



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

February 16-17, 2012

February 17, 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.

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

Agenda and Visitors

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

COMMITTEE ACTION

- The committee voted to retain the Advisory Council for Scenic-historic Byways Program.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. HOLLANDSWORTH called the meeting to order at 8:02 a.m. The committee secretary called roll ([Attachment 3](#)).

AGENDA

DEPARTMENT OF TRANSPORTATION REPORTS

HB 142 Review of Advisory Council for Scenic Byways Program - Tim Reardon, Director

00:02:25 Director Reardon gave a report on the State Scenic - Historic Byways Program ([Exhibit 18](#)).

Committee questions

00:13:29 REP. HOVEN asked how much federal money has been spent so far and what is the national budget for the program. **Director Reardon** said that \$30 to \$40 million annually has been available for those grants.

00:15:24 SEN. KAUFMANN asked if the designation of the highway around Georgetown Lake a part of the state program. **Director Reardon** said that it is not part of the Byways Program but probably is a designation made by the Transportation Commission at the request of the local people in that area.

PUBLIC COMMENT - None

Motion to retain or eliminate the Advisory Council for Scenic Byways Program

00:19:47 SEN. KAUFMANN **moved** to keep the Advisory Council for Scenic Byways Program. The motion **passed** 9-3, with Sen. Tutvedt, Rep. Hoven and Sen. Essmann voting no.

Rail Service Competition Council - Tim Reardon, Director

00:20:51 Mr. Reardon gave a report on the Rail Service Competition Council ([Exhibit 19](#)).

Committee questions

00:32:09 SEN. ERICKSON asked the Director to provide more information regarding the future of the rail line between Darby and Whitefish. **Director Reardon** said that to the best of his knowledge, the abandonment has not been complete. He said that even though the Rail Service Competition Council ceased work in 2009, the Department completed a rail plan survey in 2010 and that was one of the items

that was under consideration in trying to determine what the cost would be to restore that service. Director Reardon discussed consideration of continued Amtrak funding.

- 00:35:12 SEN. ERICKSON said the real concern is the loss of that track and particularly the loss of that right of way. He requested that the Director keep the committee updated on the issues in his report.
- 00:36:08 SEN. PETERSON said that the Rail Service Council should look at salvaging the track that washed out last spring in central Montana, and in particular the Lewistown area. **Director Reardon** said that they are trying to get a reliable estimate of costs to fix that rail system.
- 00:41:16 SEN. KAUFMANN asked about the purpose of the Rail Service Council. **Director Reardon** said that the duties of the Rail Service Council is outlined on page 1 of his report.
- 00:42:38 SEN. KAUFMANN asked about the request for proposal (RFP) that was recently let by the Department. **Director Reardon** said that the RFP was to hire an individual to "marshall" the forces of the Rail Service Council and gather data regarding rail issues.
- 00:43:49 SEN. GILLAN suggested that the issue of coal trains going through Billings be an agenda item for a later meeting.
- 00:44:39 SEN. ESSMANN asked Director Reardon to forward a copy of the contract with the firm that the Department hired.

PUBLIC COMMENT - None

Update on Federal Funding of Transportation

- 00:45:48 **Director Reardon** reported on the status of federal funding and the 2-year highway funding bill.

Committee questions

- 00:53:27 REP. MILLER said Director Reardon mentioned a possibility of a 20% cut as well as some legislative changes in the program. He asked if Director Reardon would be seeking to make up the majority of that cut from the general fund and what would the impact be to the Department. **Director Reardon** said that at this time he has not initiated discussion as to what the proposal would be, but if that were to happen today, they would start looking at backing off the program slightly.
- 00:54:57 SEN. TUTVEDT asked who would make those changes in future projects; i.e., setting bike paths or rest stops. **Director Reardon** said that the Transportation Commission of the Department would have that authority.
- 00:57:33 REP. MALEK asked how the Montana Department of Transportation would be impacted in terms of what should be funded in order to make sure that the public and interest groups' needs were addressed at the state level. **Director Reardon**

said that there would be some level of constraint on those funds. What programs he sees that might be eliminated are the set aside programs funded by the federal government.

- 00:58:57 REP. MALEK asked for a list of what the Department's current priorities are for the future to have an idea of what is happening in their area. **Director Reardon** said that he will provide that information to committee members if they are interested.
- 00:59:47 REP. HOVEN asked if the Director had a procedure for how highway projects are prioritized. **Director Reardon** said that he would provide that to the committee.
- 01:01:36 REP. BARRETT said that it was his understanding that the Commission made use of a formalized asset management program. **Director Reardon** said that it is called the P3 process that is managed largely by data. It looks at the age of the pavement, the condition of the pavement, the traffic numbers and traffic volume and safety records.

