



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
Nadine Spencer - Secretary

MINUTES LOG

January 21, 2022
State Capitol Room 102 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)

STAFF PRESENT:

Jaret Coles, Attorney
Megan Moore, Research Analyst
Nadine Spencer, Secretary

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

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

CALL TO ORDER/ROLL CALL

08:31:16 Chair Jill Cohenour called the meeting to order at 8:31 AM. The committee secretary took roll.

AGENCY MONITORING: MONTANA TAX APPEAL BOARD – DAVE MCALPIN, CHAIR

08:32:24 Mr. McAlpin provided information about the Board.

08:34:11 Mr. McAlpin discussed open cases. [\(Exhibit 1\)](#)

08:42:45 Mr. McAlpin provided information on the types of cases, by percentage, for year-to-date 2019/2020 and 2021/2022. [\(Exhibit 2\)](#)

Committee questions

08:44:14 Rep. Trebas asked Mr. McAlpin if more detail for the cases is available online.

08:44:52 Sen. Cohenour thanked Mr. McAlpin.

Public comment

None

HJ 6: COAL SEVERANCE TAX TRUST FUND

08:45:24 Ms. Moore provided an introduction.

Montana's Natural Resources Fiscal Policy – Mark Haggerty, Center for American Progress

08:46:44 Mr. Haggerty, senior fellow, Energy and Environment. [\(Exhibit 3\)](#)

Perspective on Montana Coal Production – Joe Micheletti, Westmoreland

09:04:20 Mr. Micheletti, chief operating officer.

09:07:49 Mr. Micheletti provided information on Rosebud Mine's annual coal sales. [\(Exhibit 4\)](#)

09:11:58 Mr. Micheletti discussed Rosebud Mine's 2021 Taxes and Royalties Estimate. [\(Exhibit 5\)](#)

09:14:49 Darryl James, Westmoreland, discussed concerns in continuing to provide a reliable and affordable source of energy.

09:19:41 Mr. Micheletti provided additional comments.

09:23:12 Sen. Cohenour said Sonja Nowakowski, Department of Environmental Quality, is available to answer any questions about the department's regulatory environment.

Adding Revenue to Coal Severance Tax Trust Fund -- Megan Moore

09:23:33 Ms. Moore. [\(Exhibit 6\)](#)

Estimate of Montana Infrastructure Costs – Katy Callon, Legislative Fiscal Division

09:33:52 Ms. Callon provided information and additional detail pertaining to Montana's projected infrastructure costs. [\(Exhibit 7\)](#)

- 09:50:48 Ms. Callon provided information on the Montana Coal Endowment Program's 2023 biennium project funding. [\(Exhibit 8\)](#)
- 09:53:59 Sen. Cohenour commented on collaborating with the Financial Modernization and Risk Analysis Committee (MARA).

Public comment

- 09:54:29 Mr. James, Montana Infrastructure Coalition
- 09:56:10 Shelby DeMars, Montana Association of Oil, Gas, and Coal Counties
- 09:58:58 Jason Rittal, deputy director, Montana Association of Counties
- 10:02:18 Bob Story, Montana Taxpayers Association
- 10:06:05 Rebecca Boslough, Montana Association of Conservation Districts
- 10:07:48 Tim Burton, executive director, Montana League of Cities and Towns

Committee work session

- 10:10:44 Rep. Thane asked Mr. Haggerty if the graph showing fund balances of trust accounts in other states includes investment income.
- 10:12:02 Rep. Thane asked Mr. Haggerty about the investment options and potential investment returns other states are generating in comparison to the returns generated on Montana's coal severance tax trust fund.
- 10:13:37 Sen. Cohenour asked Mr. Haggerty about market returns in other states.
- 10:15:23 Rep. Beard asked Mr. Rittal about his comment regarding increases in property tax bills.
- 10:17:40 Rep. Beard asked Mr. James about the status of the Water, Wastewater, and Solid Waste Action Committee.
- 10:19:17 Rep. Beard asked Ms. DeMars about consolidating extraction severance resources into one tax funding strategy.
- 10:22:36 Sen. Cohenour asked Ms. DeMars about taxing newer industry at a lower rate to foster the ability for a startup.
- 10:24:52 Sen. Hoven asked Mr. Micheletti if the heat content and quality of coal in Montana and Wyoming are comparable.
- 10:26:08 Sen. Hoven asked Mr. Micheletti how Montana coal compares to Australian coal.
- 10:27:35 Sen. Hoven asked Mr. Micheletti about the severance tax and the level of competitiveness of Montana coal on a worldwide or national basis.
- 10:29:31 Sen. Hoven asked Mr. Micheletti about the reason legislation was passed allowing Colstrip to buy coal from a mine in Wyoming.
- 10:31:10 Sen. Hoven asked Ms. Callon about funding for regional water systems under the federal infrastructure bill.
- 10:32:49 Sen. Hoven said he would like information on how the 11 states highlighted in Mr. Haggerty's presentation are managing their funds and about the returns. Sen. Cohenour said she is also interested in the information as well as information on the economic downturn and recovery.
- 10:35:21 Sen. Cohenour asked Mr. Haggerty what other trust funds are investing in.
- 10:36:56 Rep. Trebas commented on the rate of return for infrastructure projects in different areas of the state and the need to consider the gross domestic product (GDP) in different counties.
- 10:38:11 Sen. Cohenour asked the committee about information for future meetings.
- 10:38:17 Sen. Hoven said during times when there are good returns money can be put into a pool and saved for use later.

