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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

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

MINUTES

July 19-20, 2012

July 19, 2012

Room 102, 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. RON ERICKSON
SEN. JEFF ESSMANN
SEN. JIM PETERSON
SEN. BRUCE TUTVEDT

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

COMMITTEE MEMBERS EXCUSED

SEN. CHRISTINE KAUFMANN
SEN. KIM GILLAN
REP. BRIAN HOVEN

STAFF PRESENT

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

Agenda and Visitors' List

Agenda (**Attachment 1**)
Visitors' list (**Attachment 2**)

COMMITTEE ACTION

- The committee requested a bill draft for a revenue estimating resolution.
- The committee approved retaining the Department of Revenue's biennial report and the Multistate Tax Compact Advisory Council.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. HOLLANDSWORTH called the meeting to order at 8:30 a.m. The secretary called roll. Sen. Gillan, Sen. Kaufmann, and Rep. Hoven were excused. The minutes of the April 26, 2012, meeting were approved unanimously by voice vote.

AGENDA

PROXY VOTES - Susan Fox, Executive Director, LSD

00:02:22 Ms. Fox discussed a change in the Rules, Procedures, and Guidelines for legislative interim committees regarding proxy votes.

DEPARTMENT OF TRANSPORTATION REPORTS - Tim Reardon, Director

- **Report on refund of taxes paid on biodiesel fuel (required by 15-70-369)**
00:05:50 Director Reardon gave a presentation on tax refund for biodiesel fuel (**Exhibit 1**).

- **Report on Dyed Fuel Enforcement (required by 61-10-154)**
00:11:32 Director Reardon gave a presentation on enforcement of the dyed fuel laws (**Exhibit 1**).

Committee questions
00:14:45 SEN. PETERSON
00:14:55 Director Reardon

- **Update on federal highway bill**
00:21:45 Director Reardon gave a presentation on the recently passed federal highway funding bill.

Committee questions
00:32:16 SEN. ERICKSON
00:32:30 Director Reardon
00:33:30 SEN. ERICKSON
00:34:57 REP. BARRETT
00:35:05 Director Reardon
00:39:00 REP. MALEK
00:39:10 Director Reardon

00:39:49 REP. MALEK
00:39:55 Director Reardon
00:41:00 REP. BOLAND
00:41:07 Director Reardon

- **Salish & Kootenai Tribes-Montana Gasoline Tax Agreement**
00:42:38 Director Reardon reported on the Salish & Kootenai Gasoline Tax Agreement **(Exhibit 2)**.

Committee questions
00:45:05 SEN. TUTVEDT
00:45:33 **Ely Clarkson, Legal Staff, Department of Transportation**
00:46:31 SEN. TUTVEDT
00:46:40 Mr. Clarkson

PUBLIC COMMENT - none

- **Department of Transportation Proposed Legislation**
00:48:45 Director Reardon discussed the Department's request for proposed legislation to give authority to the Department of Transportation and the Transportation Commission to utilize construction management for highway construction. Director Reardon provided a copy of the document "Construction Manager/General Contractor" [CM/GC] Contract Method **(Exhibit 3)** to the committee.

Committee discussion on dyed fuel
00:54:14 REP. HOLLANDSWORTH
00:55:08 Director Reardon
00:56:02 SEN. TUTVEDT
00:57:00 Director Reardon

Committee discussion regarding the words "by request of the Revenue and Transportation Interim Committee"
00:58:46 SEN. PETERSON
00:59:00 Ms. Moore
01:00:04 SEN. PETERSON
01:01:41 REP. BARRETT
01:02:30 SEN. PETERSON
01:02:46 REP. HOLLANDSWORTH
01:03:21 SEN. PETERSON
01:05:22 Ms. Moore asked if the committee approved the bill draft for drafting purposes.

Committee discussion on agency bill drafts
01:05:41 REP. HOLLANDSWORTH
01:05:53 SEN. TUTVEDT
01:06:01 REP. HOLLANDSWORTH
01:06:11 SEN. ESSMANN
01:06:36 REP. HOLLANDSWORTH
01:06:53 SEN. PETERSON

01:07:14 **Jaret Coles, Staff Attorney**, provided a point of clarification on deadlines between agency bills and committee bills
01:08:13 Ms. Moore
01:09:13 REP. HOLLANDSWORTH
01:09:20 REP. MILLER
01:09:44 REP. BARRETT
01:10:28 Ms. Moore
01:11:11 REP. BARRETT

REVIEW OF INDIVIDUAL INCOME TAX RELIEF MULTIPLE - Megan Moore, Staff Researcher

01:12:55 Ms. Moore discussed the July 12, 2012, memorandum reviewing the refundable income tax credit relief multiple (**Exhibit 4**).

