



REVENUE INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Jill Cohenour
Greg Hertz
Brian Hoven
Mike Lang
Edith (Edie) McClafferty
Shannon O'Brien

HOUSE MEMBERS

Becky Beard
Alice Buckley
Connie Keogh
Mark Thane
Jeremy Trebas
Tom Welch

COMMITTEE STAFF

Jaret Coles - Attorney
Megan Moore - Research Analyst
Alexis Newcomer - Secretary

MINUTES LOG

April 18, 2022
Room 137 and Zoom
Helena, Montana

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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MEMBERS PRESENT:

Sen. Jill Cohenour, Chair (D)
Rep. Becky Beard, Vice Chair (R)
Rep. Alice Buckley (D)
Sen. Greg Hertz (R)
Sen. Brian Hoven (R)
Rep. Connie Keogh (D)
Sen. Mike Lang (R)
Sen. Edith (Edie) McClafferty (D)
Sen. Shannon O'Brien (D)
Rep. Mark Thane (D)
Rep. Jeremy Trebas (R)
Rep. Tom Welch (R)

MEMBERS EXCUSED:

MEMBERS ABSENT:

STAFF PRESENT:

Jaret Coles, Attorney
Megan Moore, Research Analyst

Alexis Newcomer, Secretary

AGENDA [\(Attachment 1\)](#)

VISITORS' LIST [\(Attachment 2\)](#)

COMMITTEE ACTION

The committee requested a draft bill to implement the recommendations of the Forest Lands Taxation Advisory Committee.

CALL TO ORDER/ROLL CALL

13:02:01 Sen. Jill Cohenour-D called the meeting to order at 1:02 PM. The committee secretary took roll.

Economic Contributions of the Film Industry: The Production of Yellowstone [\(Exhibit 1\)](#)

13:03:47 Dr. Patrick Barkey, Bureau of Business and Economic Research, presented.

Public comment*

13:17:55 Lynn-Wood Fields, MEDIA Coalition of Montana
13:20:15 Steve Grover, Montana Studios
13:23:02 Sharon Kiser, Paramount Global
13:25:48 Alison Whitmer, Montana Film Commissioner
13:26:11 Sen. Hertz asked Dr. Barkey for an explanation on jobs not included in the report.
13:29:08 Rep. Thane asked Dr. Barkey what percentage of available credits under the Media Act were committed to the production of Yellowstone.
13:29:33 Rep. Thane referred the question to Ms. Whitmer and Ms. Kiser.
13:30:46 Rep. Welch asked Dr. Barkey for an explanation of "Government 29" on his report.
13:31:55 Sen. Hoven asked Dr. Barkey about tax credit to income ratio.
13:33:43 Sen. Hoven asked Dr. Barkey about the study's conclusion of net gain and net losses.
13:35:23 Rep. Trebas asked Dr. Barkey if there are non-measurable factors that could not be factored into this study.
13:36:56 Sen. Cohenour asked Dr. Barkey to expand on the economic output impact from the production.
13:38:50 Sen. Cohenour asked Dr. Barkey about the impact that additional personal income has had.
13:39:59 Sen. Hertz asked Ms. Fields to expound on how the media credit not being passed would impact the industry and if this growth would be possible without the credit.
13:42:22 Sen. Hertz asked for an explanation on support staff training.
13:44:20 Sen. Lang asked about insurance trust revenue.
13:45:59 Sen. Cohenour gauged interest in having a committee discussion to draft a bill to raise the cap.
13:46:25 Ms. Moore stated the committee would receive a required report from the Department of Commerce at the June meeting.

13:46:42 Rep. Buckley confirmed wanting further discussion.
 13:46:59 Sen. Hertz requested information about rural media credits in Utah and how that impacts rural communities.
 13:47:30 Sen. Hoven asked for time to look through the report and requested Dr. Barkey be available for questions.
 13:47:48 Sen. Cohenour requested Dr. Barkey attend the June meeting.

AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW ([Exhibit 2](#))

Administrative rule report – Jaret Coles, staff attorney

13:49:01 Jaret Coles, Staff Attorney, Legislative Services Division

Public comment*

None

TAX CREDIT REVIEW

Student Scholarship Organization Credit – Megan Moore

13:52:09 Megan Moore, Committee Staff, Legislative Services Division ([Exhibit 3](#))

Public comment*

14:06:01 Ross Izard, ACE Scholarships
 14:09:03 Eric Burke, Montana Federation of Public Employees
 14:11:29 Rose Bender, Montana Budget and Policy Center (Exhibit 1)
 14:13:28 Henry Kriegel, Americans for Prosperity Montana

REQUIRED REPORT ON STUDENT SCHOLARSHIP ORGANIZATIONS – AARON MCNAY, DOR- ([EXHIBIT 4](#))

14:16:03 Mr. McNay presented.