10:39:22 Sen. O'Brien said she would like information on what other states are doing to maximize severance tax.

10:41:04 Sen. Cohenour commented on continuing to use the coal severance tax fund appropriately and maximize the benefits for future generations.

10:41:41 Recess

10:54:59 Reconvene

COMMITTEE TOPIC: EMPLOYMENT AND CHILDCARE

10:56:04 Amy Watson, senior economist, Montana Department of Labor and Industry, discussed the impact of childcare on the state's workforce. **(Exhibit 9)**

11:14:42 Ms. Moore said there is an agenda item on childcare and workforce participation at the MARA meeting on January 27.

11:15:23 Ms. Moore said there was interest by the committee regarding information about childcare licensing requirements from the Department of Public Health and Human Services (DPHHS). She said the department was not able to participate today and the presentation will be scheduled for a future meeting.

Public comment

11:16:15 Rep. Mary Ann Dunwell, HD 84

Committee questions

11:18:27 Sen. Lang asked Ms. Watson about the data collection and who is defined as a parent.

11:19:07 Sen. Lang asked Ms. Watson which agency regulates licensing childcare.

11:19:27 Sen. Lang asked Ms. Watson about the different categories of childcare facilities.

11:20:24 Sen. Lang asked Ms. Watson about the portion of the childcare industry that is suffering.

11:21:52 Sen. Lang asked Ms. Watson if the cost of childcare might prohibit a parent from working.

11:22:59 Sen. Hertz asked Ms. Watson how childcare capacity is calculated.

11:24:29 Sen. Hertz asked Ms. Watson if data is included on unlicensed childcare by family and friends.

11:24:56 Sen. Cohenour asked Ms. Watson what the American Rescue Plan Act (ARPA) funds are being invested in and where the investments are currently being made.

11:27:53 Rep. Thane asked Ms. Watson about childcare affordability and the cost of childcare in Montana.

11:29:01 Rep. Beard asked Ms. Watson what year the state began regulating childcare licensure. Ms. Watson said she will find out.

11:29:30 Sen. Hoven asked Ms. Watson who is required to have a childcare license.

11:30:48 Sen. Hoven asked about federal subsidies.

11:31:43 Sen. Cohenour said DPHHS can answer questions on licensing at the next committee meeting.

11:31:53 Rep. Buckley said DPHHS is also working on the Red Tape Relief Initiative that will provide information on what is working and what is not. She commented on licensing for friends, families, and neighbors and on access to federal funds.

11:33:40 Sen. Cohenour asked Rep. Buckley about the acronym FPL. Rep. Buckley said it stands for federal poverty level.

11:33:57 Rep. Trebas said the wording in the Montana Code Annotated (MCA) indicates “you need a license if you have more than two unrelated children in your household that you are watching for compensation.”

11:34:13 Sen. Cohenour said the committee can continue to define its questions and discussions. She said licensing also provides necessary data.

11:35:04 Ms. Watson commented on sources for data and said the Child Care Stabilization grant is part of the application process and businesses are required to report their operating expenses.

11:35:30 Rep. Welch asked Ms. Watson about the number of children in childcare in Montana.

11:36:24 Sen. Cohenour thanked Ms. Watson.

11:36:41 Sen. Hoven commented on federal requirements to subsidize childcare.

