



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

September 7-8, 2016
Room 317, Capitol Building
Helena, Montana

September 8, 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.

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COMMITTEE MEMBERS PRESENT

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

SEN. DICK BARRETT
SEN. MARK BLASDEL
SEN. BRIAN HOVEN
SEN. CHRISTINE KAUFMANN
REP. JEFF ESSMANN
REP. GREG HERTZ
REP. RAE PEPPERS
REP. BRIDGET SMITH

COMMITTEE MEMBERS EXCUSED

SEN. SUE MALEK
REP. ALAN REDFIELD

STAFF PRESENT

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

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

RECONVENE

00:00:02 Sen. Thomas reconvened the meeting at 8:02 a.m.

REVENUE ESTIMATING AND MONITORING (continued)

Individual income tax withholding - Stephanie Morrison, Legislative Fiscal Division

00:00:52 Ms. Morrison ([Exhibit 40](#))

Committee Questions

00:19:22 Sen. Hoven asked about estimated payments that are being considered withholding.

Corporate income tax update on model and refunds - Sam Schaefer

00:21:42 Mr. Schaefer ([Exhibit 41](#))

Committee Questions

00:26:50 Rep. Essmann asked Mr. Schaefer if he could provide a bar chart that shows the refunds in \$50,000 increments.

00:27:39 Sen. Hoven commented on the need to be conservative on corporate income.

00:28:15 Rep. Hertz asked how Mr. Schaefer accounts for refunds applied to the following year's estimated payments.

AGENCY OVERSIGHT: MONTANA TAX APPEAL BOARD

Update - Dave McAlpin, Chair (by phone)

00:29:55 Mr. McAlpin discussed the documents, Active Cases ([Exhibit 42](#)) and Upcoming Hearings ([Exhibit 43](#)).

Committee Questions

00:37:54 Rep. Essmann asked Mr. McAlpin about getting valid comparables into models for valid sales comparisons.

00:42:02 Sen. Thomas asked if Mr. McAlpin is anticipating any trends in the tax appeal process.

AGENCY OVERSIGHT: DEPARTMENT OF REVENUE

Preliminary information on residential property values - Mike Kadas, Director

00:44:40 Director Kadas ([Exhibit 44](#))

Committee Questions

00:49:04 Rep. Essmann expressed his concern over the number of high sales in Yellowstone County due to a particular buyer.

00:54:15 Rep. Hertz asked if the Department has any internal audit procedures where a staff person pulls a property file and reviews that file to make sure that local appraisers are following all the rules and procedures.

Major case update - Dan Whyte, Chief Legal Counsel

00:56:31 Mr. Whyte ([Exhibit 45](#))

Committee Questions

01:05:25 Sen. Thomas asked about the Lake County case and taxing tribal-owned properties that are income-generating properties.

Response to public comment on estate tax return filings by nonresidents - Gene Walborn, Deputy Director

01:08:34 Mr. Walborn provided an update on the dispute with Mr. Sonn's tax returns.

Committee Questions

01:12:04 Sen. Hoven asked why royalties aren't treated like dividends.

Required reports

Property Tax Exemption Report (House Bill 389) - Cynthia Monteau Moore, Administrator, Property Assessment Division

01:15:29 Ms. Monteau Moore ([Exhibit 46](#))

Committee Questions

- 01:19:33 Rep. Essmann asked if the Department is going to need to extend the authorization for the next biennium to complete the report.
- 01:20:47 Sen. Barrett suggested that the committee have some education on the modeling process.
- 01:20:53 Rep. Jacobson asked Sen. Barrett if he would like that information emailed or would he like that as a recommendation for the next interim.
- 01:22:33 Director Kadas discussed the report from the Agricultural Advisory Committee. There is a part of the valuation process that is in statute that the Advisory Committee feels needs some attention.

Public Comment - None.

AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW

Administrative rule review report - Jaret Coles, Staff

Attorney 01:25:01 Mr. Coles ([Exhibit 47](#))

Committee Questions

- 01:38:40 Rep. Hertz asked that a representative from the Department discuss MAR 42-2-961, Computation of Wage Withholding for State Income Taxes.
- 01:39:31 Gene Walborn, Deputy Director, responded.
- 01:40:47 Rep. Hertz asked if the Department will still allow employees to claim different numbers of exemptions for state withholding versus federal withholding.
- 01:42:04 Rep. Essmann asked the committee to consider sending a letter to the Department regarding the AB-26 rule change that the Department is proposing.
- 01:43:47 Mr. Coles said that the specific language that Rep. Essmann is referring to is in MAR 42-2-956, which is not included in the packet. There is a proposed amendment to 42-20-173(7). The language says that the Department will deny

the property tax owner's AB-26 form if there is no response to the Department's final written request.

- 01:45:09 Sen. Kaufmann said she would like to hear from the Department if there are hardships that would be created by extending the deadline.
- 01:45:30 Ms. Monteau Moore responded.
- 01:46:45 Sen. Kaufmann asked about the number of times a taxpayer is contacted before receiving the final notification, and how the 30-day deadline is different than the 14-day deadline.
- 01:49:40 Rep. Essmann asked how a taxpayer would know that he has received the final request for information.
- 01:51:10 Rep. Peppers asked if the final notices are certified or required to be certified.
- 01:54:01 Sen. Thomas asked about the timeframe for filing AB-26s.
- 01:59:16 Sen. Barrett asked if a taxpayer's AB-26 is denied, whether the taxpayer loses his ability to go to the County Tax Appeal Board.
- 01:59:38 Sen. Kaufmann discussed sending a letter asking for an extension of the timeframe and for more information is a good idea.
- 02:00:16 Sen. Thomas asked about moving the certification date forward and getting the valuations out to the taxpayer by May 1.
- 02:01:54 Director Kadas discussed the impact to local governments if there is a change in the timeframe for getting valuations out by a date certain.
- 02:08:07 Sen. Barrett thinks it should be clear that a written final notice is final notice and that it should be final after some initial process. The final notice should not be the initial notice.

Motion/Vote

- 02:09:19 Rep. Essmann moved that Mr. Coles attend the hearing and notify the Department of the concerns that were raised with respect to providing a definition of what the notice process is, and providing a final written notice to the filer of the AB-26 before the AB-26 would be denied. The motion passed unanimously by voice vote.

Public Comment on administrative rule review

- 02:11:15 Matt Donnelly, General Manager, Gallatin Gateway County Water and Sewer District, said he had requested a review of ARM 18.7.202 because he believed the current rule is not consistent with the legislative intent.

Committee Discussion

- 02:11:20 Rep. Jacobson referred this issue to Mr. Coles for explanation.
- 02:15:08 Mr. Coles discussed the letter from Mr. Donnelly ([Exhibit 48](#)), and the response from the Department of Transportation ([Exhibit 49](#)).
- 02:16:46 Sen. Barrett asked Mr. Coles if this is an issue of rules or statutes and whether the committee can look at any existing rule and review it for conformity with the statute.
- 02:17:20 Mr. Coles said that this committee always has had the jurisdiction to review rules whether the rule had been amended in the past or just recently.
- 02:18:24 Sen. Hoven asked Mr. Donnelly if his issue was because of a construction project that he is involved in.
- 02:18:30 Mr. Donnelly explained the situation and how he would rectify it.

- 02:22:27 Rep. Jacobson asked when the Department will take a comprehensive look at Mr. Donnelly's issue and that the Montana Department of Transportation provide a written response that the committee can refer to, to help clear this up.
- 02:23:08 Sen. Thomas asked Mr. Coles if it would take an opinion from the Attorney General regarding an administrative rule not complying with the intent of the law.

Motion

- 02:24:45 Sen. Thomas moved that Mr. Coles look into this further and report back to the committee on its current status and to recommend any legislative remedy to address the issue that has been brought by Matt Donnelly.

