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HJ 35 TAX STUDY
67th Montana Legislature

SENATE MEMBERS	HOUSE MEMBERS	COMMITTEE STAFF	PUBLIC MEMBERS
Duane Ankney	Becky Beard	Jaret Coles -	Rose Bender
Dick Barrett	Zach Brown	Attorney	Eric Bryson
Mark Blasdel	John Fuller	Megan Moore -	Tim Burton
Jill Cohenour	Jim Hamilton	Research Analyst	Dwaine Iverson
Brian Hoven	Marilyn Marler	Laura Sherley -	Bob Story
Susan Webber	Alan Redfield	Secretary	Doug Young

MINUTES LOG

July 20, 2020
9:30 AM
Zoom

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

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Alan Redfield, Chair (R)
Sen. Dick Barrett, Vice Chair (D)

Rep. Becky Beard (R)
Rep. Zach Brown (D)
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
Doug Young, Public Member

Members Excused:

Rep. John Fuller (R)

Staff Present:

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

COMMITTEE BUSINESS SUMMARY

The HJ 35 Committee approved four draft bills as recommendations to the Revenue Interim Committee:

- HJ35-01: full inflation used to calculate mill levy limit;
- HJ35-02: property tax circuit breaker credit;
- HJ35-03: Increase the corporate minimum tax; and
- HJ35-04: Revise the calculation of the capital gains tax credit to the lesser of taxable income or net capital gains.

The committee also requested that three additional bills be drafted and considered at an August meeting:

- a general sales tax bill;
- a bill to revise property taxation of residences that are not primary residences; and
- a bill to decouple from CARES Act changes to net operating loss provisions.

PROPERTY TAX FOLLOW-UP FROM MAY MEETING

09:35:45 Mr. Young ([Exhibit 1](#))

Calculation of state mill levies

09:42:30 Ms. Moore ([Exhibit 2](#))

Committee questions

09:45:16 Sen. Barrett asked Ms. Moore if the state has ever parted from the mill levy calculating procedure as written in statute. The question was redirected to Ed Caplis, Department of Revenue.

09:47:55 Mr. Story commented on the history of mill levy calculation and asked Mr. Coles to provide a legal opinion on carry forward mills.

- 09:50:55 Rep. Marler asked Ms. Moore for clarification on the mills calculation worksheet (see Exhibit 2).
- 09:51:43 Mr. Story asked Mr. Caplis to comment on carry forward mills.
- 09:53:20 Mr. Bryson commented on carry forward mills and asked Mr. Caplis if it is a rare occurrence.
- 09:54:52 Mr. Story commented on the mill calculation worksheet (see Exhibit 2).

Requested bill drafts

- 09:57:10 Ms. Moore ([Exhibit 3](#))
- 09:59:55 Mr. Burton

Committee questions

- 10:02:22 Rep. Hamilton asked Mr. Burton why state level officials need to be involved in the relationship between tax payers and local officials regarding accountability on inflation rates.
- 10:04:05 Mr. Story commented on the history of inflation rate.
- 10:06:55 Rep. Hamilton asked Mr. Story what caused tax payers to turn to the state level with a ballot initiative when they could have communicated with their local officials regarding the inflation rate.
- 10:09:00 Subcommittee discussion
- 10:14:32 Rep. Marler commented that some local property taxes are voter approved and get on the ballot without local government participation.
- 10:15:50 Mr. Story commented on the history of school funding and tax rate inflation.

Requested bill drafts

- 10:18:12 Ms. Moore ([Exhibit 4](#)) ([Exhibit 5](#))
- 10:28:00 Sen. Barrett ([Exhibit 6](#))

Committee questions

- 10:31:58 Sen. Cohenour asked Sen. Barrett for clarification on the maximum credit a residential property owner can receive.
- 10:33:15 Mr. Story asked Sen. Barrett if the bulk of property in the state is subject to property tax of \$5,000 or less.
- 10:37:26 Mr. Story commented on the property tax cost to local governments and schools.
- 10:39:24 Sen. Barrett asked Mr. Caplis what the median value of a residential property tax bill in the state is.
- 10:40:34 Sen. Cohenour asked Mr. Caplis to comment on the median property tax and its association with property value.
- 10:41:15 Sen. Barrett commented on median property tax values.

