



## Revenue and Transportation Interim Committee

### 65th Montana Legislature

#### SENATE MEMBERS

MARK BLASDEL--Vice Chair  
DUANE ANKNEY  
DICK BARRETT  
CYDNIE (CARLIE) BOLAND  
JILL COHENOUR  
BRIAN HOVEN

#### HOUSE MEMBERS

TOM JACOBSON--Chair  
BECKY BEARD  
JIM HAMILTON  
GREG HERTZ  
ALAN REDFIELD  
BRIDGET SMITH

#### COMMITTEE STAFF

MEGAN MOORE, Lead Staff  
JARET COLES, Staff Attorney  
LAURA SHERLEY, Secretary

# MINUTES LOG

July 10, 2018  
Room 102, Capitol Building  
Helena, Montana

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**

REP. TOM JACOBSON, Chair  
SEN. MARK BLASDEL, Vice Chair

SEN. CYDNIE (CARLIE) BOLAND  
SEN. JILL COHENOUR  
SEN. BRIAN HOVEN

REP. BECKY BEARD  
REP. JIM HAMILTON  
REP. GREG HERTZ  
REP. BRIDGET SMITH

#### **COMMITTEE MEMBERS EXCUSED**

SEN. DUANE ANKNEY  
SEN. DICK BARRETT  
REP. ALAN REDFIELD

## **STAFF PRESENT**

MEGAN MOORE, Lead Staff  
JARET COLES, Staff Attorney  
LAURA SHERLEY, Secretary

## **VISITORS' LIST (Attachment 1)**

## **AGENDA (Attachment 2)**

## **COMMITTEE ACTIONS**

The committee:

- Voted to request 9 agency bill drafts on behalf of the Montana Department of Transportation;
- Requested two bill drafts for review at the September meeting for the study of agricultural property valuation to:
  - o provide for a grace period of agricultural classification for property on which fruit trees or vines are grown; and
  - o revise the irrigation cost deduction;
- Asked staff to provide a bill drafted at the end of the 2015-2016 interim to require agricultural property to be used primarily for agricultural purposes.

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

00:00:01 Rep. Jacobson called the meeting to order at 10:36 a.m. The committee secretary took roll ([Attachment 3](#)). Rep. Redfield was excused and left his proxy with Rep. Hertz ([Attachment 4](#)). Sen. Ankney was excused and left his proxy with Sen. Blasdel ([Attachment 5](#)). Sen. Barrett was excused and left his proxy with Rep. Hamilton ([Attachment 6](#)).

## **TAX CUTS AND JOBS ACT: MONTANA ANALYSIS**

00:00:50 Ms. Moore reviewed the information requested at the May 2018 meeting regarding the Tax Cuts and Job Act.

## **Corporate Income Tax -- Megan Moore, committee staff**

00:01:54 Ms. Moore ([Exhibit 1](#))

## **Individual Income Tax -- Ms. Moore**

00:11:17 Ms. Moore ([Exhibit 2](#))

00:25:06 Jaret Coles, staff attorney, provided additional information about the Section 199A qualified business deduction ([Exhibit 3](#)).

## **Committee questions**

00:30:46 Rep. Hamilton asked Ms. Moore for further information on the estimated numbers in the reports. The question was redirected to Gene Walborn, Director, Department of Revenue (DOR) ([Exhibit 4](#)) and ([Exhibit 5](#)).

00:33:53 Sen. Cohenour asked Director Walborn to review the increase expensing/bonus depreciation numbers (see Exhibit 4). The question was redirected to Rose Bender, DOR.

00:36:51 Sen. Cohenour asked Ms. Bender what the federal benefit is to conform to the corporate reform.

00:38:16 Sen. Hoven asked Ms. Bender if the bonus depreciation data is based on corporate investment in the state or nationwide.  
00:38:41 Sen. Hoven asked Ms. Bender for clarification on the corporate investment data.  
00:38:58 Rep. Hamilton asked Ms. Bender to clarify the depreciation numbers and if the estimate takes behavioral changes into account.  
00:41:02 Rep. Hertz asked Aaron McNay, DOR, for clarification on the combined impact total (see Exhibit 5).  
00:42:46 Sen. Hoven asked Ms. Bender if the state could require by rule that corporations take the deduction based on investment in the state. The question was redirected to Director Walborn.

### **Public comment**

00:44:30 Walt Kero, Missoula  
00:53:16 Bob Story, Montana Taxpayers Association  
00:57:43 Heather O'Loughlin, Montana Budget and Policy Center ([Exhibit 6](#)), ([Exhibit 7](#)), and ([Exhibit 8](#)).

