



## 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 8, 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  
JARET COLES, Staff Attorney  
FONG HOM, Secretary

## Agenda and Visitors' List

Agenda ([Attachment 1](#))

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

## COMMITTEE ACTION

- The minutes from the September 26-27, 2011 meetings were approved as presented.

## CALL TO ORDER AND ROLL CALL

00:00:01 REP. HOLLANDSWORTH called the meeting to order at 8:00 a.m. The committee secretary took roll.

00:01:37 REP. HOLLANDSWORTH gave opening remarks.

- **Discussion on the format of the minutes as presented**

00:01:43 SEN. ERICKSON

00:02:24 Mr. Martin

00:03:13 REP. HOLLANDSWORTH

00:03:34 REP. HOVEN

00:03:48 Mr. Martin

00:04:16 REP. HOLLANDSWORTH

- **Approval of the September 26-27, 2011 minutes**

00:04:37 SEN. GILLAN moved to approve the minutes of September 26-27, 2011, meetings as presented. The motion was approved unanimously by voice vote.

## AGENDA

### **REVENUE ESTIMATING REPORTS - Terry Johnson and Stephanie Morrison, Legislative Fiscal Division**

- **Revenue collections and revenue estimating updates - Terry Johnson**

00:04:59 Mr. Johnson gave an update on the General Fund Revenue ([Exhibit 1](#)).

**Committee questions** regarding treating income as partnership income

00:27:05 SEN. ESSMANN

00:27:31 Mr. Johnson

00:27:39 SEN. ESSMANN

00:27:46 Mr. Johnson

00:28:06 **Mr. Johnson resumes presentation on IRA and pension income.**

**Committee questions and discussion** regarding labor force growth versus unemployment rates; unemployment rates among returning Veterans.

00:33:01 REP. BARRETT

00:33:45 Mr. Johnson

00:34:26 REP. MILLER

00:34:39 Mr. Johnson  
00:34:43 REP. BARRETT  
00:35:06 SEN. ESSMANN would like Mr. Johnson to research the impact of increased overtime hours.  
00:36:09 Mr. Johnson  
00:36:15 REP. MALEK

00:37:10 **Mr. Johnson resumed presentation on corporate tax side and oil and gas.**

**Committee questions and discussion** regarding reciprocal individual income tax agreements between Montana and North Dakota; data from the Bureau of Economic Analysis showing wages for Montana and North Dakota.

00:45:59 SEN. TUTVEDT  
00:46:30 Mr. Johnson  
00:47:00 SEN. KAUFMANN  
00:47:26 Mr. Johnson  
00:47:48 SEN. KAUFMANN  
00:48:06 SEN. PETERSON  
00:48:46 Mr. Johnson  
00:49:26 SEN. PETERSON  
00:49:53 Mr. Johnson  
00:50:37 REP. BARRETT  
00:52:00 Mr. Johnson  
00:52:41 REP. BARRETT  
00:53:24 REP. MILLER  
00:53:53 REP. HOLLANDSWORTH  
00:53:58 REP. MALEK requested bringing in experts who are knowledgeable in the oil industry.  
00:55:15 Mr. Johnson  
00:56:06 SEN. ERICKSON

00:56:26 **Mr. Johnson resumed presentation on the lease payments on state lands.**

**Committee questions and discussion** regarding the process of reaching the projected ending fund balance; decreases in general fund disbursements and funding availability for schools; reversions in the 2011 biennium; structural balance of ongoing programs and one-time-only money; status on the Otter Creek and PP&L matters from the legal counsel.

01:04:22 SEN. GILLAN  
01:05:14 Mr. Johnson  
01:05:39 SEN. GILLAN  
01:06:12 Mr. Johnson  
01:06:44 SEN. GILLAN  
01:07:22 Mr. Johnson  
01:08:09 SEN. GILLAN  
01:08:43 Mr. Johnson  
01:09:20 SEN. GILLAN  
01:09:47 Mr. Johnson  
01:10:12 REP. HOLLANDSWORTH

01:10:17 SEN. TUTVEDT  
01:10:52 Mr. Johnson  
01:12:41 SEN. TUTVEDT  
01:14:02 **Amy Carlson, Legislative Fiscal Analyst**, discussed an issue that the Government Accounting Standards Bureau (GASB) is looking at and that is a way to put what the pension liabilities would be if they were on the balance sheets throughout all government.

01:15:27 SEN. TUTVEDT  
01:16:03 Ms. Carlson  
01:18:32 SEN. ERICKSON asked Mr. Johnson about projections going forward for pension income.

01:19:38 Mr. Johnson  
01:20:36 SEN. PETERSON asked about the settlement of the Libby lawsuit and its impact.  
01:21:30 Mr. Johnson addressed the Libby settlement  
01:22:37 **Jaret Coles, Legislative Attorney**, said that he is not sure if there was any additional environmental legal challenges regarding the Otter Creek matter. On the PP&L Montana appeal, the U.S. Supreme Court heard the matter and the state is anticipating a decision sometime in May.

