



## Revenue and Transportation Interim Committee

### 64th Montana Legislature

#### SENATE MEMBERS

FRED THOMAS--Chair  
DICK BARRETT  
MARK BLASDEL  
BRIAN HOVEN  
CHRISTINE KAUFMANN  
SUE MALEK

#### HOUSE MEMBERS

TOM JACOBSON--Vice Chair  
JEFF ESSMANN  
GREG HERTZ  
RAE PEPPERS  
ALAN REDFIELD  
BRIDGET SMITH

#### COMMITTEE STAFF

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

# MINUTES LOG

June 9-10, 2016  
Room 137, Capitol Building  
Helena, Montana

**June 10, 2016**

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The 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 Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

#### **COMMITTEE MEMBERS PRESENT**

SEN. FRED THOMAS, Chair  
REP. TOM JACOBSON, Vice Chair

SEN. DICK BARRETT  
SEN. MARK BLASDEL  
SEN. BRIAN HOVEN  
SEN. CHRISTINE KAUFMANN  
SEN. SUE MALEK

REP. JEFF ESSMANN  
REP. GREG HERTZ  
REP. RAE PEPPERS  
REP. ALAN REDFIELD  
REP. BRIDGET SMITH

#### **STAFF PRESENT**

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

**VISITORS' LIST** (Attachment 1)

**AGENDA** (Attachment 2)

**RECONVENE AND ROLL CALL** -- Sen. Fred Thomas, Presiding Officer

00:00:03 Sen. Thomas called the meeting to order at 8:02 a.m. The secretary called roll.  
(Attachment 3)

**AGENCY OVERSIGHT: MONTANA TAX APPEAL BOARD** -- Dave McAlpin, Chair

**Update**

00:01:21 Mr. McAlpin (Exhibit 29)

Committee Questions of Mr. McAlpin

00:12:36 Rep. Essmann asked about the percentage of appeals coming from Deer Lodge County.

00:14:12 Sen. Barrett asked about the effect on the number of appeals due to the fact that taxpayers have more access to information about comparable properties.

00:16:12 Rep. Hertz asked about the impact of the Department of Revenue's ruling on orchards in Lake County.

**Public comment on agency oversight report - none**

**AGENCY OVERSIGHT: DEPARTMENT OF REVENUE** -- Mike Kadas, Director

**Tax season update**

00:17:43 Director Kadas (Exhibit 30)

Committee Questions of Director Kadas

00:25:02 Sen. Hoven asked about fraudulent returns.

00:26:29 Rep. Essmann asked about simplifying tax forms for filing electronically using Turbo Tax.

00:28:26 Rep. Peppers asked about fraud on paper returns.

**Litigation report - Dan Whyte, Chief Legal Counsel**

00:29:51 Mr. Whyte (Exhibit 31)

**Small acreage agricultural designation**

00:38:45 Director Kadas (Exhibit 32)

Committee Questions

00:47:00 Rep. Hertz asked about the Department of Revenue correcting valuations on small agricultural lands that were not appealed but were changed by the department.

00:54:03 Sen. Kaufmann asked about qualifying for agricultural land taxation for backyard farming.

00:54:46 Rep. Hertz discussed valuing houses and the acreage around the house the same no matter where you live.

00:58:47 Rep. Essmann discussed three issues: the agricultural exemption of \$1,500, the farmstead, and the nonqualified agricultural lands of 20 to 160 parcels.

01:01:45 Rep. Jacobson asked about the possibility of eliminating the farmstead exemption.

**Tax haven report - Lee Baerlocher, Business and Income Tax Division Administrator**

01:05:58 Mr. Baerlocher ([Exhibit 33](#))

**Fire fighter pension legislation**

01:16:45 Director Kadas ([Exhibit 34](#))

**Motion**

01:20:06 Rep. Jacobson moved to forward the Firefighter Pension bill for drafting purposes.

**Public comment on firefighter pension legislation**

01:20:41 Dave Nielsen, Montana League of Cities and Towns, supported the proposed legislation.

