



Revenue and Transportation Interim Committee

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
JARET COLES, Staff Attorney
FONG HOM, Secretary

MINUTES

September 26-27, 2011

September 26, 2011

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. RON ERICKSON
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

STAFF PRESENT

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

Agenda and Visitors' List

Agenda ([Attachment 1](#))
Visitors' List ([Attachment 2](#))

COMMITTEE ACTION

- The committee adopted the written minutes of the June 16-17, 2011 meeting.

CALL TO ORDER AND ROLL CALL

00:00:02 REP. HOLLANDSWORTH called the meeting to order at 9:03 a.m. The committee secretary took roll ([Attachment 3](#)).

00:01:52 The June 16-17, 2011 meeting minutes were approved unanimously by voice vote.

AGENDA

- **REVENUE TOPICS**

- ▶ **Revenue Collection Update -- Terry Johnson, Legislative Fiscal Division**

00:04:07 Mr. Johnson gave a presentation on the status of the General Fund ([Exhibit 1](#)).

Committee comments and questions of Mr. Johnson

00:34:14 REP. BARRETT
00:42:20 REP. HOLLANDSWORTH
00:43:21 SEN. ERICKSON
00:51:11 SEN. TUTVEDT
00:53:37 REP. HOLLANDSWORTH
00:55:36 JARET COLES, Legislative Staff Attorney, discussed the PP&L court case.
00:57:44 REP. MALEK
01:06:12 SEN. ESSMANN
01:08:31 SEN. TUTVEDT
01:11:29 REP. MILLER
01:12:52 SEN. PETERSON
01:14:45 SEN. KAUFMANN
01:17:45 SEN. GILLAN

Public Comment

01:23:38 **David Ewer, Director, Office of Budget and Program Planning**, commented on getting accurate revenue estimates. Mr. Ewer distributed a document showing graphs on Corporation Tax Audits, Penalties and Interest by Year, Biennium, and

interest comparison of averages ([Exhibit 2](#)) but did not discuss it.

01:33:02 **Amy Carlson, Director, Legislative Fiscal Division**, commented on the reports from LFD.

▶ **Revenue Estimating Process**

01:35:03 Mr. Johnson discussed the "Revenue Estimating Process" ([Exhibit 3](#)).

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

▶ **HB 142 Review**

01:52:59 Director Bucks discussed the statute that provides for advisory councils and the Multistate Tax Compact ([Exhibit 4](#)).

▶ **Department of Revenue's correction concerning the Sales/Assessment Ratio Study**

01:58:04 Director Bucks discussed the sales/assessment ratio study.

▶ **Update on Department of Revenue activities**

01:59:06 Director Bucks discussed the Department of Revenue's "Principles and Practices: A Statement of Values" ([Exhibit 5](#)).

02:05:35 Director Bucks discussed the 2011 unclaimed property process ([Exhibit 6](#)).

02:08:45 Director Bucks discussed the audit surveys and compliments the Department received from the public ([Exhibit 7](#)).

02:10:47 Director Bucks reported on the upgrade of the Department's computer system that is used for state tax administration; an update on the electronic filing system that is available to Montanans; completion of certification of property tax values to all counties; and married filing separate circumstances and improper disclosures.

▶ **Legislative implementation**

02:22:10 Director Bucks discussed Senate Bill 295 that deals with the appraisal process; the Class 8 - SB 372 "Trigger" Calculation ([Exhibit 8](#)); and SB 329, Comparison of Oil and Gas Distribution ([Exhibit 9](#)).

▶ **Litigation and appeals**

02:31:03 Director Bucks discussed litigation and appeals before the Department of Revenue ([Exhibit 10](#)).

Director Bucks discussed telecommunications tax citations ([Exhibit 11](#)).

Committee questions

The committee asked about an update from Almy, Gloudemans, Jacobs & Denne and the assessment sales methodology.

02:43:53 SEN. TUTVEDT

02:46:06 SEN. ESSMANN

Public Comment

02:48:27 REP. HOLLANDSWORTH distributed comments from Harold Blattie, Montana Association of Counties.

● **DEPARTMENT OF TRANSPORTATION REPORTS - Tim Reardon, Director**

▶ **Update on transportation of oil equipment modules**

02:49:52 Director Reardon discussed the Department's responses to questions from the committee regarding bridge analysis related to the Kearn Module Transportation Plan (KMTP) ([Exhibit 12](#)).

▶ **Status of federal funding of transportation programs**

02:59:34 Director Reardon discussed the federal funding for transportation programs, the SAFETEA-LU bill, and whether enhancements to highway funding should be altered or discretion given to states for programs such as CTEP.

▶ **Flood damage update**

03:02:20 Director Reardon provided an update of the flood damage to Montana roads and the number of projects that have been awarded for repair.

