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REVENUE INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS

Duane Ankney
Dick Barrett
Mark Blasdel
Jill Cohenour
Brian Hoven
Susan Webber

HOUSE MEMBERS

Becky Beard
Zach Brown
John Fuller
Jim Hamilton
Marilyn Marler
Alan Redfield

COMMITTEE STAFF

Megan Moore - Research Analyst
Jaret Coles - Attorney
Fong Hom - Secretary

MINUTES LOG
ZOOM CONFERENCE MEETING
April 29, 2020
Remote Room 102

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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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ROLL CALL

Members Present:

Rep. Alan Redfield, Chair
Sen. Dick Barrett, Vice Chair
Sen. Duane Ankney
Sen. Mark Blasdel
Sen. Brian Hoven
Sen. Susan Webber

Rep. Becky Beard
Rep. Zach Brown
Rep. John Fuller
Rep. Jim Hamilton
Rep. Marilyn Marler

Members Excused:

Sen. Jill Cohenour

Staff Present:

Megan Moore, Research Analyst
Jaret Coles, Attorney
Fong Hom, Secretary

AGENDA (Attachment 1)

COMMITTEE ACTION

The Revenue Interim Committee:

- voted to recommend retention of the credit for energy conserving expenditures and to recommend increasing the credit amount to \$800 and allow it to be refunded, requested technical changes to repeal the credit for the interest differential in loans from utilities and to remove an out-of-place reference to energy generation, and requested more information on eligibility for the federal energy conservation tax credit;
- requested additional data on how many taxpayers claim the credit for alternative energy systems for systems that use a recognized form of nonfossil energy generation compared with how many taxpayers claim the credit for low-emission wood or biomass combustion devices; and
- requested draft legislation for all staff-suggested clarifications.

CALL TO ORDER/ROLL CALL

09:30:00 Rep. Alan Redfield called the meeting to order at 9:30 a.m. The committee secretary called roll. Sen. Jill Cohenour was excused and left her proxy with Sen. Dick Barrett.

AGENCY OVERSIGHT: DEPARTMENT OF REVENUE

Impacts of COVID-19 on Agency Operations - Gene Walborn, Director

09:33:57 Mr. Walborn provided an update on the Department of Revenue's efforts in adhering to the governor's directive during the COVID-19 pandemic.

09:58:30 Mr. Walborn discussed the change in the filing date for individual income tax returns and payments from April 15 to July 15, 2020.

Rental Car Tax and Peer-To-Peer Car Sharing - Gene Walborn

09:49:15 Mr. Walborn discussed the rental vehicle tax and how that applies to peer-to-peer car rental transactions.

Questions About March Reports - Gene Walborn

09:51:18 Mr. Walborn discussed the Department of Revenue's current tax appeals. **(Exhibit 1)**

Committee Questions of Director Walborn

09:52:34 Sen. Hoven asked if there was a reduction in the number of tax returns because of the change in the filing date.

09:55:19 Rep. Hamilton asked whether unemployment insurance is subject to income tax.

09:56:23 Rep. Brown asked about the process of assessing new properties.

REQUIRED REPORTS

Qualified Endowment Tax Credit - Aaron McNay, Economist, Department of Revenue

09:59:55 Mr. McNay discussed the charitable endowment tax credit required report.

Student Scholarship Organizations - Aaron McNay

10:02:37 Mr. McNay discussed the student scholarship organizations tax credit required report. [\(Exhibit 2\)](#)

Committee Questions of Mr. McNay

10:05:21 Sen. Barrett asked how the present value is computed and how the discount is calculated for the charitable endowment credit. Sen. Barrett also asked about the Supreme Court's ruling that the scholarship organizations credit is unconstitutional and the Department's ruling that the credit could not be applied to religious schools.

10:08:53 Rep. Hamilton provided information on calculating the charitable endowment gift amount.

Biodiesel Blending and Storage Tax Credit - Dylan Cole, Economist, Department of Revenue

10:10:50 Mr. Cole said that the information in the memorandum on the biodiesel blending and storage tax credit was incorrect and once the income tax division confirms whether or not all the credits taken in Tax Year 2018 were valid or erroneous, a new document will be republished and sent to the Revenue Interim Committee.

Public Comment on the Department of Revenue Reports

10:12:40 Bob Story, Montana Taxpayer Association, asked Director Walborn about taxing the federal economic stimulus payments.

AGENCY OVERSIGHT: MONTANA TAX APPEAL BOARD

Inspections Issue - Dave McAlpin, Chair, Montana Tax Appeal Board

10:15:42 Mr. McAlpin discussed the property inspections that Director Walborn had spoken about and the need to clarify the statute regarding property inspections.

Impacts of COVID-19 on agency operations - Dave McAlpin

10:18:26 Mr. McAlpin gave a presentation on how the Montana Tax Appeal Board has adapted to the COVID-19 pandemic. He also gave a presentation on the number of tax appeal cases pending [\(Exhibit 3\)](#) and a summary of the work done on county appeals [\(Exhibit 4\)](#).