### **Committee questions/discussion**

01:05:12 Rep. Hertz asked Director Walborn to comment on the department's proposed administrative rule related to the qualified business deduction ([Exhibit 9](#)).  
01:07:38 Rep. Hertz asked Director Walborn if the legislature needs to comment on and be involved in the rule change.  
01:09:14 Rep. Jacobson asked the committee if there is discussion to bring forward a committee bill on the rule change.  
01:10:28 Committee discussion.

### **MOTION**

01:15:01 Sen. Cohenour moved to draft legislation on decoupling from increased expensing and bonus depreciation.

### **VOTE**

01:15:21 The motion failed on a 6-6 roll call vote, with Rep. Beard, Rep. Hertz, Sen. Blasdel, and Sen. Hoven voting 'no'. Rep. Redfield and Sen. Ankney voted 'no' by proxy. ([Attachment 7](#))  
01:16:13 Rep. Hertz asked Ms. Moore to clarify carry back for individual income tax.  
01:16:42 Rep. Hertz commented on net operating carry back for agricultural property and asked the committee to consider matching individual carry back with corporate carry back laws.  
01:17:47 Rep. Jacobson asked Ms. Moore to review corporate carry back legislation and asked Rep. Hertz to clarify his recommendation.  
01:18:37 Rep. Jacobson asked Director Walborn what the fiscal note impact was on the corporate carry back legislation.  
01:19:03 Rep. Hamilton commented on changing the net operating loss.  
**MOTION**  
01:20:23 Rep. Hertz moved to draft legislation to match individual carry back and carry forward to the current corporate carry back and carry forward laws.

## DISCUSSION ON THE MOTION

- 01:20:38 Ms. Moore asked for clarification on the motion.  
01:21:41 Sen. Cohenour  
01:22:27 Sen. Hoven  
01:23:33 Rep. Jacobson asked if there currently is a federal agricultural carry back law. The question was redirected to Lee Baerlocher, DOR.

## VOTE

- 01:24:30 The motion failed on a 6-6 roll call vote, with Rep Hamilton, Rep. Jacobson, Rep. Smith, Sen. Boland, and Sen. Cohenour voting 'no'. Sen. Barrett voted 'no' by proxy. ([Attachment 8](#))

## LUNCH (Reconvened at 1:05 p.m.)

### **AGENCY OVERSIGHT: DEPARTMENT OF TRANSPORTATION -- Mike Tooley, Director**

- 02:28:38 Director Tooley.

### **HB 473 BARSAA update**

- 02:29:16 Larry Flynn, Department of Transportation (MDT) ([Exhibit 10](#))

### **Agency legislation requests**

- 02:33:07 Ms. Moore reviewed the process for agency legislation requests.  
02:34:05 Director Tooley discussed the department's agency legislation requests.

### **Committee questions**

- 02:41:33 Rep. Jacobson asked Ms. Moore for clarification on the agency legislative proposal drafting process.  
02:42:24 Rep. Hertz asked Ms. Moore what the alternative is for government agencies if the committee does not approve legislative requests.

### **Public comment**

- 02:43:29 Cary Hegreberg, Montana Contractors Association

### **Committee action on agency legislation requests**

#### MOTION

- 02:49:43 Sen. Cohenour moved to support the drafting of the nine legislation proposals from the Department of Transportation.

## DISCUSSION ON THE MOTION

- 02:49:57 Rep. Beard  
02:50:47 Rep. Hertz asked Director Tooley for clarification on the legislative proposal regarding the elimination of different speeds for different vehicles.  
02:51:33 Sen. Hoven asked Director Tooley if speeding fines would remain the same.  
02:52:08 Sen. Blasdel asked Director Tooley for clarification of truck speed limits.  
02:52:56 Rep. Smith asked Director Tooley if U.S. Highway 2 would be included in the proposed legislation regarding the elimination of different speeds for different vehicles.  
02:53:16 Rep. Hertz asked Director Tooley what the bill draft title would be for the legislative proposal regarding fuel tax laws.

02:53:43 Sen. Cohenour  
02:54:50 Rep. Jacobson  
02:55:08 Rep. Hertz asked Director Tooley for clarification on the legislative proposal regarding regulation of non-public use of right-a-way. The question was redirected to Dwayne Kailey, MDT.  
02:56:34 Rep. Beard asked Director Tooley for clarification on the legislative proposal regarding aeronautics funding laws.

#### SUBSTITUTE MOTION

02:58:55 Rep. Hertz made a substitute motion to support the drafting of the legislation proposals from the Department of Transportation except for proposals number one and three.

