



## 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  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

## MINUTES

December 9, 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.

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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  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

### **Agenda and Visitors' List**

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

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

- 00:00:01 REP. HOLLANDSWORTH called the meeting to order at 8:00 a.m. The secretary called roll.
- 00:01:14 REP. HOLLANDSWORTH gave opening remarks.
- 00:01:29 REP. MILLER asked if the committee would object to moving the meeting dates of July 19-20 to July 16-17. REP. HOLLANDSWORTH asked Mr. Martin to poll the members to make that change.

### **AGENDA**

#### **REPORT FROM THE WORKING GROUP ON REVISING UNIFORM PENALTY AND INTEREST PROVISION - Jeff Martin, Research Analyst**

- 00:03:13 Mr. Martin gave a report on the working group's November 19 meeting on the possibility of combining SB 199 and SB 411 from last session that dealt with uniform penalty and interest provisions.

#### **Committee questions and discussion**

- 00:05:26 SEN. ESSMANN asked if the Department of Revenue noticed an increase in false and fraudulent elderly homeowner credit applications.
- 00:05:59 **Gene Walborn, Department of Revenue**, said it was to make the penalty uniform with the other penalties.
- 00:07:34 SEN. ERICKSON discussed combining the two bills.
- 00:08:07 REP. HOLLANDSWORTH asked Mr. Martin to draft a bill combining SB199 and SB411, including the elderly homeowner credit.
- 00:08:22 SEN. TUTVEDT requested a fiscal note for the draft bill.

#### **SJR 17 STUDY OF VALUING CENTRALLY ASSESSED PROPERTY AND INDUSTRIAL PROPERTY**

##### **• Review of Montana court decisions - Jaret Coles, Legal Staff**

- 00:09:25 Mr. Coles discussed the document "Summary of Major Centrally Assessed Cases" ([Exhibit 10](#)).

#### **Committee questions and discussion**

- 00:13:53 REP. HOLLANDSWORTH commented on the blue book (summary of Montana Court and State Tax Appeal Board decisions).
- 00:14:45 REP. MILLER asked Mr. Coles to explain what the earnings to price ratio means.
- 00:15:08 Mr. Coles
- 00:17:16 REP. MILLER asked how many states use that methodology when assessing property.
- 00:17:19 Mr. Coles said the decisions did not discuss that.
- 00:17:49 REP. MILLER asked the Department of Revenue to comment.

00:18:07 Director Bucks said the price ratio is just one example of the classical method of using financial market data for valuing the properties.  
00:19:56 REP. MILLER

- **Review of selected western states methods of centrally assessment of property - Jeff Martin**

00:21:42 Mr. Martin gave an overview of how other states conduct centrally assessment of property ([Exhibit 11](#)).

**Committee questions and discussion**

00:28:57 REP. BARRETT asked about exempt intangible values.  
00:29:20 Mr. Martin discussed property that one can sell as a separate item but adds value to the operation of the entity.  
00:29:54 REP. BARRETT said there was a dispute about whether that kind of value that attaches to a particular piece of physical property by virtue of its location should be considered intangible property and excluded from taxation.  
00:30:46 Mr. Martin  
00:31:26 REP. BARRETT and Director Bucks discussed the last sentence of the fourth paragraph on page 5 of Mr. Martin's document.  
00:31:56 Director Bucks discussed "exempt intangible value".  
00:33:59 REP. BARRETT  
00:34:06 Director Bucks said he is not acquainted with the rest of the paragraph that talks about an exclusion of intangible property so he will not comment on that.  
00:34:35 SEN. TUTVEDT asked what the difference between an exclusion and an exemption was.  
00:35:49 Director Bucks said the Supreme Court decision notes that Montana does not have a Utah-type system of treatment of intangible property which excludes intangible property.  
00:41:09 SEN. TUTVEDT commented.  
00:42:10 Director Bucks discussed how the Department values the property and how they deduct the items of exempt property.  
00:43:42 SEN. PETERSON asked if the Department had looked at other states that do appraisals.  
00:44:33 Director Bucks said the Department administers the law and courts confirmed that the Department is administering the law properly on valuation.  
00:48:23 **Mr. Martin resumed his presentation.**  
00:54:46 REP. HOLLANDSWORTH commented on Utah's valuation system.  
00:55:48 SEN. KAUFMANN asked if there was any conflict between counties and the state.  
00:57:25 Mr. Martin said that the Montana Constitution directs the state to value all property.  
00:57:47 SEN. KAUFMANN asked if that was different from Utah and other states that do centrally assess.  
00:57:50 Mr. Martin said most states centrally assess unitary property.