PUBLIC COMMENT - None

Update on Shiloh Road Construction Project in Billings

- 01:07:53 **Director Reardon** provided an update on the Shiloh Road Project and spoke specifically about the issue of the water valve box in a roundabout on Shiloh Road.

Committee questions

- 01:23:26 SEN. ESSMANN and Director Reardon discussed what happened with valve boxes in one of the roundabouts on the Shiloh Road Project. He asked who was responsible for the expense of fixing the valve. **Director Reardon** said that one of the valves was paid for by the contractor and the other three were paid for under MDT's contract costs as miscellaneous expense because the coordinates that were being followed were inaccurate.
- 01:30:08 SEN. PETERSON thanked Director Reardon for the quick response on Highway 87 between Hobson and Moccasin on the bridge project.

PUBLIC COMMENT ON THE SHILOH ROAD CONSTRUCTION

- 01:30:48 **Dave Mumford, Public Works Director, City of Billings**, commented on how the issue of the water valve boxes started and how the situation was fixed.

BREAK - reconvene at 10:00 a.m.

REVENUE COLLECTION REPORT - Terry Johnson, Legislative Fiscal Division

- 01:58:10 Mr. Johnson gave a report on general fund revenue collections ([Exhibit 20](#)).

Committee question on oil production

- 02:16:35 REP. MILLER asked if that oil production is total production or taxable

production, not counting the tax holiday. **Mr. Johnson** said that it is total production including tax holiday production.

Committee questions on impact outlook of revenue adjustments

- 02:34:02 SEN. TUTVEDT asked how much of the money is ongoing money that would be available to fill the structural balances. **Mr. Johnson** said that the big picture analysis in June will look at the revenue estimates for the 2015 biennium. The Legislative Fiscal Division will make sure not to replicate those one-time events in the revenue estimates for the 2015 biennium.
- 02:39:02 REP. BARRETT asked to what extent is the \$426 million "one-time only" money. **Mr. Johnson** said that larger reversions, like the Otter Creek, were built in, but the reversions that took place in 2011 were not. The one-time money is about \$45 million.
- 02:41:57 SEN. ERICKSON asked Mr. Johnson how he will be looking at the revenue estimate going forward and will there be an averaging of the last seven years. **Mr. Johnson** explained the impact of the audit on collection activity. He also explained the corporate modeling effort that the Department of Revenue has, and the Memo of Understanding that the Department of Revenue has with the Legislative Fiscal Division regarding the audits.
- 02:50:07 SEN. GILLAN asked what influence the Bakken is having on individual income tax, either wages or withholding. **Mr. Johnson** discussed the reciprocal agreement with the state of North Dakota.
- 02:53:30 Mr. Johnson discussed the upcoming trip to eastern Montana that members of the Legislative Finance Committee and the legislative staff will take to look at the oil and gas production from a tax policy perspective.

SJR 23 STUDY OF TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS

Attorney General's Report on Montana's Hospitals Community Benefits - Lawrence L. White, School of Public and Community Health Sciences

- 02:56:08 Mr. White gave a presentation on the Montana Hospitals Community Benefits [\(Exhibit 21\)](#).

Committee questions

- 03:20:40 REP. HOLLANDSWORTH asked when a collection of payment for services in a hospital can be written off as charitable care. **Mr. White** said that at any point in the collection process, an institution discovers for whatever reason that the party is eligible for charity treatment, then they may record it and it becomes a charity account and collection efforts cease.
- 03:26:05 REP. BARRETT discussed the four components: programs, activities, charity care, and Medicaid. He asked if those programs and activities are something that no for-profit hospital would undertake. **Mr. White** said that no for-profit hospital would probably sustain the subsidized services, and of all of these programs and

activities, there would be little activity on the part of for-profit hospitals. Montana does not have any for-profit hospitals that are of the size of any of the ones that were in the study that would allow good analysis.

03:31:30 REP. MALEK discussed the situation of medical education in hospitals where residents are not getting reimbursed. **Mr. White** discussed his efforts of trying to get a residency program in Missoula. Hospitals do receive payment from Medicare and Medicaid for residents.

Updated Analysis of Charity Care/Bad Debt - Megan Moore, Committee staff

03:33:48 Ms. Moore gave a report on charity care/bad debt ([Exhibit 22](#)).

Committee questions

03:37:29 SEN. GILLAN asked if Ms. Moore analyzed the data. **Ms. Moore** said that her analysis of the county figures were in a report presented at the last meeting. She said that she had a request to provide the actual county by county figures and the new data is analyzed on page 2.

INFORMATION ON MEDICAID AND MEDICARE UNREIMBURSED COSTS - Megan Moore

03:38:34 Ms. Moore gave a report on unreimbursed Medicare and Medicaid Costs ([Exhibit 23](#)).