**Discussion on the motion**

01:22:52 Ms. Moore asked about the bill draft being a committee bill.

01:23:06 Rep. Hertz asked if the committee has the authority to draft this bill because it could be a pension bill.

**Amended Motion**

01:25:21 Rep. Jacobson amended his motion for the Revenue and Transportation Interim Committee to refer this bill to the State Administration and Veterans' Affairs Interim Committee for consideration.

**Vote**

01:25:55 The motion passed on a voice vote with Sen. Kaufmann, Rep. Smith, and Rep. Peppers voting no.

**Agency-requested legislation - Gene Walborn, Deputy Director, and Cynthia Monteau Moore, Property Tax Division Administrator**

01:26:47 Gene Walborn ([Exhibit 35](#))

**Committee Questions on require withholding annual returns**

01:29:21 Rep. Redfield asked about filing late and penalties.

01:31:31 Rep. Essmann asked about 1099s for small contractors.

01:41:54 Cynthia Monteau Moore ([Exhibit 35](#))

**Public comment - none**

**Committee action on agency requested legislation**

**Motion**

01:46:28 Sen. Kaufmann moved to forward the Department of Revenue's proposed legislation for bill drafting purposes.

**Vote**

01:47:16 The motion passed unanimously by voice vote.

**BREAK** (reconvened at 10:04 a.m.)

**AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW - Jaret Coles, Staff Attorney**

02:03:11 Mr. Coles ([Exhibit 36](#))

**Public comment - none**

**TREATMENT OF INTANGIBLE PROPERTY FOR CENTRALLY ASSESSED PROPERTY VALUATION STUDY**

**Legislative proposals from interested parties**

Bob Story, Montana Taxpayers Association  
Mike Kadas, Director, Department of Revenue  
Phil Grate, CenturyLink  
Heather O'Loughlin, Montana Budget and Policy Center

02:07:25 Mr. Story ([Exhibit 37](#))

02:13:31 Director Kadas ([Exhibit 38](#))

02:25:36 Mr. Grate ([Exhibit 39](#))

02:41:30 Ms. O'Loughlin ([Exhibit 40](#))

**Committee Questions**

02:47:05 Sen. Thomas asked Mr. Grate and Director Kadas about goodwill.

02:54:35 Rep. Hertz asked Director Kadas about his proposal to deduct booked intangibles.

03:01:23 Sen. Barrett asked Director Kadas and Mr. Grate about using the cost method to value goodwill.

03:12:29 Sen. Malek asked Mr. Grate to explain why CenturyLink's goodwill shows more value than the actual equipment.

03:19:47 Rep. Jacobson asked Mr. Grate about the amount his company was paying in taxes.

03:20:46 Mr. Grate ([Exhibit 41, slide 1](#)) ([Exhibit 42, slide 2](#))

03:22:59 Rep. Hertz asked Director Kadas what statute gives the Department of Revenue the authority to tax intangible personal property when 15-6-218, MCA, prohibits taxing intangibles.

**Public comment on study of intangible property valuation**

03:30:52 Robert Strong, Executive Director of Tax, AT&T

03:36:41 Rep. Hertz asked if Mr. Strong could provide charts similar to CenturyLink's charts for comparison purposes.

03:38:10 Sen. Barrett asked that copies of Dan Bucks' recently published piece on intangibles be provided to the committee and included in public comment.

**Discussion of possible recommendations or requests for legislation -- Sen. Blasdel, Rep. Peppers, Rep. Smith**

03:38:49 Sen. Blasdel said that this is a complex issue and they were not able to come up with any kind of legislation. His recommendation would be that this committee

instruct those involved, both the Department and the stakeholders, to meet, come to some agreement, and report back in September.