- 10:42:38 Mr. Iverson asked Ms. Moore if a tax payer could receive residential property tax credits on two properties.
- 10:43:24 Sen. Hoven asked Mr. Caplis for a breakout of the numbers reported in the third example credit scenario for fiscal impact on the general fund worksheet (see Exhibit 5, page 5).
- 10:46:10 Subcommittee discussion
- 10:47:27 Mr. Story asked Ms. Moore to comment on the drafting process of the circuit breaker bill draft (see Exhibit 4 and 5).
- 10:51:54 Mr. Iverson asked Sen. Barrett if the proposed 9-month residency requirement was intended to remove seasonal residents from the credit.
- 10:52:54 Sen. Hoven asked Sen. Barrett if there is a 25% copayment.

Public comment

- 10:53:55 None

INDIVIDUAL INCOME TAX FOLLOW-UP FROM MAY MEETING

Suggestions for improving tax gap for pass-throughs

- 10:54:39 Ms. Moore

CARES Act impact on net operating losses

- 10:55:30 Ms. Moore ([Exhibit 7](#))

Committee questions

- 10:59:45 Rep. Hamilton asked Ms. Moore to comment on how federal law affects state carrybacks.
- 11:00:48 Rep. Hamilton asked Mr. Coles about decoupling from Internal Revenue Code and changing 15-38-2119.
- 11:02:37 Mr. Iverson commented on how decoupling could affect agriculture law.

Tip income reported on Montana returns

- 11:03:23 Aaron McNay, Department of Revenue (DOR) ([Exhibit 8](#))

Committee questions

- 11:06:18 Mr. Story asked Mr. McNay if the DOR follows up on food and lodging tips and how tips are reported.
- 11:09:40 Mr. Iverson commented on reporting tips and compliance.
- 11:10:23 Sen. Hoven asked Mr. McNay what section of code the tip income exemption is from.
- 11:11:14 Rep. Marler asked Mr. McNay if tip income is included in the total income amount numbers reported (see Exhibit 8).

Requested bill drafts

Capital gains tax credit (HJ35-04)

- 11:12:39 Rep. Hamilton
- 11:15:13 Ms. Moore ([Exhibit 9](#)) ([Exhibit 10](#))
- 11:16:00 Rep. Hamilton (see Exhibit 9)

Subcommittee questions

11:16:38 Sen. Barrett asked Rep. Hamilton if a taxpayer can take a capital gains credit without having capital gains.

11:19:35 Subcommittee discussion

Bill draft to director income tax collections above inflation to public infrastructure (HJ35-05)

11:19:58 Ms. Moore ([Exhibit 11](#))

Subcommittee questions

11:23:30 Sen. Barrett asked Mr. Bryson for clarification and to comment on the intent of the HJ35-05 bill draft.

11:30:05 Subcommittee discussion

11:35:38 Sen. Webber asked Mr. Bryson how state tribes could benefit from bill draft HJ35-05 and commented on the involvement of tribal courts.

11:41:54 Subcommittee discussion

Public comment

11:46:39 Bridger Mahlum, Department of Commerce

11:48:38 Rep. Brown joined the meeting

CORPORATE INCOME TAX FOLLOW-UP FROM MAY MEETING

11:50:53 Ms. Moore ([Exhibit 12](#)) ([Exhibit 13](#))

Committee questions

11:57:41 Sen. Barrett commented on corporate income tax shifting.

11:59:19 Mr. Story asked Ms. Moore how the state knows what its tax share is on multi-state businesses.

Corporations subject to minimum tax by industry and revenue implications of increasing minimum corporate income tax

12:00:38 Finn McMichael, Department of Revenue ([Exhibit 14](#))

Committee questions

12:03:42 Sen. Barrett asked Mr. McMichael if the minimum tax applies to only C corporations and asked for clarification on corporations paying the minimum tax.

12:06:15 Rep. Hamilton asked Mr. Iverson to comment on C corporation structure.

12:07:45 Rep. Story asked Mr. McMichael to comment on Internal Revenue Code 55 - Alternative minimum tax imposed.

Bill draft to increase minimum corporate income tax (HJ35-03)

12:09:47 Ms. Moore ([Exhibit 15](#))

Committee questions

12:10:42 Subcommittee discussion

LUNCH BREAK

SALES TAX

Sales Taxes in the States

13:30:32 Marco Guzman, State Policy Analyst, Institute on Taxation and Economic Policy ([Exhibit 16](#))

Committee questions

13:59:03 Mr. Young asked if the state had a 2% sales tax and a progressive refundable sales tax credit, would lower income taxpayers pay more in taxes.

