



## Revenue and Transportation Interim Committee

### 63rd Montana Legislature

#### SENATE MEMBERS

CHRISTINE KAUFMANN--Chair  
DICK BARRETT  
GREG JERGESON  
JANNA TAYLOR  
FRED THOMAS  
ART WITTICH

#### HOUSE MEMBERS

NANCY BALLANCE--Vice Chair  
CYDNIE ( CARLIE ) BOLAND  
ROY HOLLANDSWORTH  
CHUCK HUNTER  
TOM JACOBSON  
MIKE MILLER

#### COMMITTEE STAFF

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

# MINUTES LOG

## December 4 & 5, 2013

### Room 137, Capitol Building Helena, Montana

December 4, 2013

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.

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**

SEN. CHRISTINE KAUFMANN, Chair  
REP. NANCY BALLANCE, Vice Chair

SEN. DICK BARRETT  
SEN. GREG JERGESON  
SEN. FRED THOMAS

REP. CYDNIE ( CARLIE ) BOLAND  
REP. ROY HOLLANDSWORTH  
REP. CHUCK HUNTER  
REP. TOM JACOBSON  
REP. MIKE MILLER

#### **COMMITTEE MEMBERS EXCUSED**

SEN. JANNA TAYLOR  
SEN. ART WITTICH

#### **STAFF PRESENT**

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

## AGENDA & VISITORS' LIST

Agenda ([Attachment 1](#))

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

## COMMITTEE ACTION

### CALL TO ORDER AND ROLL CALL

00:03:05 Sen. Kaufmann called the meeting to order at 9:01 a.m. The secretary called roll. Sen. Wittich and Sen. Taylor were excused. ([Attachment 3](#))

00:04:59 Sen. Kaufmann gave opening remarks.

## AGENDA

### **SJR 23 STUDY: TAXPAYER APPEAL PROCESS**

- **Information requested at October meeting - Megan Moore**

00:05:58 Ms. Moore discussed the memorandum "Information Requests related to SJR 23 Taxpayer Appeal Study" that addresses information requested at the October 1, 2013 meeting ([Exhibit 1](#)).

Committee questions

00:13:26 Sen. Barrett

00:14:17 Ms. Moore

00:14:50 Sen. Barrett

00:14:55 Ms. Moore

- **Comparison of American Bar Association model tribunal statute with Montana law - Karen Powell, Chair, State Tax Appeal Board**

00:15:20 Ms Powell distributed a packet of documents: Summary of the ABA Model Act; Direct Comparison of the ABA Model Act and the Montana Code Sections; full language of the ABA Model Act; and the Montana Codes that were referenced ([Exhibit 2](#)).

Committee questions

00:26:34 Rep. Miller

00:26:50 Ms. Powell

00:27:44 Rep. Hollandsworth

00:28:35 Ms. Powell

00:30:57 Sen. Barrett

00:32:13 Sen. Powell

00:34:10 Rep. Ballance

00:34:34 Ms. Powell

00:36:01 Rep. Ballance

00:36:40 Ms. Powell

00:40:04 Sen. Kaufmann

00:40:36 Ms. Powell

- **Use of Office of Dispute Resolution record in State Tax Appeal Board - Jaret Coles, Staff Attorney**

00:43:56 Mr. Coles gave a presentation on the Office of Dispute Resolution procedure ([Exhibit 3](#)).

Committee questions

00:49:25 Sen. Barrett

00:50:04 Mr. Coles

00:50:31 Sen. Thomas

00:51:13 Mr. Coles

00:51:33 Sen. Thomas

00:51:49 Mr. Coles

00:52:35 Sen. Thomas

00:52:55 Rep. Hunter

00:53:47 Sen. Kaufmann

00:54:40 Sen. Thomas

- **Information requests of Department of Revenue - Dan Whyte, Department of Revenue**

00:56:44 Mr. Whyte provided the Department of Revenue's response to the October 1, 2013 requests for information on the types of property appeals ([Exhibit 4](#)).