- **Montana statutory provisions related to the valuation of railroads - Judy Cummings, Director of Taxes, BNSF**

00:57:58 Ms. Cummings gave a presentation ([Exhibit 12](#)) on the Montana Taxation of

Railroads and discussed the Railroad Formula, 15-23-205, MCA.

**Committee questions and discussion**

01:06:17 REP. HOVEN asked if BNSF pays income taxes as well as property taxes.  
01:06:41 Ms. Cummings  
01:06:51 REP. HOVEN asked how the taxes paid in Montana compare to the taxes paid in other states.  
01:07:02 Ms. Cummings said Montana's unit value is higher than North Dakota's and other states.  
01:07:52 REP. HOLLANDSWORTH asked about the base in each state.  
01:08:01 Ms. Cummings discussed the formula that is used in Montana and Arizona.  
01:10:33 SEN. KAUFMANN asked how the value of the sale compares to the taxable value that your taxes are paid.  
01:10:54 Ms. Cummings said BSNF keeps its unit values confidential.  
01:11:10 SEN. KAUFMANN asked Ms. Cummings about the overall tax amount and if there was a decrease in 1999.  
01:11:42 Ms. Cummings discussed the formula that brought Montana's value in line with their range of values.  
01:12:32 REP. HOLLANDSWORTH asked how their formula would work on a high technology.  
01:13:18 Ms. Cummings  
01:14:45 SEN. TUTVEDT asked about the high end of taxes and if that affects the income in Montana.  
01:15:26 Ms. Cummings  
01:16:01 REP. MALEK asked if there were more litigation going on in other states.  
01:16:18 Ms. Cummings  
01:17:17 REP. HOLLANDSWORTH  
01:17:21 Ms. Cummings said that their formula provides stability.

• **Department of Revenue's perspective of primary formulas in valuing property -Dan Bucks, Director**

01:17:40 Director Bucks discussed the Department's perspective as a method of valuing property.  
01:21:00 Director Bucks distributed a handout on 15-9-101, MCA ([Exhibit 13](#)).  
01:22:25 Director Bucks discussed the Department's overview of case law of centrally assessed property taxes ([Exhibit 14](#)).  
01:29:37 Director Bucks discussed trends in property taxation related to the SJR 17 study ([Exhibit 15](#)).

**Committee questions and discussion**

01:36:44 REP. HOLLANDSWORTH asked Director Bucks to discuss the railroad formula instead of discussing what is wrong with the system.  
01:37:06 Director Bucks said the Department doesn't think that the market valuation system is broken.  
01:38:00 **Director Bucks continued with his presentation.**

**Committee questions and discussion**

01:49:59 SEN. TUTVEDT asked about centrally assessed property as a percentage of the tax.

01:51:14 Director Bucks  
01:52:16 SEN. TUTVEDT discussed taking growth out.  
01:52:35 Director Bucks said there was rapid growth in values on the residential side and is reflected in the assessed valuation.  
01:53:22 SEN. TUTVEDT commented on wanting the growth to occur.  
01:53:31 SEN. ESSMANN said that the Department could come up with the number of new housing units and the number of miles of additional railroads that have been added.  
01:54:36 REP. MALEK asked if the tax shift is causing the residential property tax rates to go up.  
01:55:50 Director Bucks discussed the complexity of factors going into the snapshot of the distribution of taxes as of a particular year.  
01:58:35 REP. BARRETT discussed shifting in local governments.  
02:00:32 REP. HOLLANDSWORTH  
02:00:45 SEN. KAUFMANN asked if there has been any court action regarding the formula that is applied to the railroad in terms of equalization.  
02:01:25 Director Bucks  
02:02:47 SEN. KAUFMANN asked if homeowners would be able to say they have been assessed increasing values because of this formula and that they object.  
02:03:08 Director Bucks  
02:03:20 SEN. KAUFMANN asked if Arizona has similar constitutional or statutory requirements on equalization.  
02:03:58 **C.A. Daw, Chief Legal**, said that it is an open question on who would have standing in Montana to complain about formulas.  
02:04:24 SEN. KAUFMANN asked Mr. Daw if he knows anything about Arizona's comparable equalization requirements.  
02:04:35 Mr. Daw said he did not.  
02:04:38 Mr. Martin  
02:04:55 SEN. ESSMANN asked about the Legislature not having the discretion to depart from a market value approach, which a formula and productivity approach does, that could put the productivity approach in class three and class ten forest lands under similar threat.  
02:06:24 Mr. Daw  
02:07:51 SEN. ERICKSON asked the Department to give the committee new data in assessed value of property.  
02:10:51 Director Bucks