01:23:08 SEN. PETERSON asked for the balance in the tort claims fund following this settlement.

01:23:21 Ms. Carlson discussed a report from Kris Wilkinson, Fiscal Analyst, that outlines how the administration intends to cash flow the tort claims fund until the Legislature convenes.

01:24:28 SEN. ESSMANN asked if there was an analysis of any impact to Montana due to the potential sequestration of future federal spending if current stalemate continues.

01:25:24 Ms. Carlson said there will be an ongoing analysis of that.  
01:26:17 SEN. ESSMANN  
01:26:25 Ms. Carlson

**Committee discussion regarding SB 426**

01:26:48 REP. BARRETT discussed tax rebate under SB 426 and Mr. Johnson's calculation that there be \$138 million available to Montana taxpayers if SB 426 passes.

01:30:32 Mr. Johnson discussed the reasons for LFD's request for a legal opinion  
01:32:33 REP. BARRETT  
01:33:27 **Jaret Coles, Legal Staff**, discussed the two-page legal opinion on SB 426.  
01:37:23 REP. BARRETT  
01:38:16 SEN. GILLAN suggested that at the next meeting time be dedicated to discuss SB 426 for further analysis.

01:39:02 SEN. ERICKSON said that there is a lawsuit also going on and when there is a lawsuit, the committee should wait until that develops.

01:39:14 REP. HOLLANDSWORTH said the Mr. Martin can look at that and talk to staff and decide what we are going to do.

- **Highlights of Federation of Tax Administrators' Revenue Estimating Conference - Stephanie Morrison, Fiscal Analyst**

01:39:53 Ms. Morrison reported on the Federation of Tax Administrators' Revenue

Estimating Conference that she attended. Ms. Morrison discussed the study that was done by the Pew Center regarding volatility and revenue forecasting errors ([Exhibit 2](#)).

**Committee questions of Ms. Morrison**

01:46:44 REP. HOLLANDSWORTH  
01:46:57 SEN. TUTVEDT  
01:47:29 Ms. Morrison  
01:47:50 SEN. TUTVEDT

- **Committee role in the revenue estimating process - Rep. Hollandsworth**

01:48:57 REP. HOLLANDSWORTH gave a summary of the meeting.  
01:49:53 Mr. Martin  
01:50:03 REP. HOLLANDSWORTH

- **Public Comment**

01:50:27 **Kevin Nelson, Billings**, suggested that the committee not wait for the Legislature to convene to start the process to determine some of the issues regarding the Bakken situation.

**DEPARTMENT OF JUSTICE REPORTS**

- **Update on MERLIN - Tim Burton, Deputy Director**

01:53:11 Mr. Burton gave an update on the MERLIN system.

**Committee questions and discussion**

01:57:41 SEN. TUTVEDT asked about the \$5 fee that was voted for.  
01:58:26 Mr. Burton said that the treasurers were working with the Department of Justice on that.  
02:00:10 SEN. TUTVEDT commented taht the Select Committee is also working on that issue.  
02:00:41 Mr. Burton discussed the priorities relative to the driver's license phase and the vehicle insurance phase.  
02:02:21 SEN. ESSMANN asked about the issuance of new licenses through the dealers and the new vehicle purchase setting.  
02:02:48 Mr. Burton  
02:04:00 REP. HOLLANDSWORTH

- ▶ **Public Comment on MERLIN**

02:04:41 **Bruce Spencer, Montana Automobile Dealers Association**, asked the committee to poll dealers and discuss the issue.

**BREAK -- reconvened at 10:22 a.m.**

**DEPARTMENT OF REVENUE REPORTS**

- **Income Tax Form and Married Filing Separately Updates - Dan Bucks, Director**

02:23:22 Director Bucks discussed taxpayers filing under "married filing separately". He referenced the 2011 Montana Individual Income Tax Return, Form 2 ([Exhibit 3](#)) where a filer has to check his filing status.

02:29:46 Director Bucks discussed the "Third Party Designee" box that allows for discussions with a third person.

#### **Committee comments and questions**

02:31:45 REP. MILLER asked about the checked box that allows his spouse and another person only, meaning spouse and someone else. Wouldn't it be better to have "or" in there instead of "and".

02:32:20 **C.A. Daw, Chief Legal, Department of Revenue**, said that the language is written that way because it is an authorization and either one can act in the absence of the other.

02:33:04 REP. MILLER

02:33:14 Mr. Daw

02:33:44 **Director Bucks resumed his presentation on the three categories of options and the practical circumstances that have existed in the past in Montana.**

02:37:31 REP. HOLLANDSWORTH

02:37:37 Director Bucks

- **HB 123 implementation**

02:38:19 Director Bucks discussed a handout regarding HB 123 ([Exhibit 4](#)). He said that HB 123 provided 28 additional days for counties and local governments to complete budgeting and calculations of the mill levy requirements.

- **Litigation Update: Lucas case on agricultural land valuation**

02:47:25 Director Bucks discussed the legal document "Order Denying Petitioner's Motion for Class Certification" pertaining to Charles B. Lucas vs Montana Department of Revenue litigation ([Exhibit 5](#)).