Committee discussion

01:17:25 REP. HOLLANDSWORTH
01:18:12 Ms. Moore
01:18:41 REP. BARRETT
01:19:44 SEN. ERICKSON
01:20:30 SEN. ESSMANN
01:21:30 SEN. PETERSON

PUBLIC COMMENT - none

Motion by Rep. Miller

01:22:50 REP. MILLER made a motion to take no action on the income tax credit relief multiple.

01:23:08 REP. MILLER withdrew his motion.

REP. HOLLANDSWORTH said that the committee will take no action on this issue.

HB 142 REVIEW OF REQUIRED REPORTS AND ADVISORY COUNCILS

- **Multistate Tax Compact Advisory Council**

01:24:23 Ms. Moore said that the committee did not take any action on whether to retain or eliminate the Multistate Tax Compact Advisory Council at the September, 2011, meeting. She discussed the document "Statutory references for HB 142 Review of Statutorily Created Advisory Councils" (**Exhibit 5**).

Committee questions

01:26:32 SEN. ERICKSON
01:27:09 REP. HOLLANDSWORTH said no action will be taken on this issue.

- **The Department of Revenue Biennial Report**

01:27:31 Ms. Moore discussed 15-1-205, Biennial Report (**Exhibit 6**).

Committee questions

01:28:29 REP. BARRETT
01:28:47 SEN. ESSMANN
01:29:06 Ms. Moore
01:29:22 SEN. ESSMANN
01:29:51 Ms. Moore
01:30:04 SEN. ESSMANN
01:30:15 SEN. ERICKSON
01:31:01 SEN. TUTVEDT
01:31:54 REP. BARRETT
01:33:15 Ms. Moore
01:33:37 SEN. ERICKSON

**UPDATE ON LEGISLATIVE COUNCIL AND LEGISLATIVE FINANCE COMMITTEE
ACTION ON OPTIONS FOR REVISING RULES RELATED TO REVENUE ESTIMATING
PROCESS - Susan Fox, Executive Director, LSD**

01:35:39 Ms. Fox discussed the proposed joint rule on the Joint Subcommittee on Revenue Estimation (**Exhibit 7**).

Committee questions

01:39:02 REP. BARRETT
01:39:15 Ms. Fox
01:40:15 REP. BARRETT
01:41:27 Ms. Fox
01:41:57 REP. MILLER
01:42:19 Ms. Fox
01:43:07 REP. MILLER
01:43:20 Ms. Fox
01:43:42 REP. MILLER
01:44:08 Ms. Fox
01:44:38 SEN. TUTVEDT
01:45:27 SEN. PETERSON
01:47:01 REP. MALEK
01:47:26 SEN. TUTVEDT
01:48:15 REP. MALEK
01:48:36 Ms. Fox
01:49:29 REP. MALEK
01:49:39 Ms. Fox
01:50:21 REP. MILLER
01:50:40 Ms. Fox
01:51:34 REP. MILLER
01:51:44 Ms. Fox
01:51:58 SEN. ERICKSON
01:52:59 Ms. Fox
01:53:44 SEN. PETERSON
01:54:15 SEN. ESSMANN
01:55:00 REP. HOLLANDSWORTH
01:56:22 Ms. Fox

PUBLIC COMMENT ON REVENUE ESTIMATING - none

Motion by Rep. Barrett

01:58:27 REP. BARRETT moved to retain the Department of Revenue biennial report and the Multistate Tax Compact Advisory Council. The motion passed unanimously by voice vote with Rep. Hoven, Sen. Gillan, and Sen. Kaufmann voting yes by proxy.

**REVENUE ESTIMATING PROCESS AND CONSIDERATION OF AGENDA ITEMS -
Megan Moore**

01:59:36 Ms. Moore discussed the agenda items regarding the revenue estimating process (**Exhibit 8**).

Committee discussion

02:02:07 REP. BARRETT
02:03:12 SEN. PETERSON
02:05:46 REP. HOLLANDSWORTH
02:06:08 Ms. Moore
02:07:18 SEN. ESSMANN
02:08:03 REP. MILLER
02:08:45 SEN. PETERSON
02:10:15 SEN. ERICKSON
02:10:53 REP. HOLLANDSWORTH
02:11:06 REP. MILLER
02:11:48 Ms. Moore
02:12:13 REP. HOLLANDSWORTH
02:12:23 SEN. PETERSON
02:12:58 Ms. Moore
02:14:17 SEN. PETERSON
02:15:46 REP. HOLLANDSWORTH
02:16:26 Terry Johnson, Legislative Fiscal Division
02:18:55 REP. BARRETT
02:20:27 Mr. Johnson
02:22:55 SEN. TUTVEDT
02:23:46 Mr. Johnson
02:24:47 SEN. TUTVEDT
02:25:46 Mr. Johnson
02:26:39 SEN. ERICKSON
02:27:18 Mr. Johnson
02:27:42 SEN. ERICKSON
02:28:07 SEN. PETERSON
02:29:33 REP. HOLLANDSWORTH
02:29:49 REP. MALEK
02:30:30 Mr. Johnson
02:31:53 REP. MALEK
02:32:18 Mr. Johnson

BREAK - reconvened at 11:16 a.m.