- **Overview of capitalization rates - Gene Walborn, Department of Revenue**

02:13:40 Mr. Walborn gave an overview of capitalization rates ([Exhibit 16](#)).

**Committee questions and discussion on capitalization rates**

02:22:34 REP. BARRETT asked if the Department has any latitude to evaluate price earnings ratio for long term plausibility.  
02:23:02 Mr. Walborn said they don't look into how the price earnings ratio is calculated.  
02:24:20 SEN. TUTVEDT asked how stable the cap rates are.  
02:24:57 Mr. Walborn  
02:25:47 SEN. TUTVEDT  
02:26:01 Mr. Walborn

**BREAK -- reconvene at 10:37 a.m.**

▶ **Public Comment on Centrally Assessed**

- 02:37:39 **Molly Severson, Policy Institute**, commented on the rationale for the SJR 17 study.
- 02:41:53 **Judy Cummings, BNSF**, agreed with Director Bucks that railroads are not on a fair market standard in Montana but the formula value is a surrogate for fair market value.
- 02:43:52 **Bob Strong, Tax Director for AT&T**, commented on formulas and costs. He discussed a document "Analysis of Recent Montana Cases" ([Exhibit 17](#)).
- 02:55:12 **John Alke, Attorney**, commented on the capitalization rates presented by the Department of Revenue.
- 03:01:27 **John Cmelak, Tax Policy Director, Verizon**, said that Montana does not properly exempt intangible value and Montana does not have stable values.
- 03:04:51 **Nancy Schlepp, Montana Taxpayers' Association**, asked the committee to followup with Sen. Tutvedt's and Sen. Erickson's recommendation for further clarification on the growth of property and the different classes, and look for a third party participation in this process to get different views.

**SJR 23 STUDY OF TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS**

- 03:08:04 **Mike Foster, Catholic Hospitals in Montana**, distributed reports from St. Vincent Healthcare and St. Patrick Hospital for information purposes only.

**Committee questions and discussion of Mr. Foster**

- 03:10:21 REP. HOLLANDSWORTH asked Mr. Foster about the perception that nonprofit organizations are not having to pay taxes on their property
- 03:10:41 Mr. Foster discussed the approach that nonprofits have taken on the issue of whether a piece of property should be tax exempt.
- 03:11:53 REP. HOVEN asked about doctors who are employees of the hospital, working in buildings owned by the hospital and the hospital paying taxes on it, then the doctors no longer are employed by the hospital and no longer are paying property taxes on that business.
- 03:13:28 Mr. Foster
- 03:13:39 REP. HOVEN asked if the Catholic hospitals aim for an operating margin of 3 to 4%.
- 03:13:43 Mr. Foster said that would be consistent among hospitals around the nation.

**COMMITTEE DISCUSSION ON CENTRALLY ASSESSED PROPERTY**

- 03:14:37 REP. HOLLANDSWORTH asked if the committee would like to continue the discussion on centrally assessed.
- 03:14:42 SEN. TUTVEDT would like to discuss the shift among classes.
- 03:15:25 SEN. PETERSON said he wanted a third-party input and information to understand how to fix the flaws.
- 03:16:08 SEN. ERICKSON said that Mr. Walborn should respond to Mr. Alke's comments.
- 03:16:41 SEN. GILLAN said she understands property taxes but doesn't understand how companies, particularly regulated companies, determine their profit.
- 03:19:06 REP. MALEK is concerned about the tax shift to residential and agricultural

taxpayers.

03:20:55 REP. BARRETT said that the committee should not question how the Department is doing its job on those cases that are under litigation.

03:23:38 REP. HOVEN thinks that the law needs to be tweaked to take care of, for example, the situation that has arisen with AT&T and Verizon.

03:24:30 SEN. ESSMANN said the committee needs to look at the expense of litigation.