#### SUBSTITUTE VOTE

02:59:32 The motion failed on a 6-6 roll call vote, with Rep. Hamilton, Rep. Jacobson, Rep. Smith, Sen. Boland, and Sen. Cohenour voting 'no'. Sen. Barrett voted 'no' by proxy. ([Attachment 9](#))

#### DISCUSSION ON ORIGINAL MOTION

03:00:27 Sen. Cohenour  
03:00:40 Rep. Smith  
03:01:01 Rep. Jacobson

#### VOTE

03:02:00 The motion passed on a 9-3 roll call vote, with Rep. Hertz and Sen. Blasdel voting 'no'. Rep. Redfield voted 'no' by proxy. ([Attachment 10](#))  
03:02:22 Sen. Hoven asked Director Tooley if the department is considering regulations on autonomous vehicles.  
03:04:07 Rep. Jacobson asked Director Tooley if autonomous cars are currently legal to drive on state roads.  
03:04:30 Rep. Hertz asked Director Tooley if long-term maintenance and cost of rumble strips have been researched by the department.  
03:05:57 Rep. Smith asked Director Tooley if the department is aware of an autonomous car project in Bozeman.  
03:06:52 Sen. Hoven asked Director Tooley for an update on the Grass Range roundabout.

### **HB 473 REQUIRED PERFORMANCE AUDITS**

#### **Introduction -- Ms. Moore**

03:07:49 Ms. Moore

#### **Funding Montana's Highway Infrastructure -- Jeremy Verhasselt, Performance Auditor**

03:09:35 Mr. Verhasselt ([Exhibit 11](#)), ([Exhibit 12](#)), and ([Exhibit 13](#)).

#### **Committee questions**

03:29:28 Sen. Hoven asked Mr. Verhasselt if there was public input.  
03:30:19 Sen. Hoven asked Mr. Verhasselt if the statewide transportation commission held public meetings where public input could be given.

**An Examination of the Montana Department of Transportation's Maintenance Division -- James Sutcliffe, Performance Auditor**

03:31:36 Mr. Sutcliffe ([Exhibit 14](#)) and ([Exhibit 15](#)).

**Committee questions**

03:39:43 Rep. Hamilton asked if an age of equipment comparison study with other states was done.

03:40:32 Mr. Sutcliffe continued his presentation.

**Committee questions**

03:46:48 Rep. Beard asked if projects would be in-house and what resources would be available at the time for the projects.

03:48:39 Mr. Sutcliffe continued his presentation.

**Public comment**

03:56:12 Cary Hegreberg, Montana Contractors Association

04:04:25 Darryl James, Montana Infrastructure Coalition

**Committee questions**

04:08:13 Rep. Hamilton asked Director Tooley to respond to the audit recommendations and commented on the department's comparability to other states.

04:14:33 Rep. Hamilton asked Director Tooley to clarify the infrastructure audit recommendations. The question was redirected to Lynn Zanto, MDT.

04:18:03 Sen. Hoven asked Director Tooley to comment on the department's work in chip sealing, and in engineering and design.

**Committee action**

None

**BREAK** (Reconvened at 3:14 p.m.)

**HJ 22: AGRICULTURAL PROPERTY STUDY**

**Discussion of specialty crops -- Shauna Helfert, Department of Revenue**

04:38:22 Ms. Helfert ([Exhibit 16](#))

**Analysis of valuing 1/2 acre at market value -- Ms. Helfert**

04:41:00 Ms. Helfert ([Exhibit 17](#))

**Committee questions**

04:42:33 Rep. Hertz asked for clarification on the one acre value and what was used for the market value for the 1/2 acre.

**Idaho and Washington information request -- Ms. Moore**

04:43:52 Ms. Moore ([Exhibit 18](#))

**Committee questions**

04:47:45 Rep. Jacobson asked how property is determined to be primarily used for agriculture.

**Discussion of possible bill draft concepts -- Ms. Moore**

04:48:40 Ms. Moore ([Exhibit 19](#))

**Draft final report -- Ms. Moore**

04:54:17 Ms. Moore ([Exhibit 20](#))

**Committee questions**

04:55:25 Rep. Hertz asked Ms. Helfert for clarification of valuation for parcels greater than 160 acres (see Exhibit 16).

**Public comment**

04:57:35 John Youngberg, Montana Farm Bureau  
05:02:53 Dawn Goodspeed, Bigfork  
05:08:47 Frank Mutch, Polson  
05:21:37 Richard Schreiber, Polson  
05:33:22 Deb Carstenson, Polson  
05:35:25 Larry Robinson, Flathead Lake Winery  
05:41:50 Rep. Essmann, HD 54  
05:48:53 Bob Story, Montana Taxpayers Association

**Committee questions**

05:53:09 Sen. Hoven asked DOR for clarification on the valuation of a house that is on agricultural property. The question was answered by Ms. Helfert.  
05:54:14 Rep. Hertz asked Director Walborn why the department eliminated the 5-year grace period for orchards.  
05:55:02 Rep. Hertz asked Director Walborn if the removal of the 5-year grace period was due to losing a tax appeal.  
05:55:18 Sen. Hoven asked Director Walborn to clarify how a home is valued on agricultural land compared to residential land. The question was redirected to Bonnie Hamilton, DOR.