- **Emerging Issues**

02:57:31 Director Bucks discussed the handout that lists the electronic filing options for taxpayers ([Exhibit 6](#)).

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

03:02:57 REP. BARRETT asked about the cost for the taxpayer filing electronically.

03:03:52 Director Bucks

03:04:47 SEN. ESSMANN asked about opting out of having their information put into the Department of Revenue's system for privacy purposes.

03:05:39 Director Bucks

03:10:01 SEN. TUTVEDT asked what percentage on corporate income are being filed electronically.

03:10:24 Director Bucks

03:11:35 REP. HOVEN would like to know more about the tax agreement between Montana and North Dakota, how was that negotiated, and are there agreements between Montana and Wyoming, between Montana and Idaho, and is there a national recommendation on agreements between states.

03:12:14 Director Bucks discussed the 1973 Montana law that authorized the Department

- 03:17:15 of Revenue to enter into reciprocal agreements with other states.  
SEN. KAUFMANN asked about the number of Montana residents that might be impacted by the agreement and if North Dakota has indicated any interest of getting out of the agreement or changing it.
- 03:17:38 Director Bucks
- 03:20:55 SEN. KAUFMANN
- 03:21:14 Director Bucks
- 03:21:54 SEN. GILLAN asked about tracking out-of-state people who are in Montana working and not paying taxes.
- 03:22:41 Director Bucks
- ▶ **Public Comment**
- 03:23:26 **Harold Blattie, Montana Association of Counties**, distributed a letter from the Montana Association of Counties to the Revenue and Transportation Committee regarding HB 123 ([Exhibit 7](#)). He discussed cleanup language to two sections of HB 123.
- 03:29:15 **Kevin Nelson, Billings**, commented on the need for increased transparency and accountability for TIF funds. Mr. Nelson also commented on the Fallon County case and the role of the Attorney General.
- Committee discussion** regarding Mr. Nelson's comment
- 03:34:23 REP. BARRETT voiced his concerns about Mr. Nelson's charge of corruption being made in public comment.
- 03:34:42 SEN. ERICKSON said he would like the Department of Revenue to respond to the issues that Mr. Nelson has brought up.
- 03:35:21 **C.A. Daw, Chief Counsel, Department of Revenue**, discussed the Department of Revenue's function in auditing TIF funds and Mr. Nelson's characterization of the Fallon County case.
- 03:38:31 Director Bucks responded to Mr. Nelson's concern involving TIF District and the matter of negative increment.

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

- **Update on Kearsarge Transportation Project**  
03:44:51 Mr. Reardon gave an update on the Kearsarge Transportation Project.
  - **Computer assisted evaluation of bridges**  
03:52:53 Mr. Reardon discussed the computer programs used to rate bridge structures for structure failure on load.
- Committee questions and comments**
- 03:56:23 SEN. TUTVEDT asked about the economic activity that would happen in Montana if loads were moved as originally planned.
- 03:57:02 Mr. Reardon said that the economic activity referred to by Sen. Tutvedt was for utility relocations and constructing turnouts.

03:58:14 SEN. ERICKSON asked about the total number of units moving as a result of the new applications.  
03:59:08 Mr. Reardon discussed the number of loads moving from Idaho through Missoula on I-90.  
04:00:18 REP. BARRETT  
04:00:43 REP. MILLER

- **Enforcement of diesel fuel laws under Title 15**

04:01:14 Mr. Reardon reported on the dyed diesel fuel enforcement program in Montana. He provided the Department of Transportation's report on dyed fuel enforcement ([Exhibit 8](#)).

**Committee comments and questions**

04:07:54 REP. HOLLAND  
04:08:43 SEN. TUTVEDT  
04:09:05 Mr. Reardon  
04:09:11 SEN. KAUFMANN asked if there was a public process for the new route proposed by the Kearsarge Transportation Project.  
04:09:35 Mr. Reardon  
04:10:52 SEN. KAUFMANN asked about the process that was conducted prior to the Department of Transportation's issuance of the permit.  
04:11:06 Mr. Reardon  
04:11:14 SEN. KAUFMANN asked about the issue of the economic activity and if there was an analysis done on comparison of building the modules in Korea versus building in Montana.  
04:12:00 Mr. Reardon

- ▶ **Public Comment**

04:12:18 **Harold Blattie, Executive Director, Montana Association of Counties**, commented on page 2 of Mr. Reardon's handout ([Exhibit 8](#)).  
04:16:20 **Kyla Weins, Montana Environmental Information Center**, commented on the Kearsarge Transportation Project.

**PUBLIC COMMENT ON ANY TOPIC WITHIN COMMITTEE'S PURVIEW**

04:19:40 **Kevin Nelson, Billings**, distributed a handout ([Exhibit 9](#)) on Public Improvements Use Fee Agreement and suggested that this be investigated.

**RECESS**

04:24:18 REP. HOLLANDSWORTH recessed the meeting at 12:24 p.m., to reconvene at 8:00 a.m., on December 9, 2011.

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