03:27:10 SEN. TUTVEDT asked if the committee is comfortable taxing income through centrally assessed properties and using income as a predictor of value.

03:29:12 REP. MILLER would like to compare the valuation of the business versus what the actual sales price was.

## **SJR 23 STUDY OF TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS**

- **Analysis of charity and health care and bad debt - Megan Moore**  
03:32:18 Ms. Moore gave a presentation on analysis of charity/health care and bad debt (**Exhibit 18**).

### **Committee questions and discussion**

03:36:18 SEN. ESSMANN asked if Ms. Moore has a breakdown by counties.

03:36:35 Ms. Moore

03:37:07 SEN. ESSMANN asked if the charity reflects what their provision of services are.

03:38:32 REP. BARRETT commented on hospitals having high net revenue operations in specialized care and subsidized Medicaid and Medicare patients. He asked about subsidizing publicly funded healthcare.

03:40:14 Ms. Moore asked for clarification of Rep. Barrett's question.

03:40:25 REP. BARRETT asked about the difference between the costs of providing services to Medicaid patients and Medicare patients and the amount of reimbursement that the hospital receives.

- ▶ **Public Comment on Ms. Moore's presentation**  
03:41:22 **Bob Olsen, Montana Hospitals Association**, said that MHA gave the committee a copy of their billing for Medicare/Medicaid total patient revenues.

03:42:50 REP. BARRETT asked Mr. Olsen where the cross subsidy comes from.

03:43:19 Mr. Olson said that the cross subsidization is that emergency rooms open 24/7, 365 days a year, which is different than an urgent care center.

- **Requested Additional Information Regarding Property Tax Exemption in other states - Megan Moore**  
03:46:36 Ms. Moore summarized the document "Requested Additional Information regarding Property Tax Exemptions in Other States" (**Exhibit 19**).

### **Committee questions and discussion**

03:53:37 SEN. ESSMANN asked about Wisconsin's statute.

03:54:07 Ms. Moore

03:54:23 SEN. ESSMANN

03:54:33 SEN. ERICKSON said that Wisconsin is doing something that the committee might consider doing. He discussed a news article from *The Seattle Times*

regarding emergency rooms ([Exhibit 20](#)).

#### Public Comment - none

- **Annual changes in market value of tax exempt property in seven largest Montana counties - Alan Peura, Deputy Director, Department of Revenue**

03:56:30 Mr. Peura gave opening remarks.  
03:57:12 Ms. Moore said there is a memo dated December 9, 2011, with corrections to the Department of Revenue's comparison table on exempt and taxable property growth.  
03:59:11 Mr. Peura discussed the document "Comparing Exempt and Taxable Property Growth" ([Exhibit 21](#)).

#### Committee questions and discussion

04:07:44 REP. HOLLANDSWORTH asked what the growth rates have been since the 2003-04 study to now.  
04:08:38 Mr. Peura  
04:09:15 SEN. ESSMANN asked for the values.  
04:09:34 Mr. Peura  
04:10:04 REP. HOLLANDSWORTH  
04:10:17 REP. MALEK asked if an addition to a hospital is exempt.  
04:10:50 **Rocky Haralson, Department of Revenue**, said that the Department would do a review.  
04:14:42 SEN. TUTVEDT asked if the Kalispell Regional ownership automatically triggers tax exempt status.  
04:15:41 Mr. Haralson discussed the ownership test in exempt applications.  
04:18:11 SEN. TUTVEDT asked if his example of the offsite office buildings are tax exempt.  
04:18:26 Mr. Haralson said that would come back to a determination.  
04:19:14 REP. HOVEN asked Mr. Peura if there were any specific rulemaking for those ventures.  
04:19:40 Mr. Peura  
04:21:00 REP. MILLER asked for clarification on employees who are in a doctor relationship.  
04:21:26 Mr. Haralson said if they are an employee of the hospital, it would be like any other employee.  
04:21:58 REP. MILLER asked Ms. Sather about the employer/employee relationship.  
04:22:22 Ms. Sather said that the relationship needs to be classified as a W2 employee.  
04:22:33 REP. BOLAND asked when a facility would have to make an application for a nonprofit status if it built an addition to a hospital.  
04:23:12 Mr. Haralson discussed the timeframe in which an organization has in order to be effective for that tax year.  
04:24:05 REP. BOLAND discussed someone building an addition with the assumption that you were going to lease it, then turn around a year later and change the status to a nonprofit, and going off the tax roll.  
04:24:17 Mr. Haralson said that would take a restructuring of ownership. The key words are as of that date it is taxable until the application is processed and the determination made that it meets the exempt statute aspect.  
04:24:41 REP. BOLAND