AGENCY MONITORING: ADMINISTRATIVE RULE REVIEW

11:37:54 Mr. Coles. [\(Exhibit 10\)](#)

Public comment

None

Committee questions

None

11:42:10 Recess for lunch

13:00:22 Reconvene

MODERNIZATION AND RISK ANALYSIS STUDY

13:00:43 Molly Delcurto, Legislative Fiscal Division (LFD), provided information on the cost of living tool. [\(Exhibit 11\)](#)

13:11:59 Amy Carlson, LFD, provided information on the labor market and the number of people employed versus the number of jobs. [\(Exhibit 12\)](#)

13:13:00 Ms. Carlson thanked the committee for working together with MARA. She said MARA will meet on January 27 and discussed the agenda. [\(Exhibit 13\)](#)

Public comment

None

Committee questions

None

TAX CREDIT REVIEW: INNOVATIVE EDUCATIONAL PROGRAM CREDIT

13:16:04 Ms. Moore provided an introduction.

13:16:56 Sen. Cohenour said the committee can ask questions after each presentation.

Update on Administration of Credit – Tony Zammit, Department of Revenue

13:17:37 Mr. Zammit, acting deputy chief legal counsel. [\(Exhibit 14\)](#)

13:26:11 Mr. Zammit answered Rep. Beard's question during the last committee meeting on the credits and the use of displaced tax dollars and what the percentage multiplier may look like in the future.

Committee questions

13:27:41 Rep. Beard thanked Mr. Zammit.

13:28:00 Sen. Hoven asked Mr. Zammit if payments made to the foundation will take care of a person's income tax obligation.

13:28:56 Sen. Hoven asked Mr. Zammit about the donation limit for an individual taxpayer.

13:30:02 Rep. Buckley asked Mr. Zammit if there is information available on the income level for people who were able to claim the credit.

13:30:57 Sen. Cohenour said the committee would like to receive the information requested by Rep. Buckley and asked if the credit needs to be put on the next years' tax return.

13:32:27 Rep. Thane said he would like to know how many donors were completely absolved of Montana income tax responsibility by virtue of the credit.

13:33:26 Sen. McClafferty asked Mr. Zammit about the carry forward amount if a person does not need the entire donation to meet their income tax liability.

13:35:05 Sen. Hovan asked Mr. Zammit how school districts need to account for the money.

13:36:39 Sen. Cohenour asked Mr. Zammit about the carry over amount and if a person needs to apply the following year to have the next allocation of their donation.

13:37:51 Sen. Cohenour asked Mr. Zammit about the number of people that wanted to be preapproved but were unable to follow through and make the donation.

13:39:03 Rep. Trebas asked Mr. Zammit about the length of time that the carry forward amounts can be used.

13:39:50 Mr. Zammit provided information for the next presentation.

13:40:17 Bob Finstad, Application Bureau chief, discussed the process and outreach for creating the new education donation portal.

Committee questions

13:44:48 Sen. Hoven asked Mr. Finstad about the process and what happened when several people called at the same time.

13:47:19 Rep. Thane asked Mr. Finstad about the number of school districts that received donations and the amount of a single donation to one district.

13:47:51 Sen. Hertz asked Mr. Finstad about the single \$694,000 donation and if the donor received only a \$200,000 tax credit and if the remaining money came from personal funds.

13:48:24 Sen. Hertz asked Mr. Finstad about the \$200,000 cap.

Public Education Community Input on Anticipated Use of Funds, Equity Among Districts, and Deadlines for Spending Donations – Debra Silk, Montana School Boards Association

13:49:31 Ms. Silk, associate executive director and general counsel, Montana School Boards Association, and speaking on behalf of the Montana Association of School Business Officials, the Montana Rural Education Association, and School Administrators of Montana.

Committee questions

- 13:57:42 Sen. Cohenour said she is concerned that some people are directing their tax liability to local school districts for personal reasons and that not every taxpayer can direct their tax obligations where they want to. She said it is detrimental to the entire system and that taxes should be paid to benefit everyone in the state.
- 13:59:28 Ms. Silk responded.
- 14:02:31 Sen. Hoven asked about committee discussion on the bill. Sen. Cohenour said there will be a committee work session after the next presentation.