Public Comment on Montana Tax Appeal Board

None

AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW

10:27:06 Jaret Coles, Staff Attorney, discussed the Administrative Rule Activity dated March 4, 2020, [\(Exhibit 5\)](#) and the Supplemental Administrative Rule Activity dated April 24, 2020 [\(Exhibit 6\)](#).

Public Comment on Administrative Rule Review

10:31:05 Director Walborn discussed the proposed rules for Income Tax - Montana Economic Development Industry Advancement Act (MEDIAA), MAR 452-1019.

INCOME TAX CREDIT REVIEW

Tax Credit Review Duty - Megan Moore, Research Analyst

10:32:58 Ms. Moore gave a brief overview of the documents that she will be discussing. She noted that all the documents are available on the Revenue Interim Committee's website, as well as the two public comment letters that she had received.

Credit for Energy-Conserving Expenditures

10:34:47 Ms. Moore ([Exhibit 7](#))

Public Comment on energy-conserving expenditures credit

10:48:14 Brian Fadie, Clean Energy Program Director, Montana Environmental Information Center

10:55:28 Makenna Sellers, Northern Plains Resource Council ([Exhibit 8](#))

Committee Discussion

10:58:27 Rep. Brown asked about getting more information on what the average income level is of those people who are taking the energy-conserving expenditures credit.

11:00:57 Rep. Brown commented on the technical considerations that were raised by Ms. Moore at the end of her report. He also wanted to know what types of expenditures should or should not be listed as eligible in the energy-conserving expenditures credit.

11:01:41 Rep. Hamilton said that he supports retaining the energy-conserving expenditures credit. He suggested that a bill be drafted to make the eligible items in the energy-conserving expenditures credit align with the federal conservation credit, and also suggested increasing the amount of the credit.

11:05:27 Sen. Barrett suggested looking at the decision tools on the Tax Credit Review Worksheet for discussion purposes. ([Exhibit 9](#))

11:07:29 Sen. Hoven gave his reasons for retaining the credit.

11:08:29 Rep. Beard said that she would like this committee to postpone action on proposing legislation to extend the tax credit.

11:11:37 Rep. Marler said that the committee does not need additional information on the credit for energy-conserving expenditures.

Alternative Energy Systems Credit

11:12:35 Ms. Moore discussed the Alternative Energy Systems Credit. ([Exhibit 10](#))

Public Comment on alternative energy systems credit

- 11:26:34 Tyler Mortenson, Architect, Billings
- 11:29:38 Brad Van Wert, Harvest Solar
- 11:33:39 Sen. Hoven asked Mr. Van Wert several questions about solar panels.
- 11:36:02 Bob Story, Montana Taxpayers Association
- 11:39:23 Andrew Valainis, Executive Director of Montana Renewable Energy Association ([Exhibit 11](#))
- 11:43:47 Rep. Redfield asked about people replacing wood stoves and claiming the alternative energy systems credit.
- 11:44:21 Ms. Moore and Mr. McNay responded to Rep. Redfield's question.
- 11:45:46 Sen. Hoven asked Mr. Valainis if the people who are inquiring about an alternative energy system mention the tax credit at their initial visit.
- 11:46:02 Mr. Valainis responded to Sen. Hoven's question.
- 11:47:07 Mr. Van Wert responded to Sen. Hoven's question.
- 11:48:20 Donna Onstott said she is in support of the alternative energy systems credit.

Committee Questions

- 11:50:38 Rep. Beard asked Mr. Valainis about the impacts to solar panels sales if Montana did not have the alternative energy systems credit.
- 11:51:51 Rep. Brown asked if someone from the industry group could discuss the question on the tax credit review worksheet: Does this credit reward decisions that may have been made regardless of the existence of the credit?
- 11:53:27 Mr. Valainis and Mr. Van Wert responded to Rep. Brown's question.
- 11:58:32 Ms. Moore provided information on the percentage of the tax credits used for low-emission wood or biomass combustion devices in tax years 2014 to 2018.
- 11:59:26 Sen. Barrett commented that a way to motivate people to take advantage of the alternative energy systems credit would be if the costs of installing the systems were fully refundable.
- 12:01:55 Rep. Hamilton said that the committee needs to look at both the energy-conserving expenditures credit and the alternative energy systems credit using the decision tool on the Tax Credit Review Worksheet.
- 12:02:46 Rep. Redfield asked Ms. Moore to compile the comments and requests for information for review and committee action at the next meeting.
- 12:04:25 *Rep. Redfield left the meeting because of computer failure.*
- 12:05:38 Sen. Ankney commented on Sen. Hoven's remarks about having to buy additional power when there was a shortage and that using that statement to justify the tax credits is not a good argument.

Motion

12:07:32 Rep. Hamilton moved that the credit for energy-conserving expenditures be maintained with possible amendments from the committee.

Committee discussion on the motion

12:10:07 Sen. Barrett said that the committee should adopt the technical changes that Ms. Moore has recommended.

12:10:47 Ms. Moore discussed the option of removing the language "or uses a recognized nonfossil form of energy generation" in 15-32-106, MCA, to say that "this section applies to the alternative energy credit" and reference that section.