04:25:16 Mr. Haralson  
04:25:34 REP. HOLLANDSWORTH  
04:25:42 Mr. Haralson  
04:26:04 SEN. ESSMANN asked Mr. Olsen about charity care occurring for people who are in the end stages of life or occurring in terms of the provision of the physician services in the doctor's office.  
04:27:31 Mr. Olsen  
04:30:14 SEN. ESSMANN asked if they could see a breakdown between the writeoffs for physician services versus the writeoffs for hospital services.  
04:30:26 Mr. Olsen  
04:30:42 REP. HOLLANDSWORTH  
4:30:49 Mr. Olsen discussed Medicare bad debt policies that allow the hospital to claim hospital bad debt but not physician bad debt.  
04:31:19 REP. HOLLANDSWORTH

**BREAK FOR LUNCH - reconvene at 1:18 p.m.**

- **Exempt property in the seven most populous counties - Megan Moore**

05:18:40 Ms. Moore explained that the exemption type is not available for property before a certain date and that is why the information is presented by county and not by exemption type.  
05:19:07 Ms. Moore summarized the memo dated December 9, on exempt property in the seven most populous counties ([Exhibit 22](#)).

**Committee questions and discussion** on the total property tax shift and not on changing taxes per dollar amount worth of property

05:21:31 REP. HOVEN  
05:21:46 REP. BARRETT  
05:23:41 SEN. ESSMANN  
05:24:09 REP. BARRETT  
05:24:29 REP. HOVEN

- **Agricultural land owned by nonprofits held for preserving historical, archeological, or environmental purposes - Megan Moore**

05:25:39 Ms. Moore reported on nonprofit entities that owned agricultural property and whether they paid taxes on that property ([Exhibit 23](#)).

**Committee questions and discussion**

05:31:37 REP. HOLLANDSWORTH commented on making a profit or using the ag land for commercial or agricultural purposes.  
05:31:48 Ms. Moore  
05:31:56 SEN. PETERSON discussed Hutterite colonies that are organized as nonprofits but paying taxes on their land.  
05:32:20 SEN. ESSMANN asked for an explanation on how exemptions are granted for business equipment that is cited under the terms of the law that defines an institution of purely public charity.  
05:33:47 Ms. Moore said she will have the Department of Revenue respond.  
05:34:00 SEN. PETERSON

05:34:15 SEN. ESSMANN  
05:34:37 REP. HOVEN asked if the Hutterites pay business equipment tax or if they are exempt.  
05:34:55 SEN. PETERSON  
05:35:01 SEN. TUTVEDT said that the Hutterites do file taxes.  
05:35:51 REP. HOLLANDSWORTH  
05:35:55 SEN. TUTVEDT

▶ **Public Comment**

05:36:21 **Dwayne Iverson, CPA, Shelby, Montana**, said that the property tax and the income tax system are separate systems.  
05:38:01 **Glen Marks, Montana Association of Land Trust**, commented on SJR 23 and farm and ranch land owned by members of the Association.  
05:42:12 **Jeff Barber, Montana Nature Conservancy**, discussed the taxes they have paid and the land that the Conservancy owns in Montana ([Exhibit 24](#)).  
05:44:53 **Dick Dolan, Managing Director, American Prairie Foundation**, said they pay their taxes.  
05:46:29 **Liz Moore, Executive Director, Montana Nonprofit Association**, appreciates the care of which the committee understands the statistics that they saw in terms of the value of the tax revenues as compared to the value of the common good services that communities are receiving.

**Committee questions and discussion**

05:48:05 SEN. GILLAN commented on the taxes that the Nature Conservancy was projected to have paid.  
05:48:47 Ms. Moore said that she is not sure whether these figures include all property or just agricultural property but this report is just on agricultural property.  
05:49:24 SEN. KAUFMANN thanked the conservancies for being taxpaying citizens and participating in our community.