Public comment*

14:17:11 Tony Zammit, Montana Department of Revenue
 14:19:44 Trish Schreiber, Helmsville
 14:23:56 Rep. Trebas asked the Department of Revenue about the demand for the credit and an estimate for how much will be claimed.
 14:26:23 Sen. Hoven asked Mr. Izard asked about the application process for ACE Scholarships.
 14:29:24 Sen. Hoven asked Mr. Izard what percentage of scholarships offered are accepted.
 14:30:32 Tracy Danno, Bozeman
 14:35:13 Jeri Anderson, Kalispell
 14:37:45 Sen. Hoven asked Mr. Izard how ACE Scholarships handles marketing.
 14:40:25 Jake Penwell, ACE Scholarships.
 14:41:40 Sen. Hertz asked Mr. Izard what percentage or scholarships are going to new students compared with existing students.

14:43:15 Sen. Hertz asked Mr. Izard why the organization does not have metrics that favor those more in need.

14:44:24 Sen Hertz asked Mr. Izard if the organization cares about Montana and Montana students.

14:44:56 Rep. Beard asked Mr. Izard if he could submit a generic format of the organization's metrics.

14:46:15 Rep. Thane commented on the tax credit worksheet.

14:48:39 Sen. Cohenour asked Mr. Burke to comment on tax liabilities that contribute to communities.

14:51:41 Sen. Cohenour asked Ms. Bender the same question she asked Mr. Burke.

COMMITTEE WORK SESSION

14:53:06 Ms. Moore reminded the committee this is a statutory duty, and this work session is to answer questions and discuss recommendations.

Student scholarship organization credit

14:54:30 Ms. Moore provided an explanation of the credits. [\(Exhibit 5\)](#) [\(Exhibit 6\)](#)

14:55:28 Rep. Thane asked Sen. Hertz about Senate Bill 399, and if he had a specific threshold of participants to weigh the decision of eliminating the credits.

14:57:10 Sen. Cohenour stated concern for the ability for a tax liability to be one hundred percent cleared.

14:59:31 Sen. Hoven asked for clarification on ratio of liability to credit.

15:03:03 Sen. Lang asked about the charitable endowment tax credit.

15:03:58 Sen. Lang asked Sen. Hertz if there is a cap set by law.

15:04:15 Ms. Moore stated the maximum charitable endowment credit is \$10,000 and is not refundable.

15:04:50 Sen. Lang asked Ms. Moore if \$10,000 can be taken off liability taxes.

15:05:22 Sen. Hertz stated the credit is doing what it was expected to do, and it has been successful.

15:08:35 Sen. Cohenour expressed budgetary concerns.

15:09:02 Rep. Trebas commented on the mechanics of tax credit review and budgeting.

15:09:32 Sen. Cohenour spoke about where budgetary funds come from.

15:10:34 Rep. Keogh made a statement on public schools receiving funding and funding equity across the state.

15:11:18 Rep. Beard stated she appreciated the conversation and reminded the committee that dollars donated are investments for our future generations.

15:12:46 Sen. O'Brien said she appreciated Sen. Hertz stating this is a nonpartisan issue. She stated if funds were allocated to public schools' special situations could be addressed.

15:14:26 Sen. Hertz stated this issue will be continually monitored by ongoing legislative sessions and that funding was not taken away from public schools.

15:17:28 Sen. Hoven stated the average student scholarship donation is \$14,000. Sen. Hoven asked what will happen if the limit is reached.

15:18:30 Sen. Hoven stated the student scholarship organization credit should not be changed.

15:18:54 Rep. Thane stated 89 taxpayers used the credit and that most Montanans did not have access to the credit and that the credit should be available to a wide range of Montanans.

15:19:48 Sen. Hertz stated Montana has 500,000 taxpayers. He stated a majority of tax credits are used significantly.

15:20:39 Rep. Thane asked Sen. Hertz if some credits eliminated had 12,000 users and if these were users per year.

15:20:51 Sen. Hertz stated he believed it was by year.

15:21:09 Rep. Thane stated that 29 taxpayers utilized the innovate education credit last year.

15:21:22 Sen. Hertz confirmed this statement.

15:21:49 Ms. Moore stated the committee is requested to make recommendations on the continuation or elimination of the credit and asked if the committee would be making recommendations or deferring.

15:22:03 Sen. Cohenour stated she thought the committee would defer for now.

15:22:10 Rep. Welch requested to defer, and that the committee should evaluate the information requested and given.

15:23:39 Sen. Cohenour asked Mr. Beatty if there is aggregated data on taxpayers who took the credit.

15:24:02 Ms. Moore stated that data is not available due to the donations being made in 2022.

15:24:09 Sen. Cohenour asked if there would be any taxpayer data available before June.

15:25:02 Mr. McNay stated the changes made to the credit are effective in tax year 2022 and the tax return information will not be available until 2023.

15:25:44 Sen. Cohenour stated these taxpayers had to pre-register with the Department of Revenue.