Committee questions

01:02:43 Rep. Ballance

01:03:03 Mr. Whyte

01:03:11 Sen. Barrett

01:03:35 Mr. Whyte

01:04:18 Mr. Whyte discussed the document "Property Appraisal Appeals" that shows the total number of property appeals and centrally assessed and industrial appeals ([Exhibit 5](#)).

Committee questions

01:08:47 Rep. Miller

01:09:08 Mr. Whyte

01:09:36 Mr. Whyte gave a presentation on the corporation license tax audit appeals ([Exhibit 6](#)).

Committee questions

01:10:41 Sen. Thomas

01:11:04 Gene Walborn, Administrator for Business Income Tax Division, Department of Revenue, responded to Sen. Thomas' question.

01:11:43 Sen. Thomas

01:12:01 Mr. Walborn

- 01:12:39 Mr. Whyte gave a presentation on the timelines for two recent cases: *Cenex Harvest States Inc. vs. MDOR* and *Puget Sound Energy* ([Exhibit 7](#)).
- 01:18:36 Mr. Whyte distributed and discussed the Department's comments on the Office of Dispute Resolution Appeals Process ([Exhibit 8](#)).

**Public Comment**

- 01:23:34 Wiley Barker, Attorney, Crowley Fleck Law Firm

**BREAK**

**Public Comment on income tax appeals**

- 01:43:14 Dwayne Iverson, CPA, Shelby, Montana
- 01:47:16 Sen. Kaufmann discussed the guidelines on public comment.

**Public Comment on property tax appeals**

- 01:50:14 Dave Galt, Executive Director, Montana Petroleum Association
- 01:59:22 Wiley Barker
- 02:05:40 Kevin Nelson, Billings
- 02:14:29 Joe Roberts, Montana Association of Realtors
- 02:23:18 Dan Whyte, Department of Revenue ([Exhibit 9](#))
- 02:30:52 Bob Story, Montana Taxpayers Association
- 02:38:10 Bob Vogel, Montana School Boards Association
- 02:44:40 Sen. Kaufmann submitted three written comments to be part of the official record of the committee: Ron Clark ([Exhibit 10](#)), John Myers of Houston, Helseth & Myers, CPAs ([Exhibit 11](#)), and Beth McLaughlin, Supreme Court ([Exhibit 12](#)).

Committee questions

- 02:45:20 Rep. Hollandsworth
- 02:45:50 Mr. Iverson
- 02:46:09 Rep. Hollandsworth
- 02:46:16 Mr. Iverson
- 02:46:32 Sen. Jergeson
- 02:47:07 Mr. Galt
- 02:47:13 Sen. Jergeson
- 02:47:52 Mr. Galt
- 02:48:06 Sen. Jergeson
- 02:49:11 Mr. Galt
- 02:50:51 Sen. Barrett
- 02:51:43 Mr. Whyte
- 02:53:01 Sen. Barrett
- 02:53:14 Mr. Whyte
- 02:53:45 Sen. Barrett
- 02:54:16 Mr. Galt
- 02:55:33 Sen. Thomas
- 02:56:36 Mr. Iverson
- 02:57:17 Sen. Thomas

02:57:25 Mr. Iverson

## LUNCH

### SJR 23 STUDY (continued)

- **History of Taxpayer appeal process**

04:06:02 Megan Moore gave a presentation on tax appeals in the Constitution ([Exhibit 13](#)). She referred the committee to a copy of the committee verbatim transcript dated March 4, 1972 of the Montana Constitution regarding Section 7 ([Exhibit 14](#)).