• **Committee bill investing in Montana jobs - Christine Kaufmann**

05:49:46 SEN. KAUFMANN discussed the revenue projections during the session that resulted in no investment in Montana jobs and workers. She suggested a committee bill to use some of the surplus to pay for projects that were in the bonding bill last session.  
05:53:02 SEN. ERICKSON likes the idea.  
05:54:35 REP. BARRETT said he would support the motion.  
05:56:00 SEN. ESSMANN said that he would oppose the motion because it is uncertain what the ending fund balance will be.  
05:58:18 REP. MILLER asked Sen. Kaufmann if the motion was to have bill draft.  
05:58:38 SEN. KAUFMANN said staff would present the committee with a draft bill.  
05:59:13 REP. MILLER asked if Sen. Kaufmann was considering any type of cash triggers if the fund balance at the time of the next session was below a certain level.  
05:59:30 SEN. KAUFMANN said by the time this would come forward for a vote, the committee would have more information about whether the \$430 million that is projected is an actual number.  
06:00:02 REP. BOLAND agrees with Sen. Kaufmann.  
06:00:40 REP. HOVEN opposes the motion.  
06:01:23 REP. BARRETT said that Sen. Kaufmann is not suggesting that we spend the

money today but that the money is spent when we know that it is available a year from now.

- 06:01:38 SEN. TUTVEDT discussed the pension issue and the need to push more for private sector spending, and government not being the first priority.
- 06:02:37 SEN. PETERSON opposes the motion.
- 06:04:23 SEN. GILLAN
- 06:06:01 SEN. ERICKSON
- 06:07:04 REP. MILLER asked Sen. Kaufmann if there was a reason that this needs to be a committee bill versus a bill someone sponsors on their own.
- 06:07:17 SEN. KAUFMANN
- 06:08:24 REP. MALEK discussed the bonding bill and the projects that the bill contains.
- 06:10:10 REP. HOLLANDSWORTH asked if Sen. Kaufmann would defer it and bring it up when the committee does committee bills.
- 06:11:26 Mr. Martin asked whether this is a public policy issue and should be on the agenda with public comment.
- 06:11:52 SEN. KAUFMANN said that the motion is only asking the committee for draft legislation, there would be adequate time for public comment at a future meeting.
- 06:12:10 **Jaret Coles, legal staff**, discussed the motion and the timeline for public comment.
- 06:13:37 SEN. KAUFMANN discussed the reasoning for her motion.
- 06:15:42 REP. HOLLANDSWORTH said that Sen. Kaufmann's motion is to instruct staff to draft a bill for committee consideration and public comment.
- 06:16:13 Mr. Coles said that it clarifies the record.

#### **Motion by Sen. Kaufmann**

- 06:18:26 SEN. KAUFMANN moved to instruct staff to draft a committee bill that invests a portion of the projected ending fund balance into the capital projects contained in the bonding bill and into a recovery payment to public workers who negotiated the pay plan but did not receive the increase.
- 06:18:40 A roll call vote was taken. **The motion failed on a tie vote.**
- 06:19:37 REP. BARRETT discussed the issues raised by Mr. Nelson's comments regarding how the decline in property value in the TIF district should be handled when there was a piece of the property in that district that was in another school district jurisdiction. He requested that Director Bucks report his findings on that.

REP. BARRETT discussed another issue of what happens when a large payment goes back to a TIF district that has been sunset. Where should that money go and who should receive it, and how should it be handled. He requested Mr. Martin to give a brief report at the next meeting.

#### **HJR 13 INCOME TAX STUDY**

- **Discussion of Montana's income tax structure - Joe Shevlin, Montana Society of CPAs**

- 06:22:16 Mr. Shevlin discussed the need to fix the complexity of Montana income tax laws and the importance of understanding the federal income tax code because Montana's tax code is based on.

**Committee questions of Mr. Shevlin**

06:37:03 REP. HOLLANDSWORTH  
06:37:40 REP. BARRETT  
06:38:06 SEN. ERICKSON  
06:38:43 Mr. Shevlin  
06:39:05 REP. HOLLANDSWORTH

• **Individual Income Tax Credit and Deduction Analysis - Stephanie Morrison, Fiscal Analyst, Legislative Fiscal Division**

06:39:53 Ms. Morrison discussed the analysis on individual income tax credit and deduction ([Exhibit 25](#)).