Committee questions

03:39:50 REP. HOLLANDSWORTH asked if the reimbursement that the Medicare and Medicaid would not cover under the policy. **Ms. Moore** said that Medicare and Medicaid both set reimbursement rates for a specific procedure. These costs would reflect costs incurred by the hospital above how much they were reimbursed.

03:40:27 REP. BARRETT asked if these, with respect to costs or charges, the hospital would otherwise make. **Ms. Moore** said that they would be charges.

INFORMATION ON NUMBER OF PARCELS GRANTED PROPERTY TAX EXEMPTIONS - Alan Peura, Deputy Director, Department of Revenue

03:42:08 Mr. Peura discussed the Analysis of Property Tax Exemptions from Tax Year 2003 to Tax Year 2011 ([Exhibit 24](#)).

Committee questions

03:46:33 REP. BARRETT said that he understands the problem of trying to figure out what the value of exempt property is when they have been exempt for a while. Would those values be accurate for those properties that were on the tax rolls before they were exempt. **Mr. Peura** said that in some of those cases, yes. He gave an example of a new facility being built near St. Peter's Hospital. That would be considered new property. They knew it would be exempt when they appraised it. They did not undergo the usual appraisal of new construction in that case. They took basic measurements, did a review to assure that it met the use qualifications

by the hospital.

- 03:48:43 REP. HOVEN said Benefis is building a new retirement home and when that is completed, will it automatically be a nonprofit, and because it is retirement home, will it be in direct competition with other for-profit businesses. Will the Department of Revenue ensure that Benefis is within the letter of the law. **Mr. Peura** referred the question to Ms. Sather. In answer to the second question, Mr. Peura said that the Department of Revenue will do a careful analysis of the law in terms of what qualifies an institution or an organization for tax exemption.
- 03:50:43 **Linda Sather, Management Analyst, Property Assessment Division, Department of Revenue**, said that the organization would have to apply for the exemption and would have to supply all supporting documents that are required.
- 03:51:36 SEN. TUTVEDT asked Mr. Peura about following up on organizations to see if the properties are being used properly. **Mr. Peura** said that if the property changes its use purpose, the Department does not automatically transfer the exemption. The property must make a new application for the real property exemption for the building.

Response to the question as to how some business equipment can be a charitable exemption - C.A. Daws, Chief Legal, Department of Revenue (Exhibit 25)

- 03:58:38 Mr. Daws responded to the question of how can agricultural land trust or some other use qualify for the charitable exemption. He said that his summary of charitable exemption will answer that question and will be more responsive than their memo ([Exhibit 25](#)) was.

Public Comment - None

LUNCH break - reconvened at 1:06 p.m.

SJR 23 Study - Selection of panelists for the April Meeting

- 05:03:48 Megan Moore said that the SJR 23 Study plan scheduled a panel discussion on the competitiveness of nonprofit corporations. The reason for a panel is because the study wanted to get at competitiveness without doing a cost benefit analysis. Ms. Moore would like the committee's input on who would be on the panel to discuss the competitiveness of nonprofits versus for-profits that offer the same services.
- 05:04:39 REP. BARRETT suggested Richard Smith.
- 05:05:15 SEN. PETERSON suggested contacting the American Society of Association of Executives (ASAE).
- 05:05:56 REP. BARRETT suggested Tom Roberts of the Western Montana Clinic.
- 05:06:43 SEN. TUTVEDT suggested Gordon Davidson from Bozeman.

- 05:07:52 REP. HOLLANDSWORTH suggested Bob Olson.
- 05:09:01 REP. BARRETT said that this panel might want to address the question of competition and the fact that there is an increasing number of doctors who are being absorbed into the hospitals in many communities.
- 05:10:47 SEN. ERICKSON said he is concerned about where we will be going after the panelists are heard. What sorts of legislative options we are thinking about.
- 05:13:55 SEN. TUTVEDT suggested going into the communities and the hospitals to see what the building or facilities are being used for and to see if they are appropriately taxed.
- 05:16:43 There was a discussion regarding whether or not it was a good idea having staff selecting the panelists and whether or not there was even a need for panelists.
- 05:19:08 REP. HOLLANDSWORTH asked Ms. Moore to collaborate with Mr. Martin on contacting perspective panelists.
- 05:19:30 REP. BARRETT discussed the competitiveness portion of the study that put tax-exempt status of hospitals in a position to compete unfairly with for-profit medical providers and the absorption of for-profit medical providers into hospitals as employees. The question that we want an answer to is, does the tax-exempt status provide for an unfair advantage to nonprofits in competing with for-profit medical care providers.
- 05:23:17 Ms. Moore said that if she asks that question of the panelists, she will get different answers and the point of a panel is to give you those different views. The committee needs to decide whether they want to hear those answers or have her research that and convey her findings to the committee.
- 05:32:07 SEN. GILLAN said that she is concerned that the committee is going beyond the original scope of the project when the committee's focus should be on tax exemptions.

