisions of SB199 and SB 411, which the CPAs had supported.

**Motion by Sen. Essmann**

05:22:33 SEN. ESSMANN moved to preintroduce LC9000 as a committee bill.

**Discussion**

05:22:47 REP. KAUFMANN

05:22:50 Mr. Martin

05:24:27 REP. BARRETT

05:24:58 **The motion passed unanimously by voice vote with Sen. Erickson voting aye by proxy.**

**HJR 13 INCOME TAX STUDY - Jaret Coles, Staff Attorney**

05:25:48 Mr. Coles discussed the spreadsheet summary of Montana income tax deductions, exemptions, and credits ([Exhibit 10](#)).

05:38:56 Mr. Martin discussed alternative methods of taxing individual income taxes

(Exhibit 11).

**Comments**

05:55:25 **George Olsen, Montana Society of CPAs**, said that one of the goals of the Society is tax simplification. They had tried a few years ago to draft a bill to simplify the area of tax credits, but that failed.

05:55:59 REP. BARRETT

**BREAK - reconvene at 2:23 p.m.**

**DEPARTMENT OF REVENUE REPORTS - Dan Bucks, Director**

- **2012 income tax season data**

06:23:03 Director Bucks gave a presentation on the 2011 income tax season (Exhibit 12).

**Committee questions**

06:36:28 SEN. ESSMANN

06:36:40 Director Bucks

06:38:47 REP. MILLER

06:39:02 Director Bucks

- **Corporate License Tax, Partnerships, and Small Business Corporations electronic vs. paper returns processed**

06:41:52 Director Bucks discussed corporate license tax returns filed electronically (see Exhibit 12).

**Committee questions**

06:47:08 SEN. GILLAN

06:47:15 Director Bucks

06:48:34 SEN. GILLAN

06:48:42 Director Bucks

06:50:26 SEN. ESSMANN

06:50:42 Director Bucks

06:53:05 SEN. ESSMANN

06:53:15 Director Bucks

06:55:45 REP. HOLLANDSWORTH

06:55:50 Director Bucks

06:56:56 Director Bucks discussed taxpayer access program.

07:00:40 Director Bucks discussed Sen. Essmann's proposal to review property tax exemptions.

07:11:50 SEN. ESSMANN

07:12:01 Director Bucks

07:14:47 REP. HOVEN

07:14:55 Director Bucks

- **SB382 requirement to post annual direct capitalization rates study and requiring public comment**

07:16:18 Director Bucks said that SB382 required the Department to post on its website 30 days prior to the issuance of current year assessment notices, the capitalization rates or rates to be used to determine the income indicators of value for centrally assessed value, with a 10-day comment period after the posting. The Department then considers the comments prior to the issuance of current assessment notices and posts a response to each written comment within 20 days of the close of the comment period. To date, the Department has received no public comment.

- **Litigation Update**

07:21:25 Director Bucks discussed the Alltel case and the Federal Internet Tax Freedom Act.

07:22:03 Director Bucks discussed a series of legal challenges related to property taxation.

**Committee questions**

07:26:33 SEN. ESSMANN

07:28:05 SEN. PETERSON

07:28:10 Director Bucks

07:28:51 SEN. GILLAN

07:29:01 Director Bucks

07:30:15 REP. BARRETT

07:30:24 Director Bucks

07:31:31 REP. BARRETT

07:31:41 Director Bucks

07:33:37 SEN. TUTVEDT

07:33:41 Director Bucks

- **Emerging Issues**

07:37:39 Director Bucks discussed the decision in the declaratory judgment action in the CHS Refinery Case.

07:38:39 Director Bucks discussed the subject of tax havens. He gave the book, *Treasure Islands* by Nicholas Shaxson, to be used as a reference book in the Legislative Services Division's library.

07:39:00 Director Bucks discussed the law on unlocatable mineral trusts.

07:44:10 Director Bucks discussed the challenges of the oil and gas boom in eastern Montana.

**Committee questions**

07:48:27 SEN. GILLAN

07:48:40 Director Bucks

07:49:04 SEN. GILLAN

**Public comment - none**

**NEXT MEETING DATE**

07:50:33 The next meeting will be July 19-20, 2012.

**ADJOURNMENT**

07:53:04 With no further business before the committee, REP. HOLLANDSWORTH adjourned the meeting at 3:56 p.m.

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