**Committee questions and discussion**

06:47:39 REP. MILLER asked if the total income is AGI or gross.  
06:47:45 Ms. Morrison said it is total income.  
06:48:22 **Ms. Morrison continued her presentation on the graph "Average Total Credit by Income Decile"**  
06:52:04 REP. HOVEN asked if a married couple filing separately would show two incomes.  
06:52:15 Ms. Morrison said it is total income per tax return.  
06:52:52 **Ms. Morrison continued her presentation on the graph "Effective Tax Rate Before & After Credits"**  
06:57:29 SEN. KAUFMANN  
06:57:49 Ms. Morrison  
06:57:55 SEN. KAUFMANN  
06:58:07 Ms. Morrison  
06:58:11 REP. BARRETT said it would be important to have the same kind of analysis conducted but with all taxpayers and not just those that pay credits.  
06:59:29 Ms. Morrison  
06:59:53 **Ms. Morrison continued her presentation on the "Deductions"**  
07:06:50 REP. HOLLANDSWORTH  
07:07:05 REP. MILLER  
07:07:19 SEN. ERICKSON  
07:07:33 Ms. Morrison  
07:08:03 There was a discussion about the graph on page 9 regarding tax deductions.  
07:10:00 SEN. TUTVEDT asked if there were any deductions that are only allowed in Montana.  
07:10:15 Ms. Morrison  
07:10:28 SEN. TUTVEDT  
07:10:57 Mr. Shevlin

• **Discussion on questions regarding individual tax returns asked at the last committee meeting - Jaret Coles, Legal Staff**

07:12:36 Mr. Coles discussed the following:

- ▶ a chart on Individual Income and Tax Data ([Exhibit 26](#));
- ▶ updated data on married filing jointly and married filing on a separate form;
- ▶ what would have to stay in the tax code under federal law and what are the expenditures that the Legislature would not have control over; and
- ▶ tax compacts.

### **Committee questions and discussion**

- 07:15:24 REP. MALEK asked what percentage of married couples are working.  
07:16:05 SEN. ERICKSON asked about the total amount that Montana receives from municipal bond income.  
07:17:36 SEN. ERICKSON

#### **• Who pays federal and state income taxes - Dan Dodds, Department of Revenue**

- 07:18:24 Mr. Dodds discussed the document "Fraction of Households Paying Federal and State Income Taxes" ([Exhibit 27](#)).

### **Committee questions and discussion**

- 07:25:34 REP. MILLER asked if savings bonds are included in the category of Montana not taxing federal bonds.  
07:25:44 Mr. Dodds  
07:25:49 REP. MALEK asked Mr. Dodds about individuals living on social security.  
07:26:12 Mr. Dodds  
07:26:55 REP. MALEK asked if a couple in that situation would pay more in Montana taxes than they would federal taxes.  
07:27:09 Mr. Dodds said that depends on the individual situations.

### **PUBLIC COMMENT ON THIS TOPIC - none**

- 07:28:55 Mr. Martin distributed a memorandum "Effects of the Montana Asbestos Victims Settlement on the State Property/Casualty Insurance Fund" from Kris Wilkinson, Fiscal Analyst, Legislative Fiscal Division, for the informational purposes ([Exhibit 28](#)). Mr. Martin said that this subject was discussed at the December 8 meeting.

### **ADMINISTRATIVE RULE REVIEW - Jaret Coles, Legal Staff**

- 07:29:10 Mr. Coles discussed the rule review report dated November 27, 2011 ([Exhibit 29](#)) and the supplemental rule review memorandum dated December 6, 2011 ([Exhibit 30](#)).

### **PUBLIC COMMENT ON ANY TOPIC - none**

### **OTHER BUSINESS -- NEXT MEETING TOPICS**

- 07:36:45 There was a discussion on what topics the committee would like to hear at the next meeting:
- the National Association of Regulated Utility Commissioners having some guidance on how regulated utilities are valued;
  - look at options pertaining to the HJR 13 study and run numbers to stay revenue neutral;
  - numbers on what a flat tax would need to be;
  - simplify the income tax return form and get rid of married filing separately section.
- 07:43:08 Mr. Martin will send an email to committee members requesting a response to

Rep. Miller's suggestion to change the meeting date in July.

### **ADJOURNMENT**

07:43:34 With no further business before the committee, REP. HOLLANDSWORTH adjourned the meeting at 3:43 p.m. The next meeting will be February 16-17, 2012.

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