15:26:23 Mr. McNay stated income information will not be available until a return is filed in 2023.

15:26:55 Sen. Hertz stated these individuals are likely the top earners in Montana and that a decision likely cannot be made in the interim. He asked about the schedule for reviewing tax credits.

15:28:18 Sen. Cohenour commented that she assumed this discussion would be an item on the agenda for the June meeting.

15:28:50 Sen. Hoven commented on the innovative education credit and that one school district could receive the total \$1 million and if that is possible this should be addressed.

15:29:37 Sen. McClafferty stated she agreed.

15:30:15 Ms. Moore provided information on donations per school district.

15:30:41 Sen O'Brien stated she concurred with Sen. Hoven and Sen. McClafferty
 15:30:53 Sen. Cohenour stated this will be on the agenda for the next meeting.
 15:31:26 BREAK
 15:39:10 RECONVENE

AGENCY MONITORING: DEPARTMENT OF REVENUE – BRENDAN BEATTY, DIRECTOR

Tax collections for remote workers

15:43:03 Derek Bell, Department of Revenue presented.

Major case update

15:54:13 Dave Stewart, Department of Revenue presented.
 15:55:20 Sen. Cohenour asked for information on the Plains Pipeline Settlement.

Qualified endowment report

15:56:39 Mr. McNay presented. ([Exhibit 7](#))
 15:59:38 Sen. Hertz asked Mr. McNay if the corporate tax credit calculation is less than 40 percent on donations.
 15:59:47 Mr. McNay answered.

Forest Lands Taxation Committee update

16:00:41 Kory Hofland, Department of Revenue presented ([Exhibit 8](#))
 16:07:40 Sen. McClafferty asked Mr. Hofland about Olympic averages.
 16:08:26 Sen. Hoven asked Mr. Bell about people working remotely in Montana who live out of state.
 16:10:32 Sen. Hoven provided an example for Mr. Bell of a worker doing a project in Montana.

Public comment* ([Exhibit 9](#)) ([Exhibit 10](#))

16:11:32 Sen. Mike Cuffe, Eureka
 16:13:26 Bob Story, Montana Taxpayers Association
 16:16:24 Patti Case, Green Diamond Resource Company
 16:18:39 Julia Altemus, Montana Wood Products Association
 16:19:42 Rep. Trebas asked Mr. Bell about a scenario and if a state W-9 would work in this scenario.
 16:21:28 Sen. Cohenour asked Mr. Bell about other states creating legislation to stop taxes being taken from residents working in other states.
 16:24:23 Sen. Cohenour asked Mr. Bell if this is not covered in the interstate commerce clause.
 16:26:04 Rep. Beard expressed her thanks to Director Beatty and Deputy Director Mendenhall. Rep. Beard requested staff draft a bill for committee review at the June meeting if there was no committee objection.

16:27:42 Sen. Cohenour asked for confirmation from the committee that there were no objections.

COMMITTEE-REQUESTED INFORMATIONAL TOPICS

16:28:18 Derek Bell, Department of Revenue

Corporate income tax nexus – Derek Bell, Department of Revenue

16:28:26 Derek Bell, Department of Revenue

16:37:53 Rep. Trebas asked Mr. Bell if there is a minimum threshold for income earned.

Intangible person property exemption – Derek Bell-(Exhibit 11) (Exhibit 12)

16:39:33 Derek Bell, Department of Revenue

16:55:00 Sen Cohenour asked Mr. Bell about the 2014 Gold Creek Cellular ruling and what changes were put into rule as a result of that ruling.

16:56:50 Sen. Cohenour asked Mr. Bell what constitutes goodwill is included in the rule.

16:57:50 Sen. Cohenour asked Mr. Bell if there is information on how other states handle this topic.

17:01:12 Sen. Hoven asked Mr. Bell for clarification on company's intentions with taxation.

17:03:05 Sen. Lang asked Mr. Bell if intangible property and goodwill are the same concept.

17:03:44 Rep. Trebas asked Mr. Bell for clarification on unit value.

17:06:18 Sen. Cohenour asked Mr. Hofland about raising the intangible percentages and how reports are read and determined factual.

17:11:15 Sen. Cohenour asked Mr. Hofland if there is middle ground for definitions.

17:12:37 Sen. Hertz asked Mr. Hofland if amortization of goodwill caused problems for valuation.

17:13:17 Sen. Cohenour requested this topic be discussed at the next committee meeting. Sen. Cohenour asked for examples of types of goodwill in accounting.

17:14:00 Sen Cohenour requested an explanation of companies' decision-making process at the next meeting.

Public comment* on any topic under committee's jurisdiction

17:15:01 Bob Story, Montana Taxpayers Association

17:18:22 Rose Bender, Montana Budget and Policy Center (Exhibit 13)

RECESS

17:20:31 Sen. Cohenour announced the committee would be in recess until 4/19/22 at 8:30 AM.