Motion requesting a revenue estimating bill draft
02:46:59 SEN. PETERSON made a motion requesting a bill draft for a revenue estimating resolution. The motion passed unanimously by voice vote with Sen. Gillan, Sen. Kaufmann, and Rep. Hoven voting yes by proxy.

**REPORT ON BIODIESEL BLENDING AND STORAGE CREDIT - Eric Dale, Economist,
Department of Revenue**

02:48:01 Mr. Dale gave a presentation on the biodiesel blending and storage tax credit **(Exhibit 9)**.

Committee questions

02:49:33 SEN. ESSMANN

02:49:50 Director Bucks

02:50:14 SEN. PETERSON

02:50:20 Director Bucks

DEPARTMENT OF REVENUE REPORTS - Dan Bucks, Director

• **Alltel Litigation Update**

02:54:29 Director Bucks provided an update on the Alltel case **(Exhibit 10)**.

• **Fiscal History of 1999 Retail Telecommunication Excise Tax Act**

03:10:47 Director Bucks discussed the fiscal history of the 1999 Retail Telecommunication Excise Tax Act **(Exhibit 11)**.

Committee questions

03:13:48 REP. MILLER

03:14:01 Director Bucks

• **Major Case Update**

03:15:49 Director Bucks discussed major cases of the Department of Revenue that are before the Supreme Court, the District Court, and the State Tax Appeal Board **(Exhibit 12)**.

• **Estimated Property Tax Shift of Reducing Telecommunication Property Value**

03:18:05 Director Bucks discussed the estimated property tax shift of reducing telecommunication property value **(Exhibit 13)**.

Committee questions

03:20:51 REP. MILLER

03:21:06 Director Bucks

03:21:32 SEN. ESSMANN

03:22:50 Director Bucks

• **Oil and Gas Production Tax Comparison: Montana and North Dakota**

03:34:06 Director Bucks gave a report on oil and gas production tax comparison between Montana and North Dakota **(Exhibit 14)**.

Committee questions
03:35:59 REP. BARRETT
03:36:25 Director Bucks
03:36:49 REP. BARRETT
03:38:01 Director Bucks

- **Reimbursements for reduction of Class 8 tax rate (SB 372)**
03:38:36 Director Bucks discussed Ed Caplis' memo on reimbursements for reduction of Class 8 tax rate (**Exhibit 15**).

- **Business and Income Taxes Division Compliance Collection**
03:40:42 Director Bucks discussed the chart on compliance collections on business and income taxes (**Exhibit 16**).

- **Vendors for tax forms**
03:42:09 Director Bucks presented information on tax software vendors for tax forms per Sen. Essmann's request at the last meeting (**Exhibit 17**).

Committee questions
03:44:21 SEN. TUTVEDT
03:44:38 Director Bucks

PUBLIC COMMENT

03:44:59 **Nancy Shlepp, Montana Taxpayers Association**, provided comments about the conclusion of the Alltell case.

BREAK FOR LUNCH - reconvened at 1:20 p.m.

ADMINISTRATIVE RULE REVIEW - Jaret Coles, Staff Attorney

04:50:45 Mr. Coles gave a report on administrative rule activities for the Departments of Revenue and Transportation (**Exhibit 18**). Mr. Coles discussed his supplemental rule review (**Exhibit 19**).

DEMONSTRATION ON THE BILL DRAFTING PROCESS - Megan Moore

04:57:50 Ms. Moore demonstrated how agency bill drafts appear in the LAWS system.

DEPARTMENT OF REVENUE BILL DRAFT PROPOSALS - Dan Bucks, Director

04:59:47 Director Bucks presented the Department of Revenue's proposed legislation (**Exhibit 20**).

05:01:10 **Improve the transparency of property tax administration**

Committee questions
 05:05:28 REP. MILLER
 05:05:39 Director Bucks
 05:05:44 REP. MILLER
 05:06:02 SEN. ESSMANN
 05:06:42 Director Bucks
 05:08:51 SEN. TUTVEDT
 05:09:00 Director Bucks
 05:10:56 SEN. TUTVEDT
 05:11:31 REP. BARRETT
 00:11:50 Director Bucks
 05:13:01 REP. BARRETT
 05:14:00 Director Bucks
 05:15:18 SEN. PETERSON
 05:15:22 Director Bucks
 05:16:50 SEN. PETERSON
 05:17:01 Director Bucks

 05:19:36 **Corporate Income Tax - Tax Havens**
 05:20:02 **Nonprofit Tax Information**