Committee Discussion

- 02:25:20 Sen. Kaufmann said that if the Department responds that they believe that they can handle it through rulemaking, then the Department should propose a timeline in which they can accomplish it.

Vote

- 02:25:43 The motion passed unanimously by voice vote.

Public Comment

- 02:26:08 Bob Story, Montana Taxpayer Association

UPDATE ON REVENUE BILL REREFERRAL RULE - Megan Moore

- 02:28:21 Ms. Moore provided an update on the revenue bill rereferral rule. The Rules Subcommittee met and decided that rereferral of the revenue bill will be prohibited if the revenue bill raises revenue but not if it decreases revenue.

BREAK (reconvened at 10:43 a.m.)

FOLLOW-UP ON COMMITTEE-REQUESTED BILL DRAFTS - Staff and committee

- 02:41:25 Sen. Thomas gave an overview of the TIF bills to be discussed.

LCtif7 Discussion

- 02:42:30 Ms. Moore ([Exhibit 50](#))
- 02:45:00 Rep. Jacobson said that this bill is a compromise to make sure that there is adequate voice on the local boards from the schools.
- 02:45:41 Sen. Barrett said he is concerned about the term "representative".

Motion/Vote

- 02:47:10 Rep. Essmann moved to amend LCtif7 to allow the mayor or the county commission to appoint one of three nominees suggested by the school district. The motion passed unanimously by voice vote.

Public Comment on LCtif7

- 02:49:26 Bob Story, Montana Taxpayers Association

Motion/Vote on LCtif7 as a committee bill

- 02:50:39 Rep. Jacobson moved that LCtif7 as amended proceed as a committee bill. The motion passed unanimously by voice vote.

LCag01 Discussion

Motion

02:52:25 Rep. Essmann moved to proceed with LCag01 as a committee bill.

Discussion on the Motion

02:52:58 Rep. Essmann said he supports LCag01.

02:54:17 Sen. Hoven commented on the one acre being too large and proposed that the number should be no larger than a half acre.

02:55:54 Director Kadas said that the Department has a model for rural areas that are multicounty models.

02:56:24 Rep. Hertz suggested the wording to be "up to one acre" and asked Director Kadas what his opinion is of the size of the tract.

02:59:39 Sen. Thomas asked about the effective date and the retroactive term of the reappraisal cycle.

Motion to change the effective date

03:00:24 Rep. Essmann moved to change the effective date to January 1, 2018.

Discussion on the Motion

03:01:11 Director Kadas said that if you leave the acreage at one acre, it would just be changing the actual classification. If that acreage is changed to 1/2 acre, then the Department will need more time to get those done.

03:01:36 Sen. Thomas asked about application of the dates.

03:01:46 Director Kadas said that if it was effective upon passage and approval, then it would apply this coming cycle and it would be effective for new taxes paid in November of 2017.

03:02:02 Sen. Hoven asked about the impact on a rancher who has a house in the mountains but it is on agricultural land.

03:03:01 Frank McCall, Agricultural and Forest Management Analyst, said that there would be some influence because sales would be taken into account to develop the market models that will be used for putting a value on the 1-acre site.

03:03:36 Rep. Essmann withdrew his motion to amend the effective date.

Public Comment on LCag01 - None.

Vote on LCag01 as a committee bill

03:04:28 The motion passed on a voice vote 9-3, with Sen. Thomas and Sen. Hoven voting no, and Sen. Blasdel voting no by proxy; and Rep. Redfield and Sen. Malek voting yes by proxy.

LCag02 Discussion

03:06:45 Rep. Essmann asked Ms. Moore to address the net effect on parcels from 20 to 160 acres in terms of their classification.

03:06:50 Ms. Moore said that what this means is a property between 20 and 160 acres would either have to qualify for the income amount of \$1,500, or would otherwise become class 4 property.

