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HJ 35 TAX STUDY
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

**PUBLIC
MEMBERS**

Rose Bender
Eric Bryson
Tim Burton
Dwayne Iverson
Bob Story
Doug Young

COMMITTEE STAFF

Megan Moore - Research Analyst
Jaret Coles - Attorney
Laura Sherley - Secretary

MINUTES LOG

August 25, 2020

8:00 AM

Video Conference

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

ROLL CALL

Members Present:

Rep. Alan Redfield, Chair (R)
Sen. Dick Barrett, Vice Chair (D)
Rep. Becky Beard (R)
Rep. Zach Brown (D)
Rep. John Fuller (R)
Rep. Jim Hamilton (D)

Rep. Marilyn Marler (D)
Sen. Duane Ankney (R)
Sen. Mark Blasdel (R)
Sen. Jill Cohenour (D)
Sen. Brian Hoven (R)
Sen. Susan Webber (D)
Rose Bender, Public Member
Eric Bryson, Public Member
Tim Burton, Public Member
Dwayne Iverson, Public Member
Bob Story, Public Member

Members Excused:

Doug Young, Public Member

Staff Present:

Megan Moore, Research Analyst
Jaret Coles, Attorney
Laura Sherley, Secretary

COMMITTEE BUSINESS SUMMARY

The HJ 35 Committee recommended to the Revenue Interim Committee HJ35-08 to decouple from changes to the net operating loss deduction contained in the CARES Act.

INFORMATION REQUESTS FROM JULY MEETING

Legal opinion on carryforward authority for state mill levies

08:02:32 Mr. Coles ([Exhibit 1](#))
08:04:21 Rep. Brown joined the meeting
08:04:42 Sen. Blasdel joined the meeting

Impact of circuit breaker credit (HJ35-02) on effective tax rates

08:11:23 Ms. Moore ([Exhibit 2](#))
08:12:20 Sen. Barrett ([Exhibit 3](#))

Subcommittee discussion and questions

08:18:40 Rep. Hamilton asked Sen. Barrett for clarification on the numbers reported (see Exhibits 2 and 3)
08:19:32 Rep. Hamilton asked Sen. Barrett to comment on various general fund costs as related to the circuit breaker credit.
08:22:32 Sen. Hoven commented on the discussion and asked Sen. Barrett why he chose a 25% copay in his calculations.

- 08:24:04 Sen. Hoven asked Sen. Barrett what the impact would be if the copay was 20% instead of 25%.
- 08:25:47 Mr. Story asked for background on the first percentile of taxpayers affected by the tax credit and what percentage of the decile are elderly homeowners who can use the elderly homeowner credit.
- 08:29:50 Rep. Marler asked Sen. Barrett if the elderly homeowner and renter tax credit would be treated as income tax credit and could the analysis be applied to renters.
- 08:32:29 Rep. Marler asked Sen. Barrett if renters would self-report.
- 08:33:22 Rep. Beard asked how local government would be effected.

Other requests

Impact of Wayfair on gross receipts taxes

08:34:56 Ms. Moore

Audit of tip income

08:35:27 Ms. Moore

Information on tribal government's use of Treasure State Endowment Program

08:35:56 Ms. Moore

Public comment

08:38:30 None

CONSIDERATION OF REQUESTED BILL DRAFTS

Revise tax rate for second homes (HJ35-07)

08:38:46 Ms. Moore ([Exhibit 4](#))

Subcommittee discussion and questions

- 08:40:46 Mr. Bryson asked how to address multiple homes on agricultural properties and homes owned by LLCs.
- 08:42:13 Mr. Story commented on the \$500,000 price cap.
- 08:43:38 Rep. Brown asked if the price cap would include all land and buildings.
- 08:44:38 Rep. Brown commented on the price cap and how it may affect urban versus rural communities.
- 08:45:32 Rep. Redfield commented on the costs of property taxes in rural communities.
- 08:46:47 Mr. Story asked if there is already a 1.4 multiplier on homes over a certain value in statute.
- 08:47:20 Rep. Redfield commented on the housing market in urban areas and how the credit would affect property taxes differently versus rural areas.
- 08:47:54 Rep. Brown commented on property taxes and homes in Madison County versus Yellowstone County.
- 08:49:22 Sen. Cohenour asked if agricultural second home homeowners could file a tax return to receive payments or credits back.

08:49:58 Sen. Barrett asked how many months during the year homeowners live in their second home is tracked.

08:51:56 Mr. Story commented to watch for mobile-homes and out-of-state sales tax when researching agricultural second homes.

Decouple from CARES Act net operating loss provisions (HJ35-08)

08:52:57 Ms. Moore ([Exhibit 5](#))

08:54:16 Rep. Hamilton

08:58:45 Ms. Bender

Subcommittee discussion and questions

08:59:04 Mr. Story asked if the state code allows carry-forward of losses if decoupled.

09:01:04 Mr. Story commented on the timeframe the bill draft would go into effect and how that could affect taxes.

09:02:16 Mr. Bryson commented on the CARES Act funding the state received.

09:03:10 Mr. Iverson joined the meeting

09:03:18 Sen. Hoven asked for clarification on the CARES Act net operating losses and intent of the bill draft.

09:06:47 Rep. Hamilton asked Ms. Moore if the loss provisions could fall under both corporate income tax law and individual income tax law.