Committee questions

04:13:11 Sen. Kaufmann

04:13:18 Ms. Moore

04:13:38 Sen. Barrett

04:13:48 Ms. Moore

04:13:50 Sen. Barrett

- **Direction to staff**

04:14:19 Rep. Hollandsworth

04:16:14 Rep. Hunter

04:16:24 Sen. Kaufmann

04:16:34 Rep. Hunter

04:17:04 Sen. Kaufmann

04:17:09 Sen. Thomas

- **Meeting dates**

04:17:24 There was a discussion regarding a change in the scheduled meeting date in February, 2014. It was decided that Ms. Moore would poll the members for a meeting date in February and in May that would accommodate the committee members' schedules.

### DEPARTMENT OF REVENUE REPORTS - Mike Kadas, Director

- **Department operational efficiencies**

04:22:51 Director Kadas ([Exhibit 15](#)).

Committee questions

04:37:33 Rep. Miller

04:38:12 Sen. Kaufmann

- **Customer Service Survey**

04:38:48 Director Kadas distributed and discussed the Department of Revenue's Customer Service Survey ([Exhibit 16](#)).

Committee questions

04:40:43 Rep. Ballance

04:41:25 Director Kadas  
04:41:28 Rep. Ballance  
04:41:42 Director Kadas

- **Litigation Report - Dan Whyte**

04:44:24 Mr. Whyte provided litigation updates ([Exhibit 17](#)).

- **Individual Income Tax Fraud**

04:46:47 Director Kadas gave a presentation on individual income tax fraud ([Exhibit 18](#)).

- **Biodiesel Blending and Storage Tax Credit Report - Rose Bender, Economist**

04:49:36 Ms. Bender gave a presentation on the biodiesel blending and storage tax credit ([Exhibit 19](#)).

Committee questions

04:51:00 Sen. Jergeson  
04:51:32 Ms. Bender

- **Charitable Endowment Credit Report - Aaron McNay, Economist**

04:51:58 Mr. McNay gave a presentation on the Charitable Endowment Credit ([Exhibit 20](#)).

Committee questions

04:54:50 Rep. Hunter  
04:55:00 Mr. McNay  
04:55:19 Sen. Barrett  
04:55:37 Mr. McNay  
04:56:07 Rep. Hollandsworth  
04:57:16 Sen. Kaufmann  
04:57:24 Mr. McNay  
04:57:45 Sen. Kaufmann

- **Coal Royalties**

04:57:55 Director Kadas discussed the disbursement of the \$1.9 million royalties on coal from the Department of Interior.

Committee questions

05:00:11 Rep. Ballance  
05:00:37 Director Kadas  
05:00:45 Sen. Kaufmann  
05:01:09 Director Kadas  
05:03:01 Rep. Miller asked Director Kadas to provide the percentage of cases that the Department loses, how many are appealed to the next level, and the amount of money spent on litigation versus the amount recovered.  
05:03:20 Director Kadas  
05:03:47 Rep. Miller  
05:04:01 Director Kadas

**Public Comment on Department of Revenue Presentations - none**

**DEPARTMENT OF TRANSPORTATION REPORTS - Duane Williams, Director of Motor Carrier Services, Department of Transportation**

- **Report on Dyed Fuel Enforcement**  
05:06:55 Mr. Williams gave a presentation on Dyed Fuel Enforcement ([Exhibit 21](#)).

**BREAK**

**SJR 26 STUDY: MOVEMENT OF OVERSIZE LOADS**

- **Movement of oversize loads in other states and provinces - Megan Moore**  
05:31:06 Ms. Moore gave a presentation on Movement of Oversize Loads in Other Jurisdictions ([Exhibit 22](#)). Ms. Moore discussed the map that shows Alberta's high load corridor ([Exhibit 23](#)).

Committee questions

- 05:35:53 Sen. Barrett  
05:36:20 Ms. Moore  
05:36:40 Sen. Kaufmann  
05:36:56 Ms. Moore

- 05:37:31 Ms. Moore discussed the map that shows Alberta's long corridor vehicle routes (LCV Routes) ([Exhibit 24](#)).