Committee comments and questions

The committee members commented on Imperial Oil and climate change, concern over permanent corridor applications, the name of the engineer hired to analyze data on the structure of bridges,

03:05:41 SEN. ERICKSON

03:11:37 SEN. ERICKSON

Public Comment

03:13:53 **Susan Estap, Missoula, Montana, All Against the Haul**, commented on the

number of planned megaloads across Highway 12 and Highway 200, the engineering report prepared by Dr. Scott Kent, and Michael Awnder's attempt to meet with the Department of Transportation to discuss concerns that the U.S. Highway Department had over the lack of coordination between the bridge analysis done in Montana and Idaho.

03:19:25 **Carey Hegreberg, Montana Contractors Association**, commented on the Department of Transportation being the anchor of Montana's construction industry and thanked the Department for getting federal funds to work and putting people to work.

03:24:47 **Spook Stang, Executive Vice President, Motor Carriers of Montana**, commented on counties dictating where interstate commerce goes in the state.

Committee comments and questions

03:27:12 REP. BARRETT commented on Missoula County Commissioners concern over the megaloads.

03:27:45 REP. MALEK asked about federal funding to repair damage on several mountain passes.

03:29:15 REP. MALEK commented on the money that Imperial Oil is spending to take the megaload apart in order to use the highway system.

03:30:45 REP. HOLLANDSWORTH commented on other states reaping the rewards that Montana could have.

LUNCH BREAK - reconvene at 1:36 p.m.

- **HJR 13 STUDY OF INDIVIDUAL INCOME TAXES**

- ▶ **Background - Jaret Coles, Staff Attorney**

04:34:13 Mr. Coles gave a background report on the federal and state income tax provisions ([Exhibit 13](#)).

- ▶ **Analysis of Montana Individual Income Tax Credits - Stephanie Morrison, LFD**

05:25:26 Ms. Morrison gave a report on an analysis of income tax credits ([Exhibit 14](#)).

Committee comments and questions of Ms. Morrison and Mr. Coles

The committee members asked about effective rate of taxation by income class, tax credits and capital gains, assessing the impact of deductions on taxes as opposed to impact on deductions on taxable income and adjusted gross income, flat tax.

05:48:19 REP. BARRETT

05:56:05 SEN. ERICKSON

06:01:21 REP. MALEK
06:07:37 SEN. TUTVEDT
06:10:50 SEN. ESSMANN
06:13:55 REP. MILLER
06:17:12 REP. BARRETT
06:21:08 REP. MILLER
06:22:27 SEN. TUTVEDT
06:24:38 SEN. ERICKSON
06:25:47 SEN. ESSMANN
06:27:59 REP. MILLER
06:28:32 REP. MALEK
06:29:29 SEN. KAUFMANN
06:30:54 REP. BARRETT

NO PUBLIC COMMENT

► Committee work session on HJR 13

06:34:31 Mr. Martin discussed the HJR 13 Work Plan ([Exhibit 15](#)) and the proposed schedule.

06:35:10 REP. HOLLANDSWORTH said he would like to study eliminating tax credits with few participants.

06:37:40 SEN. TUTVEDT likes Phase II of the Work Plan.

06:39:04 SEN. KAUFMANN said a part of looking at whether these credits are meeting their intended purpose is to understand how they impact taxpayers.

06:41:29 REP. BARRETT said there is a way to analyze the impact of individual credits on individual tax bills by income level and that is the information we need.

06:44:02 SEN. ESSMANN commented on decile information being useful when talking about a credit instead of a deduction.

06:45:38 REP. HOLLANDSWORTH said more history on the impact of tax credits would be helpful.

● Overview of SB 199 and SB 411, changes to uniform penalty and interest provisions - Jeff Martin, Research Analyst

06:47:13 Mr. Martin discussed SB 199 and SB 411, changes to uniform penalty and interest provisions ([Exhibit 16](#)).

Committee comments and questions

06:53:14 SEN. TUTVEDT requested that the Department look at the two bills to see if they are close to federal code.

06:54:22 REP. BARRETT asked for clarification on the fiscal impact of the two bills

combined.

- 06:56:28 SEN. ERICKSON requested that the committee contact Sen. Balyeat and ask why his bill will be a net benefit to the state in dollars. He also suggested asking the Department about the waiver of interest up to \$500 and the impact of that .
- 06:59:53 SEN. ESSMANN discussed having a working group comprised of representatives from the Department of Revenue, Montana Taxpayers Association, the Montana Society of CPAs, and Sen. Balyeat to discuss the bill.
- 07:04:16 The committee discussed working group versus subcommittee.