03:08:44 Sen. Hoven said that as he reads this, it is like an opt in/opt out.

- 03:09:57 Frank McCall, Department of Revenue, said that you are automatically nonqualified if you meet the size limit.
- 03:11:09 Sen. Barrett asked Mr. McCall if he thinks that most of these currently nonqualified plots would not meet the requirement for agricultural production.
- 03:12:25 Rep. Jacobson asked Mr. McCall about qualifying as agricultural if the revenue from your agricultural production is \$1,500.

Public Comment on LCag02

- 03:14:15 Bob Story, Montana Taxpayers Association

Motion/Vote

- 03:15:42 Rep. Hetz moved to proceed with LCag02 as a committee bill. The motion passed 9-3, on a voice vote with Sen. Thomas voting no, Rep. Redfield and Sen. Blasdel voting no by proxy, and Sen. Malek voting yes by proxy.

LCag03 Discussion

- 03:17:54 Rep. Essmann said that the title of the bill needs to reflect the long-term historical use language.
- 03:18:00 Sen. Thomas said that Rep. Essmann's comment will be taken as a friendly amendment.

Public Comment on LCag03

- 03:18:33 Director Kadas
- 03:19:47 Rep. Essmann disagreed with Director Kadas' assessment of what the goal of the bill is.

Motion

- 03:20:44 No motion was made on LCag03.

LCag04 Discussion

- 03:21:17 Ms. Moore discussed the clean up language for both LCag04 and LCag4b.
- 03:22:01 Sen. Kaufmann said the committee should accept the clean up language and put it in another bill. She asked if the Department had any thoughts on an inflationary adjustment.
- 03:24:33 Sen. Barrett commented that something has to be done with \$1,500, but not just changing the \$1,500. It is nonsensical to have the same income requirement or growth revenue requirement for 160 acres or for 2 acres. It is too little for 160 acres but too much for 2 acres.
- 03:26:53 Sen. Hoven asked Director Kadas if he knew how many 20-acre parcels in Montana are classified as agricultural land.
- 03:28:28 Rep. Jacobson said that he would not like to see LCag04 move forward without a change in the \$1,500 number.
- 03:29:39 Sen. Barrett said that not only should it be based on a per acre basis but also on the characteristics of the land itself.
- 03:31:19 Sen. Kaufmann agreed with Sen. Barrett's proposal to continue to work on the bill and propose an amend to do something different.

Motion

- 03:32:22 Sen. Kaufmann moved to accept LCag04 as a committee bill and to adjust the \$1,500 in both areas to make it \$3,500.

Discussion on the Motion

- 03:33:10 Sen. Barrett requested that the committee vote on the amendment and on the bill separately.
- 03:33:15 Sen. Thomas said that there are two motions on the table.
- 03:34:22 Ms. Moore clarified that the committee will change the \$1,500 in both places to \$3,500. She referred the committee to page 7 of the bill draft.
- 03:34:28 Rep. Hertz said he would support the change of the \$1,500 number. He asked about the language regarding grazing on page 7 of the bill draft.
- 03:36:25 Sen. Barrett asked about annual gross income from selling the stock that is raised on the land.

Vote on amending LCag04 to adjust the \$1,500 number

- 03:40:47 The motion passed on a voice vote 7-4, with Senators Thomas and Barrett voting no, and Sen. Blasdel and Rep. Redfield voting no by proxy. Sen. Malek's proxy was not voted.

Motion/Vote to forward LCag04

- 03:42:10 The committee moved to forward LCag04 as amended as a committee bill. The motion passed on a voice vote 8-2, with Sen. Thomas voting no and Rep. Redfield voting no by proxy. The proxies of Sen. Blasdel and Sen. Malek were not voted.

LCag4b

- 03:43:50 Sen. Thomas discussed the effects of LCag4b.