General sales tax HJ35-06 and options

09:07:44 Ms. Moore ([Exhibit 6](#))

Subcommittee discussion and questions

09:14:48 Mr. Story asked what local option tax could look like depending if the county or city imposes a tax and their effect on each other.

09:16:51 Rep. Hamilton asked Sen. Hoven for clarification on exemptions and possible sales tax on rental property.

09:20:51 Sen. Barrett asked if a local option tax is considered a sales tax for purposes of the constitutional limit on sales tax.

09:21:40 Sen. Barrett asked if there is any assessment on the incidence of this tax proposal.

09:22:44 Mr. Story commented on the sales tax exemptions.

Presentation continued

09:24:38 Ms. Moore ([Exhibit 7](#))

Subcommittee discussion and questions

09:32:20 Sen. Barrett asked approximately how much total tax revenue the sales tax would generate.

- 09:33:50 Mr. Story asked for clarification on the sales tax options and the effects of taxing between classes.
- 09:35:11 Mr. Story commented on sales tax on lodging.
- 09:37:49 Mr. Bryson commented on the research effort and public comment the committee received on sales tax ([Exhibit 8](#)).
- 09:41:22 Mr. Burton commented on the conversation and recommended hearing perspectives from the Department of Revenue and public comment.
- 09:42:58 Ms. Bender commented on options mitigating regressivity ([Exhibit 9](#)).

Estimate of revenue from sales tax

- 09:44:36 Finn McMichael, Department of Revenue ([Exhibit 10](#))

Subcommittee discussion and questions

- 09:47:29 Mr. Story asked if revenue generated from the mining sector are from tax on inputs or outputs.

Distributional analysis of sales tax and certain options

- 09:48:58 Marco Guzman, Institute on Taxation and Economic Policy ([Exhibit 11](#))

Subcommittee discussion and questions

- 09:57:12 Ms. Bender asked Mr. Guzman to comment on the impact to lower income taxpayers with the motor vehicle fees increase.
- 09:58:09 Mr. Story asked Mr. Guzman if the pyramiding effect caused by business to business transactions is in his analysis and commented on mitigation needed for low income taxpayers.
- 10:00:11 Sen. Hoven responded to Mr. Story's comments.

Public comment

- 10:02:22 Gene Walborn, Department of Revenue
- 10:07:01 Bridger Mahlum, Chamber of Commerce
- 10:11:30 Darry James, Montana Infrastructure Coalition

Subcommittee discussion and questions

- 10:16:24 Subcommittee discussion on general sales tax and HJ35-06.
- 10:36:17 Mr. Story commented on HJ35-06 and asked Mr. Coles if a sales tax were put on the ballot could both the tax and expense be in the referendum.
- 10:40:38 Subcommittee discussion on HJ35-06.

GENERAL PUBLIC COMMENT ON ANY TOPIC WITHIN SCOPE OF HJ 35 STUDY

- 10:43:05 Gene Walborn, Department of Revenue
- 10:50:19 Bridger Mahlum, Chamber of Commerce
- 10:52:44 Sen. Barrett asked Director Walborn if he was able to determine how Hawaii can have separate tax credits on second homes.

10:54:39 Sen. Barrett asked Director Walborn if he has calculated revenue estimates of taxing second homes.

10:55:09 Bridger Mahlum, Chamber of Commerce

Subcommittee discussion and questions

10:57:38 Ms. Bender moved to amend HJ35-07 to add in a \$500,000 price cap and research the issue with agricultural property second homes.

Vote:

10:59:25 Carried 12 - 6 by roll call vote with Mr. Story, Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Blasdel, Sen. Hoven, voting no. Mr. Young voted by proxy ([Attachment 1](#)).

11:01:18 Mr. Story asked for clarification on the intent of the bill draft language.

11:04:27 Mr. Bryson commented on the economic development and second home taxing in Hawaii.

11:06:13 Mr. Burton commented on the legislative intent of HJ35-07.

11:06:34 Rep. Brown commented on HJ35-07 and how it could affect small communities and moved HJ35-07 be recommended to the Revenue Interim Committee.

Vote:

11:06:34 Failed 8-10 by roll call vote with Ms. Bender, Mr. Young, Rep. Brown, Rep. Hamilton, Rep. Marler, Sen. Barrett, Sen. Cohenour, Sen. Webber, voting yes. Mr. Young voted by proxy (see Attachment 1).

11:09:30 Rep. Hamilton moved H35-08 be forwarded to the Revenue Committee

Discussion on the motion:

11:09:51 Sen. Cohenour

11:11:46 Mr. Burton

11:12:02 Mr. Iverson

11:12:55 Mr. Story

11:14:30 Ms. Bender

Vote:

11:15:15 Carried 10 - 8 by roll call vote with Mr. Iverson, Mr. Story, Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Ankney, Sen. Blasdel, Sen. Hoven, voting no. Mr. Young voted by proxy (see Attachment 1).

HJ 35 DRAFT FINAL REPORT

Overview of report

11:16:58 Ms. Moore ([Exhibit 12](#))

Subcommittee discussion and questions

11:19:15 Sen. Barrett and Rep. Redfield commented on the work of the subcommittee's public members.

GENERAL PUBLIC COMMENT ON ANY TOPIC WITHIN SCOPE OF HJ 35 STUDY

11:22:06 None

ADJOURNMENT

11:22:31 Rep. Redfield adjourned the meeting at 11:22 a.m.