Committee questions

- 05:38:53 Rep. Ballance  
05:39:02 Ms. Moore

- 05:39:39 Ms. Moore gave a presentation on information requested at an earlier meeting on recent developments in oversized loads that travel through Idaho into Montana.

- 05:45:11 Ms. Moore gave a presentation on Minnesota's super load corridors ([Exhibit 25](#)).

- **Movement of oversize loads in Montana and other jurisdictions - James McCord, Bay Ltd.**  
05:49:20 Mr. McCord gave a presentation on movement of oversize loads in Montana and other states.

Committee questions

- 06:03:42 Sen. Barrett  
06:04:17 Mr. McCord  
06:04:49 Sen. Barrett  
06:04:59 Mr. McCord

06:05:09 Sen. Barrett  
06:05:57 Mr. McCord  
06:06:19 Rep. Hollandsworth  
06:06:38 Mr. McCord  
06:08:00 Rep. Boland  
06:08:23 Mr. McCord  
06:09:06 Rep. Hunter  
06:09:36 Mr. McCord  
06:10:07 Sen. Kaufmann  
06:10:33 Mr. McCord  
06:11:39 Rep. Ballance  
06:12:10 Mr. McCord

- **Montana statutory authority and commerce corridors - Duane Williams, Administrator, Motor Carrier Services, Department of Transportation**

06:14:17 Mr. Williams

Committee questions

06:16:51 Sen. Kaufmann  
06:17:07 Mr. Williams  
06:17:35 Rep. Boland  
06:18:06 Mr. Williams  
06:18:36 Rep. Boland  
06:18:48 Mr. Williams  
06:19:04 Sen. Kaufmann  
06:19:23 Rep. Jacobson  
06:19:47 Mr. Williams  
06:20:08 Rep. Jacobson  
06:20:18 Mr. Williams  
06:20:39 Rep. Jacobson  
06:20:47 Mr. Williams

06:20:52 Rep. Jacobson  
06:21:05 Mr. Williams

**Public Comment on SJR 26 Study**

06:21:36 Cary Hageberg, Montana Contractors Association  
06:27:50 Spook Stang, Executive Vice President, Motor Carriers of Montana

Committee questions

06:33:42 Rep. Hollandsworth  
06:33:55 Ms. Moore  
06:34:12 Rep. Hollandsworth  
06:35:00 Mr. Williams  
06:35:46 Rep. Ballance  
06:36:10 Mr. Williams  
06:36:14 Rep. Ballance  
06:36:22 Mr. Williams



- **Direction to staff on study**

06:37:39 Sen. Barrett  
06:38:28 Rep. Hunter  
06:38:50 Rep. Boland  
06:39:24 Sen. Barrett  
06:40:39 Rep. Hollandsworth  
06:41:23 Rep. Hunter  
06:41:57 Rep. Jacobson  
06:42:29 Sen. Jergeson  
06:42:48 Rep. Ballance  
06:43:52 Sen. Kaufmann

06:43:26 Ms. Moore summarized the ideas for the February meeting.

**ADMINISTRATIVE RULE REVIEW - Jaret Coles, Staff Attorney**

06:44:45 Mr. Coles discussed the rule review activities of the Department of Revenue and the Department of Transportation ([Exhibit 26](#)).

Committee questions

06:51:30 Rep. Ballance  
06:51:47 Mr. Coles  
06:52:40 Rep. Ballance  
06:53:16 Mr. Coles  
06:54:13 Rep. Ballance  
06:54:36 Mr. Coles

**PUBLIC COMMENT ON OTHER TOPICS**

06:54:57 Kevin Nelson, Billings

Committee questions

07:02:02 Sen. Thomas  
07:02:44 Sen. Kaufmann  
07:02:47 Sen. Thomas

**RECESS**

07:03:17 Sen. Kaufmann recessed the meeting at 4:01 p.m. to reconvene at 8 a.m. on December 5, 2013.

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