14:01:50 Sen. Barrett asked for clarification on the progressive refundable sales tax credit and what income level it would affect.

14:04:51 Rep. Hamilton asked if the institute did any work on a credit inversely proportionate to individual income.

14:05:44 Mr. Young commented on a proportionate tax credit and refundable sales tax credit limit.

14:07:08 Mr. Story asked Mr. Guzman if his calculations were based on retail level sales tax.

14:09:56 Rep. Brown asked Mr. Guzman to comment on the overall fiscal impact of tax holiday spending.

14:11:32 Mr. Young asked if the Institute did any research on how the refundable income tax credit affects low income taxpayers without occupations.

Montana sales tax model

14:13:04 Finn McMichael, Department of Revenue ([Exhibit 17](#))

Committee questions

14:19:30 Mr. Young asked if groceries are included in either of the base or maximum retail trade numbers reported (see Exhibit 17).

14:20:42 Mr. Story asked if rental cars and lodging tax has been factored out of the gross numbers reported, and what is being taxed under construction and real estate (see Exhibit 17).

14:25:30 Mr. Young asked that Mr. McMichael and Mr. Guzman discuss their different sales tax calculations and report back to the subcommittee.

Public comment

14:26:18 Bridger Mahlum, Montana Chamber of Commerce

NATURAL RESOURCE TAXES

Comparing Montana's Natural Resource Fiscal Policies to Peer-States and Best Practices

14:29:16 Mark Haggerty, Headwaters Economics ([Exhibit 18](#))

Committee questions

14:52:59 Sen. Barrett asked if reinvestments and resources should be aimed at the communities where the natural resource extraction took place.

14:58:29 Sen. Cohenour asked if other states have been trying to establish a natural resource policy and what is their success rate.

15:01:26 Sen. Cohenour asked Mr. Haggerty to discuss establishing a natural resource fiscal policy.

- 15:06:05 Mr. Story asked Mr. Haggerty to comment on the difference between natural resource tax versus other retail taxes.
- 15:09:00 Mr. Story commented on the potential political power of communities with natural resources.
- 15:11:53 Mr. Iverson asked when a wind or solar farm is no longer effective what would be the removal cost of the property and equipment.
- 15:14:49 Mr. Story asked Mr. Haggerty to comment on the taxation of wind and solar farms.
- 15:18:26 Sen. Barrett commented on the taxation of natural resources and natural capital versus social capital gains.

Public comment

- 15:22:58 None

PUBLIC COMMENT ON ANY OTHER TOPIC WITHIN THE HJ35 COMMITTEE'S JURISDICTION

- 15:23:22 None

BREAK

COMMITTEE WORK SESSION

- 15:34:04 Subcommittee discussion on HJ35-01
- 15:40:53 Mr. Bryson moved to approve HJ35-01, HJ35-02, HJ35-03, HJ35-04, and HJ35-05 and be sent to the Revenue Interim Committee.
- 15:41:31 Discussion on the motion
- 15:42:05 Motion withdrawn
- 15:42:13 Subcommittee discussion

Motion:

- 15:44:50 Rep. Marler moved to approve bill draft HJ35-01 as a recommendation to the Revenue Interim Committee.

Discussion on the motion:

- 15:45:33 Rep. Hamilton asked for clarification on the motion.

Vote:

- 15:46:04 Carried 13 - 4 by roll call vote with Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Hoven, voting no.
Rep. Brown and Rep. Fuller, by proxy ([Attachment 1](#)) ([Attachment 2](#))

Motion:

- 15:47:57 Sen. Barrett moved to approve bill draft HJ35-02 as a recommendation to the Revenue Interim Committee.

Discussion on the motion:

- 15:50:56 Mr. Iverson
- 15:51:29 Sen. Cohenour

15:51:52 Mr. Story
15:54:11 Rep. Marler
15:54:44 Sen. Barrett
15:56:00 Sen. Hoven
15:57:32 Mr. Iverson
15:58:14 Ms. Moore asked for clarification of Mr. Iverson's recommendation and noted a drafting error in the bill draft.
15:59:05 Mr. Burton
15:59:50 Rep. Redfield
16:00:33 Rep. Hamilton asked for clarification on the motion.