03:43:16 Ms. Moore distributed the article requested by Sen. Barrett. **(Exhibit 43)**

### **CONSIDERATION OF AGENCY MONITORING DUTIES**

#### **Proposal to assign agency monitoring of Liquor Control Division to Economic Affairs Interim Committee -- Pat Murdo, Legislative Services Division**

03:43:40 Ms. Murdo **(Exhibit 44)**

#### Committee Questions

03:46:44 Rep. Hertz asked if a statutory change is needed.

03:47:30 Sen. Thomas said the committee doesn't have a concern with Economic Affairs Interim Committee monitoring the Liquor Control Division.

#### **Public comment on revising agency monitoring duties - none**

### **RECOMMENDATIONS OR REQUESTS FOR LEGISLATION ON COMPLETED STUDIES**

#### **Tax increment financing -- Sen. Blasdel, Sen. Kaufmann**

03:49:13 Sen. Kaufmann reported that there were no recommendations for possible legislation regarding TIF districts.

#### Remittance amounts

03:49:45 Ms. Moore **(Exhibit 45)**

03:51:16 Rep. Essmann discussed three specific ideas for discussion and possible committee bills regarding TIFs and the 95 school equalization mills.

03:58:15 Sen. Barrett asked Rep. Essmann about spending TIF increment money to demolish an existing building where a developer is going to build a new one.

04:02:46 Rep. Hertz asked Rep. Essmann about proposing that the 95 mills go into a special revenue account that would be used for quality school grants and discussed the definition of "blight".

04:04:56 Sen. Kaufmann asked about the 95 mills in Rep. Essmann's recommendation.

04:07:19 Sen. Thomas suggested a bill draft for each item with different options.

04:08:49 Sen. Barrett discussed Rep. Essmann's proposal related to voted levies.

#### Public comment

04:13:52 Director Kadas commented that remittances should be disbursed in a proportionate manner based on the millage of the taxing jurisdictions.

#### **Motion**

04:14:29 Rep. Essmann moved that staff be directed to prepare a draft bill for discussion at the September meeting containing all of the elements with options.

#### **Vote**

04:15:15 The motion passed unanimously by voice vote.

#### **Elderly homeowner and renter credit -- Sen. Hoven, Rep. Jacobson, Rep. Peppers**

04:17:03 Rep. Jacobson discussed the elderly homeowner and renter tax credit and

Senate Bill No. 194. [\(Exhibit 46\)](#)

**Motion**

04:21:54 Rep. Jacobson moved for a draft bill that adopts the language from Senate Bill No. 194 for review by the committee in September.

**Vote**

04:23:34 The motion passed unanimously by voice vote.

**Property taxable value neutrality -- Sen. Kaufmann, Rep. Hertz**

04:24:50 Rep. Hertz said that the issue of closing loopholes should be discussed as well as ideas that Rep. Essmann has on the topic.

04:26:45 Rep. Essmann discussed his ideas of property taxable value neutrality.

04:29:47 Sen. Kaufmann discussed Rep. Essmann's ideas.

04:31:07 Sen. Barrett expressed his concern about tying the \$1,500 to income.

04:33:24 Rep. Jacobson does not want to discourage anyone from any kind of habitat maintenance.

04:37:14 Rep. Peppers asked about a clear definition of agriculture.

04:40:25 Sen. Hoven proposed that all land be taxed at \$.50 an acre and the tax would only be upon the improvements on the land.

04:42:44 Rep. Jacobson suggested eliminating the nonqualified agricultural property designation.

**Motion**

04:44:02 Rep. Hertz moved that staff draft a committee bill that encompasses treating all residential property the same whether classified as agricultural or residential and that the parcel under the residential building be classified as residential and give the Department of Revenue the authority to value the parcel as part residential and part agricultural so that if a person does have an orchard on three acres behind the residence, that could be agricultural with the house and land underneath it classified as residential, up to one acre or less.

**Discussion on the motion**

04:46:02 Director Kadas discussed drafting legislation on the \$1,500 issue and the farmstead issue separately and then look at them to see if they could work together. He said that Rep. Hertz' proposal is a good one and he also thinks that it is a good idea to consider the impacts of eliminating nonqualified agricultural lands.