**Committee action**

05:58:40 Committee discussion on potential legislation.

**MOTION**

06:09:18 Sen. Cohenour moved to draft provisional classification to be reinstated with a 5-year grace period with a requirement for husbandry levels to be maintained throughout the period of time.

**DISCUSSION ON THE MOTION**

06:09:51 Sen. Cohenour asked Ms. Moore if a minimum number of products needs to be included in the proposed provisional classification.  
06:11:12 Sen. Hoven  
06:11:55 Sen. Cohenour  
06:12:24 Ms. Moore  
06:12:51 Sen. Hoven  
06:12:58 Sen. Blasdel  
06:13:19 Rep. Hertz asked for clarification of the motion.  
06:14:00 Sen. Boland  
06:14:50 Rep. Jacobson asked Ms. Moore to restate the motion.

VOTE

06:15:40 The motion passed unanimously on a voice vote.

MOTION

06:16:05 Rep. Hertz moved to draft legislation regarding irrigation costs.

DISCUSSION ON THE MOTION

06:16:19 Sen. Blasdel

06:17:17 Rep. Jacobson asked Ms. Moore to restate the motion.

VOTE

06:17:45 The motion passed unanimously on a voice vote.

MOTION

06:18:12 Rep. Hamilton moved to draft legislation aimed at an income per-acre formula determined by the Department of Revenue for specialty crops.

DISCUSSION ON THE MOTION

06:19:18 Sen. Hoven

06:19:54 Rep. Hamilton

06:20:40 Rep. Hertz

06:21:10 Rep. Beard asked for clarification of the motion.

06:21:50 Rep. Beard

06:22:20 Sen. Cohenour

06:23:25 Sen. Boland

06:24:18 Rep. Jacobson asked Ms. Moore to restate the motion.

VOTE

06:24:43 The motion failed on a 6-6 roll call vote, with Rep. Beard, Rep. Hertz, Sen. Blasdel, and Sen. Hoven voting 'no'. Rep. Redfield and Sen. Ankney voted 'no by proxy. ([Attachment 11](#))

06:25:37 Committee discussion on potential legislation.

MOTION

06:30:00 Rep. Hamilton moved to draft legislation that the 1/2 acre under a residence be valued at 75% of market value for residences on 5 acre parcels or less that have agricultural valuation.

DISCUSSION ON THE MOTION

06:30:52 Rep. Hertz

06:31:16 Rep. Jacobson

06:32:25 Sen. Hoven asked for clarification on the motion regarding the land taxation.

06:33:28 Rep. Jacobson

SUBSTITUTE MOTION

06:34:22 Rep. Jacobson made a substitute motion to consider the size of the residence.



#### DISCUSSION ON THE SUBSTITUTE MOTION

- 06:34:57 Rep. Hamilton asked for clarification on the substitute motion.  
06:36:17 Rep. Hertz  
06:36:41 Rep. Jacobson asked Ms. Moore to restate the substitute motion.

#### SUBSTITUTE MOTION VOTE

- 06:37:18 The motion failed on a 6-6 roll call vote, with Rep. Beard, Rep. Hertz, Sen. Blasdel, and Sen. Hoven voting 'no'. Rep. Redfield and Sen. Ankney voted 'no' by proxy. ([Attachment 12](#))  
  
06:38:37 Rep. Jacobson asked Ms. Moore to restate the original motion.

#### ORIGINAL MOTION VOTE

- 06:39:18 The motion failed on a 6-6 roll call vote, with Rep. Beard, Rep. Hertz, Sen. Blasdel, and Sen. Hoven voting 'no'. Rep. Redfield and Sen. Ankney voted 'no' by proxy. ([Attachment 13](#))

#### Draft Final Report

- 06:39:47 Ms. Moore asked the members if there were any changes to be made on the committee's final report.  
06:40:02 Rep. Hertz asked if recommended changes to the final report could be taken until the September 2018 meeting.

#### **AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW**

##### **Overview of administrative rule activity -- Jaret Coles, staff attorney**

- 06:40:39 Mr. Coles ([Exhibit 21](#)).

#### **Public comment**

None

#### **PUBLIC COMMENT ON ANY OTHER TOPIC WITHIN THE COMMITTEE'S JURISDICTION**

- 06:42:35 Larry Robinson, Flathead Lake Winery

#### **RECESS**

- 06:43:24 Rep. Jacobson recessed the meeting at 5:20 p.m. until July 11, 2018 at 8:30 a.m. in Capitol Room 317, Helena.

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