Committee questions
 05:22:12 REP. HOLLANDSWORTH
 05:22:20 Director Bucks
 05:24:31 SEN. ESSMANN
 05:25:01 Director Bucks

 05:27:00 **Allow for electronic service of notices of levy and writs of execution**
 05:29:58 **Allow for recording the notice of state tax lien with the Secretary of State**
 05:31:43 **Married filing separate disclosure solution**
 05:32:50 **Create individual liability for trust taxes**

Committee questions
 05:36:17 REP. MILLER
 05:36:25 Director Bucks
 05:37:21 SEN. PETERSON
 05:37:55 Director Bucks
 05:39:43 SEN. PETERSON
 05:40:01 Director Bucks

 05:41:12 **Eliminate errors in the calculation of taxes, fees, and assessments to the local government**

Committee questions
 05:43:51 SEN. ESSMANN
 05:44:05 Director Bucks
 05:45:28 **C.A. Daw, Chief Legal, Department of Revenue**

05:46:20 SEN. ERICKSON
05:46:55 Director Bucks
05:47:01 **Alan Peura, Deputy Director, Department of Revenue**
05:48:29 SEN. ESSMANN
05:48:40 Director Bucks

05:49:27 **Simplify connoisseur tax for beer and wine**

Committee questions

05:51:11 REP. MILLER
05:51:20 Director Bucks
05:52:18 REP. MILLER
05:52:22 Director Bucks
05:52:51 REP. MILLER
05:52:57 Director Bucks
05:53:23 SEN. ESSMANN
05:53:30 Director Bucks
05:54:10 REP. HOLLANDSWORTH
05:54:20 Director Bucks

05:54:59 **Equal treatment of licensees under liquor control penalty statute 16-4-406, MCA**
05:56:19 **Clarify existing agency liquor store laws**
05:57:24 **Add a license type for new growing business model - Brew On Premise**

Committee questions

05:58:41 SEN. ESSMANN
05:58:50 **Shauna Helfert, Administrator, Department of Revenue**
05:59:38 SEN. ESSMANN
05:59:59 REP. BARRETT
06:00:05 Ms. Helfert
06:01:23 REP. MILLER
06:01:40 Ms. Helfert

06:02:24 **Allow de minimus refund of abandoned property on closed estates**
06:05:40 **Clarify the distribution of in-state lodging taxes paid by state agencies**

PUBLIC COMMENT
06:06:50 **Nancy Schlepp, Montana Taxpayers Association**, said that the Association will not take a stand on No. 1, and opposed Nos. 2, 3, and 7.

BREAK - reconvene at 2:51 p.m.

COUNTRIES CONSIDERED TAX HAVENS - Dan Bucks, Director, Department of Revenue

06:22:18 Director Bucks discussed the document from the Department regarding biennial recommendations concerning tax haven jurisdictions (**Exhibit 21**); and the document written by Brenda Gilmer, Senior Tax Counsel, regarding corporation

tax water's edge election - tax haven jurisdictions (**Exhibit 22**).

Committee questions

06:49:15 SEN. ESSMANN asked about a different philosophy on water's edge approach.
06:49:24 Director Bucks
06:53:48 REP. BARRETT
06:53:55 Director Bucks
06:55:06 REP. BARRETT
06:55:20 Director Bucks
06:57:12 Ms. Moore distributed a copy of an email she received from Annette Deckers, representing the Kingdom of the Netherlands (**Exhibit 23**) stating that the Kingdom of the Netherlands is not in agreement with the assessment of being considered a tax haven.

PRESENTATION ON "APPORTIONING INCOME OF MULTINATIONAL ENTERPRISES AMONG THE STATES WHERE THE INCOME IS EARNED/DERIVED" - Michael McIntyre, Wayne State University

07:01:21 Dr. McIntyre gave a presentation on Montana's Apportionment System (**Exhibit 24**).

LUXEMBOURG'S INCLUSION IN LIST OF TAX HAVENS - Jean-Paul Senninger, Ambassador to the United States from Luxembourg

07:58:51 Ambassador Senninger discussed the concerns that the country of Luxembourg has expressed over the inclusion of Luxembourg in the list of tax haven countries.

Committee questions of Dr. McIntyre

08:18:56 SEN. ERICKSON
08:19:05 Dr. McIntyre

PUBLIC COMMENT

08:22:00 **Nancy Schlepp, Montana Taxpayers Association**, discussed a letter from the Council on State Taxation (COST) (**Exhibit 25**).

08:25:38 **Harold Blattie, Executive Director, Montana Association of Counties**, discussed the business equipment tax.

RECESS

08:30:22 REP. HOLLANDSWORTH recessed the meeting at 5:00 p.m., to reconvene at 8:00 a.m., on July 20, 2012.

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