Public Comment on LCag4b

- 03:44:11 Bob Story, Montana Taxpayers Association

Motion/Vote

- 03:44:46 Rep. Essmann moved to proceed with LCag4b as a committee bill. The motion passed on a voice vote 9-1, with Rep. Redfield voting no by proxy. The proxies of Sen. Blasdel and Sen. Malek were not voted.
- 03:44:50 Rep. Essmann volunteered to carry LCag4b.
- 03:45:48 Ms. Moore discussed combining the LCag bills.
- 03:46:00 Rep. Essmann opposed that suggestion.
- 03:47:31 Sen. Kaufmann said that the clean up language should be available in any bill that might pass.
- 03:49:05 Sen. Thomas asked Ms. Moore if she is saying that LCag04 and LCag4b could be combined and it would not affect the change that is being done in LCag4b.
- 03:49:10 Ms. Moore said that all of the bills have policy changes and whether or not to combine the bills is up to the committee.
- 03:49:15 Sen. Thomas asked if there is a motion for combining the agriculture valuation bills.
- 03:49:18 No motion to combine the agriculture valuation bills was made.

LCbelt

- 03:49:52 Ms. Moore ([Exhibit 51](#))

Motion/Vote

03:50:35 Rep. Essmann moved to amend LCbelt to return to the original definition of "motor vehicle".

Discussion on the Motion

03:50:37 Rep. Essmann said that his reason is that "motor vehicle" is defined in Title 61. There is no definition that appears for passenger vehicle and that may be used to broaden the scope of this bill. He wanted the motor vehicle language to appear in LCbelt, and the passenger language to be struck.

03:51:53 Ms. Moore asked Rep. Essmann if he would strike the definition of passenger vehicle, return the term to motor vehicle, and use the definition of motor vehicle provided in this bill.

03:52:51 Rep. Essmann clarified that he would like to strike the definition of "passenger vehicle" in the original version of LCbelt and return to the use of the term "motor vehicle" that is in the original section.

03:53:00 Ms. Moore said that she will look at the bill draft before the next meeting to see if there will be any problems with that definition change.

Vote

03:54:24 The motion failed on a voice vote 2-7, with Rep. Essmann and Rep. Hertz voting yes, and no proxies being voted.

Motion to amend LCbelt

03:54:56 Rep. Essmann moved to amend LCbelt by adding a new subsection to read "children under the age of 16 cannot ride unrestrained in the back of a pickup".

Discussion on the Amended Motion

03:55:00 Ms. Moore said that that can be achieved by adding language that says "an occupant over the age of 16 of a passenger vehicle in which all seatbelts are being used by other occupants".

03:56:34 Sen. Kaufmann said she will vote in favor of the amendment.

03:56:43 Sen. Hoven said that the amendment should be a separate bill.

03:57:04 Rep. Hertz asked if the bill covers all state and federal highways, and rural and county roads.

Roll Call Vote

03:58:52 The motion failed on a roll call vote, 6-6. ([Attachment 7](#))

SPONSOR ASSIGNMENTS TO BILL DRAFTS

04:01:07 LCbelt - Sen. Barrett
LCincr - Sen. Blasdel
LCfix1 - Rep. Hertz
Combined LCtl01 and LCtl02 - Rep. Jacobson
LCag4b - Rep. Essmann
LCag04 - Rep. Essmann
LCag02 - Rep. Hertz
LCag01 - Rep. Essmann
LChsra - Sen. Hoven
LC2ec1 - Rep. Jacobson

LCtif6 - Rep. Hertz
LCtif5 - Sen. Thomas
LCtif3 - Rep. Essmann
LCtif7 - Sen. Hoven

PUBLIC COMMENT on any other topic within the committee's jurisdiction

None

NEXT MEETING: November 17, 2016

04:06:48 There was a discussion about meeting, either by phone or a subcommittee, to work on the revenue estimate. Sen. Thomas decided that there was no need to meet.

ADJOURNMENT

04:09:13 With no further business before the committee, Sen. Thomas adjourned the meeting at 12:11 p.m.

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