12:12:06 Rep. Hamilton discussed leaving the credit in place as is.

12:12:38 Sen. Barrett asked if Rep. Hamilton is proposing to take a vote on retaining the alternative energy systems credit, and then consider amendments.

12:12:56 *Ms. Moore said that Rep. Beard has Rep. Redfield's proxy.*

Vote

12:13:25 The motion passed on a roll call vote, 7-5, with Sen. Hoven, Sen. Webber, Rep. Brown, Rep. Hamilton, Sen. Barrett, and Rep. Marler voted yes, and Sen. Cohenour voting yes by proxy; Sen. Ankney, Sen. Blasdel, Rep. Beard, and Rep. Fuller voted no, and Rep. Redfield voting no by proxy.

Motion

12:18:01 Sen. Hoven moved to increase the energy-conserving credit from \$500 to \$800.

Vote

12:19:17 The motion passed on a roll call vote, 7-5, with Sen. Barrett, Sen. Hoven, Sen. Webber, Rep. Brown, Rep. Hamilton, and Rep. Marler voted yes, and Sen. Cohenour voting yes by proxy; Sen. Ankney, Sen. Blasdel, Rep. Redfield, Rep. Beard, and Rep. Fuller voted no.

Motion

12:21:42 Sen. Barrett moved to make the energy-conserving credit fully refundable.

Committee Discussion

12:22:20 Sen. Hoven asked what the economic impact might be.

12:23:39 Sen. Barrett discussed how to incentivize people whose tax liability is less than \$500 and the incentive being the same regardless of the taxpayer's level of income.

12:24:13 Rep. Redfield said he is voting no on the motion.

12:26:11 Rep. Hamilton said that voting for or against the refundable credit does not preclude the committee from cleaning up legislation. He is in favor of the motion.

Vote

12:27:31 The motion passed on a roll call vote, 7-5, with Rep. Brown, Rep. Hamilton, Rep. Marler, Sen. Barrett, Sen. Hoven, and Sen. Webber voted yes, and Sen. Cohenour voting yes by proxy; Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Ankney, and Sen. Blasdel voted no.

Motion

12:29:44 Rep. Hamilton moved to bring the definitions of eligibility for the energy-conserving credit into alignment with federal regulations, eliminate the reference to "energy generation", and eliminate the credit for interest differential in loans from utilities.

12:30:44 Ms. Moore said she would need to review the federal credit eligibility.

12:30:59 Rep. Hamilton withdrew his motion.

Motion

12:31:10 Rep. Hamilton moved to eliminate the reference to "energy generation" and to eliminate the credit for interest differential in loans from utilities not in effect.

Vote

12:32:09 The motion passed unanimously on a roll call vote with Sen. Cohenour voting yes by proxy.

Further Discussion

12:33:47 Rep. Redfield asked if the committee wanted to renew the energy-conserving credit or review the changes in Rep. Hamilton's motion.

12:34:07 Rep. Hamilton said that he would like to see Ms. Moore's review of the federal credit eligibility before proceeding with a bill draft. Rep. Hamilton asked about the alternative energy systems credit continuing and remaining as is if no action is taken by the committee.

12:36:57 Ms. Moore said that if the committee takes no action, the alternative energy systems credit would be retained because it is already in statute. She said that in her final report, she will say that the committee did not make a recommendation on the alternative energy systems credit.

12:37:33 Rep. Hamilton asked Ms. Moore about a request for additional information on the alternative energy systems credit.

12:37:40 Ms. Moore discussed the request for information on the number of biomass combustion device credits vs. alternative energy systems credits.

12:38:19 Rep. Redfield requested that Ms. Moore provide that information before working on a bill draft.

POSSIBLE COMMITTEE CLEAN-UP LEGISLATION

Staff-identified possible clean-up legislation - Megan Moore

12:38:52 Ms. Moore discussed the document, Committee Clarification Legislation.
(Exhibit 12)

Motion

12:44:45 Sen. Barrett moved that staff draft a bill or bills to clarifying the changes in legislation.

Vote

12:45:51 The motion passed unanimously on a roll call vote with Sen. Cohenour voting yes by proxy.

Public Comment on Clean-up Legislation

None

GENERAL PUBLIC COMMENT

12:49:45 Bob Story, Montana Taxpayers Association, commented on the meeting format and doing a "without objection" order on unanimous votes to save time. He also commented on the impact of the federal stimulus money on state tax collections, the paycheck protection loans that businesses are applying for that are forgiven loans in Montana, and Mr. McAlpin's suggestion for legislation to give authority to property tax appraisers to go into a home to do appraisal work.

Further Business

12:52:07 Rep. Redfield said that because of time, he was unable to have a discussion on a letter from the Revenue Committee that he and Speaker Hertz had worked on. He would like to get a hold of everyone next week to discuss the letter.

12:52:53 Rep. Brown said that the committee needed to be careful on having discussions on this in a public forum. He also said he wanted to have shorter virtual meetings because of time constraints.

12:53:41 Rep. Redfield suggested noticing a meeting for next week.

ADJOURNMENT

12:54:31 Rep. Redfield adjourned the meeting at 12:54 p.m.