REVENUE ESTIMATING PROCESS ROUND TABLE DISCUSSION

Legislative Process of the Revenue Estimate Resolution - Jeff Martin

- 05:35:17 Mr. Martin discussed his memo that summarized options for the legislative revenue estimating process ([Exhibit 26](#)).

Committee questions

- 05:40:39 REP. HOVEN asked Mr. Martin to discuss what the rationale was for introducing the resolution in the Senate. **Mr. Martin** said that one of the reasons is that it would give the Senate the opportunity to have a say in the resolution.
- 05:41:35 SEN. PETERSON discussed the concerns of the revenue estimating process and the reason for the proposal. He said that the thought process was to

introduce the revenue estimate into Senate Taxation, and then have joint committee hearings made up of House Taxation and Senate Taxation. He said that in this proposal, there would be a rule that says "by the 20th day, the Senate Taxation Committee would have to adopt some kind of revenue estimate".

Discussion on legislative process

- 06:07:45 Mr. Martin said that when the committee adopts the revenue estimating resolution, it also adopts a preliminary ending fund balance for the prior fiscal year and then as the resolution moves through the process, it is updated to get the ending fund balance for end of fiscal year prior to the start of the session.
- 06:10:17 Mr. Martin explained that what they are trying to do is lay out preliminary options, not only for this committee, but for the Legislative Council and the Legislative Finance Committee, to work on for the balance of the interim. This committee would not have to come to any conclusions about the options today, but would spend the rest of the interim trying to work things out to make the legislative process work better.
- 06:16:47 SEN. KAUFMANN said that one of the advantage would be that there will be at least two public hearings in which the public will have an opportunity to engage the revenue estimate.

Independence and Expertise - Jeff Martin

- 06:32:36 Mr. Martin discussed Independence and Expertise of his memo (**Page 4 of Exhibit 26**).

Accuracy component - Terry Johnson, Legislative Fiscal Analyst

- 06:36:49 Mr. Johnson gave a presentation on accuracy component that was discussed at the round table meeting (**Exhibit 28**).

Committee questions

- 06:49:12 REP. BARRETT discussed the impacts of including another month of data. **Mr. Johnson** said that it was technically two months of data because when the Legislature adjourned, they did not have the April data. So the information that they made a recommendation mid-April to the House Taxation Committee was for a revision upward in the revenue estimates.
- 06:51:16 SEN. ERICKSON asked about the type of RFP that would go out to audit firms. **Mr. Johnson** said that the way he asked the question is three-fold. One, would they be interested in doing just a review of all of our processes; two, would you be interested in possibly doing an estimate for the top sources; and three, would you be interested in doing an estimate for all of the sources.
- 06:52:10 SEN. ERICKSON suggested that the committee and the other committees continue with this idea to understand what might be feasible down the line.

Frequency of Estimates or Updates - Jeff Martin

- 06:54:09 Mr. Martin discussed Frequency of Estimates or Updates from the round table

discussion (**Page 5, Exhibit 26**).

Committee discussion

07:00:04 SEN. ERICKSON said that it makes no sense to take the Governor's budget recommendations. He liked the idea of extending the session into May. He also said he was interested in managing volatility (**page 7, Exhibit 26**) and hopes the Finance Committee thinks about the options that are there.

PUBLIC COMMENT ON ROUND TABLE DISCUSSION

07:03:50 **Tara Veazy, Montana Budget and Policy Center**, said this is one area where we can have bipartisan support to help improve the legislative process. She provided comments on the issue of movement of the resolution, the legality of the Legislature's duty to balance the budget, and the issue of accuracy of the estimate.

DEPARTMENT OF REVENUE REPORTS - Dan Bucks, Director

Preparation for income tax season

07:11:36 Director Bucks discussed the Montana Income Tax Forms.

Followup on Mr. Johnson's report on the scanning process

07:37:27 Director Bucks gave a followup report on the subject of the scanning data process.

Court cases

07:46:15 Director Bucks discussed the court case, *Musselshell County vs Yellowstone County* (**Exhibit 29**).

Reciprocal Agreements with North Dakota

07:48:46 Director Bucks said Montana extended its reciprocal agreements with North Dakota.

Followup on the Tax Increment Finance District Issue raised by Kevin Nelson

07:51:06 Director Bucks gave a followup report on the TIF issue raised by Kevin Nelson, Billings, Montana.

ADMINISTRATIVE RULES - Jaret Coles, Staff Attorney

07:58:46 Mr. Coles gave a brief presentation regarding administrative rules (**Exhibit 30**).

OTHER BUSINESS -- next meeting date

08:02:45 The next meeting will be on April 26-27, 2012.

ADJOURNMENT

08:02:51 With no further business before the committee, REP. HOLLANDSWORTH adjourned the meeting at 4:05 p.m.

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