**Amended Motion**

04:46:13 Rep. Hertz amended his motion to look at the \$1,500 issue, the farmstead issue, and eliminating nonqualified agricultural lands.

04:49:28 Director Kadas discussed allowing the Department to value acreage less than a parcel in different classifications.

**Public comment on property tax net neutrality - none**

**Vote**

04:51:32 The motion passed unanimously by voice vote.

**Nonprofit reporting of community benefits -- Sen. Malek, Rep. Essmann**

04:52:20 Rep. Essmann said that there has not been much activity at the state level.

**Taxation of international corporations doing business in Montana -- Sen. Barrett, Rep. Essmann**

04:53:42 Sen. Barrett said that if the committee wanted to find a solution, he would recommend getting rid of the water's-edge election.

**Public comment on any other topic within the committee's jurisdiction**

04:54:25 Mike Foster, Catholic Hospitals in Montana, commented on what hospitals are doing in the communities. [\(Exhibit 47\)](#)

**INSTRUCTIONS TO STAFF -- NEXT MEETING: September 7-8, 2016**

04:55:30 Sen. Thomas asked Mr. Coles to send out the "no second reading" requirement to the committee.

04:56:20 Ms. Moore discussed the recommendation from the Subcommittee on Joint Revenue Estimating Subcommittee and agenda items for the September and/or the November meetings.

04:57:28 Sen. Barrett said that the Subcommittee recommended that a memo should be sent to the Legislative Council and to leadership of the House and Senate that the Joint Revenue Estimating Subcommittee process was useful in resolving conflicting estimates from the Legislative Fiscal Division and from the Office of Budget and Program Planning, and that the subcommittee members had specific notions about how a subcommittee of that nature should be formed and chaired in the future.

04:59:03 Sen. Thomas asked Ms. Moore to provide a report regarding the Subcommittee on Joint Revenue Estimating Subcommittee's recommendation for discussion at the September meeting.

04:59:18 The committee members discussed ideas for presentations on revenue estimating at the September meeting; have a discussion on sectors that are contributing to individual income tax withholding as suggested by Rep. Essmann; hearing from Sam Schaefer, Legislative Fiscal Division, regarding his efforts to improve the accuracy of the corporate income forecast; and to explore the distribution of the size of refunds to those 500 taxpayers that are paying 90% of the corporate income tax.

**Proposed amendment to the rules**

05:05:40 Sen. Thomas discussed the proposed language "no second reading" requirement for rereferral amendments to the House and Senate rules. [\(Exhibit 48\)](#)

05:07:20 Mr. Coles discussed S50-95(2), of the Senate Rules.

05:08:58 Sen. Barrett discussed provisions in S50-95(1) and (2).

05:10:55 Sen. Thomas asked if this issue could be referred to the rules subcommittee of the Legislative Council.

05:11:30 Ms. Moore discussed sending a letter to either Legislative Council or the rules subcommittee on this issue. She can bring a summary of the Council's discussion to the committee in September.

05:12:42 Sen. Kaufmann said that she isn't sure that this is the right approach.

**Motion**

05:13:51 Rep. Essmann moved to send a memo regarding the proposed change in rules regarding rereferral amendments to the House and Senate rules to the Legislative Council Rules Subcommittee and to the House and Senate Rules Committees when they meet.

**Vote**

05:14:19 The motion passed on a voice vote with Sen. Kaufmann, Sen. Hoven, and Sen. Barrett voting no.

**OTHER BUSINESS**

05:14:47 Rep. Hertz discussed the issue of unfair treatment to constituents by the Department of Revenue, specifically on Shelter Island on Flathead Lake.

05:17:26 Sen. Blasdel discussed an email from Mr. Sonn regarding withholding. He would like to forward the email to the Department of Revenue for their review and get a response that Ms. Moore could send to Mr. Sonn or bring back to the committee.

**ADJOURNMENT**

05:18:29 With no further business before the committee, Sen. Thomas adjourned the meeting at 1:20 p.m.

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