Vote:

16:01:10 Carried 13 - 5 by roll call vote with Mr. Story, Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Blasdel, voting no.
Rep. Brown and Rep. Fuller, by proxy

Motion:

16:02:53 Sen. Hoven moved to approve bill draft HJ35-03 as a recommendation to the Revenue Interim Committee with the amendment to raise the minimum corporate tax to \$200.00.

Discussion on the motion:

16:03:42 Mr. Story
16:04:45 Sen. Hoven

Vote:

16:05:45 Carried 14 - 4 by roll call vote with Rep. Beard, Rep. Fuller, Rep. Redfield, Sen. Blasdel, voting no.
Rep. Brown, Rep. Fuller, and Rep. Marler, By Proxy ([Attachment 3](#))

Motion:

16:07:22 Rep. Hamilton moved to approve bill draft HJ35-04 as a recommendation to the Revenue Interim Committee with the amendment that the draft language refers to capital gains.

Discussion on the motion:

16:07:50 Sen. Barrett asked for clarification on the motion.
16:08:08 Mr. Story

Amendment:

16:11:06 Mr. Iverson made an amendment to the motion to specify long-term capital gains.

Discussion on the amendment:

16:11:25 Mr. Story asked Mr. Iverson for clarification on his amendment and about short-term capital gains.

16:14:05 Sen. Cohenour asked for clarification on the amendment.

16:16:45 Rep. Hamilton

Vote on amendment:

16:17:59 Carried 16 - 2 by roll call vote with Mr. Story, Sen. Cohenour, voting no.
Rep. Fuller and Rep. Marler, By Proxy

16:19:53 Sen. Barrett

16:20:18 Mr. Iverson

16:20:32 Mr. Story

Vote:

16:21:10 Carried 7 - 11 by roll call vote with Mr. Story, Rep. Beard, Rep. Fuller, Rep.
Redfield, Sen. Ankney, Sen. Blasdel, Sen. Hoven, voting no.
Rep. Fuller and Rep. Marler, By Proxy

Motion:

16:22:30 Mr. Bryson moved to approve bill draft HJ35-05 as a recommendation to
the Revenue Interim Committee.

Discussion on the motion:

16:23:44 Mr. Bryson

16:23:52 Sen. Barrett

16:25:15 Rep. Hamilton

16:27:06 Sen. Cohenour

16:28:03 Sen. Ankney seconded the motion.

16:28:20 Mr. Story

16:29:45 Mr. Young

16:30:58 Sen. Webber

Vote:

16:31:57 Failed 11 - 7 by roll call vote with Mr. Bryson, Mr. Burton, Mr. Story, Rep.
Brown, Rep. Hamilton, Sen. Ankney, Sen. Hoven, voting yes.
Sen. Ankney, Rep. Fuller, and Rep. Marler, By Proxy ([Attachment 4](#))

16:34:36 Ms. Moore asked the committee when they would like to hold their next
meeting.

Motion:

16:36:22 Sen. Hoven moved to draft a bill on general sales tax.

Discussion on the motion:

16:36:41 Sen. Barrett proposed a friendly amendment to the motion.

16:38:07 Rep. Redfield asked for clarification on the motion.

16:39:50 Mr. Story
16:42:04 Rep. Redfield
16:42:48 Sen. Barrett
16:44:45 Mr. Burton
16:45:55 Rep. Hamilton
16:46:31 Rep. Redfield
16:46:45 Sen. Barrett
16:47:05 Sen. Hoven

Vote:

16:48:19 Carried 10 - 7 by roll call vote with Mr. Story, Rep. Beard, Rep. Redfield, Sen. Blasdel, Sen. Cohenour, Sen. Webber, voting no.
Rep. Fuller and Rep. Marler, By Proxy

16:50:05 Ms. Moore asked Rep. Redfield how the subcommittee would like to schedule their next meeting date.

16:50:53 Ms. Bender proposed a bill draft on second residential homes having a higher tax rate. The question was redirected to Ms. Moore.

16:52:01 Mr. Story asked if a final report of the subcommittee's work will need to be drafted for the Revenue Interim Committee.

16:53:36 Ms. Bender asked Mr. Coles if there is a revenue benefit decoupling from the CARES Act. Ms. Bender proposed a bill draft to decouple from the CARES Act net operating loss provisions.

16:54:16 Subcommittee discussion on CARES Act.

ADJOURNMENT

Adjournment: 16:59:10