PUBLIC COMMENT -- NONE

● ADMINISTRATIVE RULE REVIEW - Jaret Coles, Staff Attorney

- 07:06:25 Mr. Coles discussed the memorandum on Administrative Rule activity dated September 16, 2011 ([Exhibit 17](#)):
- ▶ MAR 42-2-863, Corporate License Tax
 - ▶ MAR 42-2-866, Property Tax, SB 295
 - ▶ MAR 42-2-867, Property Tax, implementation of SB 372

Committee comments and questions

- 07:10:52 REP. MILLER
- 07:11:02 Mr. Coles
- 07:12:10 REP. MILLER
- 07:12:12 SEN. TUTVEDT
- 07:13:13 REP. BARRETT
- 07:16:16 SEN. ESSMANN
- 07:16:45 Mr. Coles
- 07:19:02 REP. BARRETT
- 07:19:14 Mr. Coles
- 07:19:40 REP. BARRETT
- 07:20:35 Mr. Coles
- 07:22:06 SEN. TUTVEDT
- 07:23:18 REP. HOLLANDSWORTH
- 07:23:54 Mr. Coles
-
- 07:23:58 Mr. Coles discussed the memorandum on Administrative Rule activity dated September 23, 2011 ([Exhibit 18](#)):
- ▶ MAR 42-2-868, Corporate License or Income Tax Administration
 - ▶ MAR 42-2-869, Income Tax -- Pass Through Entity Disclosure
 - ▶ MAR 42-2-870, Liquor Administration

- ▶ MAR 42-2-865, Reduction of state mark-up on liquor sold -- Senate Bill 215 (see Exhibit 17)

Committee comments and questions regarding MAR 42-2-865 -- reduction of state mark-up on liquor sold by state

07:31:24 SEN. ESSMANN
07:32:22 SEN. TUTVEDT
07:33:20 REP. HOLLANDSWORTH
07:33:36 SEN. TUTVEDT
07:34:20 Mr. Martin
07:34:54 SEN. KAUFMANN
07:34:52 Mr. Coles
07:37:26 SEN. TUTVEDT

Motion

07:38:30 SEN. TUTVEDT **moved** to have Mr. Coles ask for a presentation from the Department of Revenue on MAR 42-2-865.

Committee comments on the motion

07:39:04 Mr. Coles asked for clarification on Sen. Tutvedt's motion.

Restated Motion

07:39:47 SEN. TUTVEDT **moved** to ask for the 6-month delay to give testimony and request that the Department of Revenue give a presentation at the next meeting on MAR 42-2-865.

Discussion on the motion

07:40:06 SEN. KAUFMANN asked for the Department's position on the rule.
07:40:16 REP. HOLLANDSWORTH
07:40:21 Mr. Coles
07:40:35 REP. HOLLANDSWORTH
07:41:29 C.A. Daw, Chief Legal, Department of Revenue, explained the Department's position on the rule.
07:46:18 SEN. KAUFMANN asked Director Bucks why the Governor did not veto the bill.
07:46:37 Director Bucks
07:47:25 REP. BARRETT commented on what would happen if we oppose the rule.
07:48:49 REP. HOVEN is opposed to the motion.
07:49:09 REP. HOLLANDSWORTH
07:49:53 SEN. TUTVEDT explained the intent of his motion.
07:50:10 Mr. Coles discussed the intent of the rule.
07:50:32 SEN. ESSMANN asked about the rule.

07:51:27 Mr. Coles discussed the second option of Sen. Essmann on delaying the implementation of the rule.
07:52:36 SEN. ERICKSON
07:53:32 SEN. ESSMANN supports Sen. Tutvedt's motion.
07:54:17 REP. BARRETT asked what would happen if the Department suspended the rule.
07:54:27 Mr. Coles
07:54:47 REP. BARRETT
07:55:00 Mr. Coles
07:56:59 REP. MALEK
07:57:06 REP. HOVEN
07:57:35 SEN. TUTVEDT asked Director Bucks what the intent of the law is.
07:57:54 Director Bucks

Motion Withdrawn

07:59:42 Sen. Tutvedt **withdrew** his motion.
08:00:21 REP. BARRETT commented on the intent of the law.

Public Comment

08:01:28 **Nancy Schlepp, Montana Taxpayers' Association**, commented on two rules: MAR 42-2-866, validating sales information and extension of statutory deadline for assessment reviews; and MAR 42-2-867, aggregation of property tax for certain property.

Committee comments and questions

08:04:47 SEN. TUTVEDT asked about the \$20,000 threshold on the value of business equipment.
08:04:57 Mr. Coles
08:06:04 Director Bucks discussed the statute that allows the Department to require reporting on full amount of business equipment tax.
08:09:00 SEN. TUTVEDT asked Director Bucks about the form that the Department sends out on what types of tools are used.
08:09:39 Director Bucks
08:10:05 SEN. TUTVEDT
08:10:47 REP. HOLLANDSWORTH
08:11:02 Director Bucks
08:11:16 REP. HOLLANDSWORTH
08:12:49 REP. HOVEN asked the Department to address the agricultural appraisal lawsuit at tomorrow's meeting.
08:13:19 C.A. Daws commented on the Lucas case.

- **RECESS**

08:15:18 REP. HOLLANDSWORTH recessed the meeting at 5:18 p.m.

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