How Other States Address Equity – Megan Moore

- 14:03:03 Ms. Moore discussed the memo the committee received. [\(Exhibit 15\)](#)

Public comment

- 14:09:04 Sarah Piper, Montana Federation of Public Employees
- 14:12:13 Rose Bender, Montana Budget and Policy Center
- 14:13:23 Bob Story, Montana Taxpayers Association

Committee work session

- 14:16:33 Sen. Cohenour opened discussion on recommendations by the committee and whether the credit should continue. She said the committee received a worksheet. [\(Exhibit 16\)](#)
- 14:17:05 Ms. Moore discussed the worksheet.
- 14:17:38 Sen. Cohenour asked if the committee is prepared to have a discussion now or if members want to wait and have a discussion at a future meeting.
- 14:17:57 Rep. Welch said he recommends waiting.
- 14:18:10 Sen. Hoven said he recommends including a discussion now to provide ideas and suggestions while the topic is still fresh.
- 14:18:36 Sen. O'Brien said she agrees with taking time and being able to review the feedback received from schools. She said she can also provide some of her thoughts and opinions for a discussion now.
- 14:19:03 Rep. Beard said she would like to do a review now and have time to fill out the worksheet and be prepared for a discussion at the next meeting. She asked Ms. Moore about turning in the completed worksheets before the next meeting in order to be able to compile the data.
- 14:19:29 Ms. Moore said the worksheets were for the committee's personal use, but she is also able to compile the data.
- 14:19:56 Sen. Cohenour said the committee can have a discussion now and come up with ideas to think about and decide on at a future meeting.
- 14:20:27 Sen. O'Brien discussed her thoughts and concerns.
- 14:23:05 Sen. Hoven provided his thoughts and ideas.
- 14:25:57 Rep. Thane discussed his concerns. He asked Ms. Moore if she can email the evaluation form as a Word document.
- 14:28:22 Sen. Hertz commented on the credit and said he recommends waiting to see how it develops over the next few years.
- 14:31:02 Sen. Lang provided his thoughts and discussed why he voted yes on creating the bill.
- 14:32:35 Sen. Cohenour commented on the credit.
- 14:34:17 Sen. Hoven provided his comments.

COVID FINANCIAL REPORT FEDERAL FUNDS UPDATE

Update on Receipt and Spending of COVID Federal Funds -- Quinn Holzer and Joe Triem, Legislative Fiscal Division

- 14:35:56 Mr. Holzer discussed the report that was given to the Legislative Finance Committee in December. [\(Exhibit 17\)](#)
- 14:45:55 Sen. Cohenour said the tribal assistance table is not included in the report. She said Ms. Moore will send a copy of Mr. Holzer's slides to the committee. [\(Exhibit 18\)](#)

Overview of ARPA Dashboard – Angie Nelson, Office of Budget and Program Planning

- 14:47:07 Ms. Nelson.

Committee questions

- 14:59:16 Rep. Trebas asked Ms. Nelson about the total amount awarded by program.
- 15:00:43 Sen. Hoven asked Ms. Nelson how much of the ARPA money has yet to be allocated.
- 15:02:46 Sen. Hoven asked Ms. Nelson about the timeline for applying for the additional money coming from the federal government.
- 15:04:28 Sen. Lang asked Ms. Nelson about the end date for submitting paperwork to the federal government to receive funding.
- 15:05:54 Sen. McClafferty asked Ms. Nelson about additional money for nursing home facilities.
- 15:07:02 Sen. Lang said nursing homes will not receive more than \$15 million.
- 15:07:31 Rep. Beard asked Ms. Nelson about the three agencies that have over expended their federal funding appropriations. Ms. Nelson redirected the question to Mr. Holzer.
- 15:11:03 Sen. McClafferty asked why additional money will not be allocated to nursing homes. Mr. Holzer said the \$15 million maximum was established in HB 632 (2021).

Public comment

None

Committee Vote on Constitutional Initiative 121

- 15:13:00 Sen. Cohenour said the committee added an agenda item to discuss constitutional initiative 121 and that Rep. Beard will not be making a motion. She said it was decided to follow the letter of the law in HB 651 (2021) and not preempt it. Sen. Cohenour said she talked to staff about including the committee's concerns in the letter that was approved yesterday to send to other interim committees.
- 15:15:13 Rep. Beard discussed the initiative and being able to get feedback from other committees before moving forward.
- 15:18:51 Sen. Cohenour said the committee may need to take action before receiving input. She said it will be valuable to have the other committees take up the initiative and provide feedback.

ADMINISTRATIVE MATTERS

Committee Requests for Next Meeting

- 15:21:05 Ms. Moore asked the committee about topics for the next meeting.
- 15:21:28 Sen. Hoven said he would like to know the amount of revenue generated from a 1.5% state sales tax and what impact it would have on property taxes if all the money generated went to education and replaced the property taxes currently being used.

Next Meeting April 18-20, 2022

- 15:24:09 Rep. Thane asked about the meeting dates for April. Ms. Moore provided information.
- 15:25:17 Sen. Cohenour commented on joining the Economic Affairs Interim Committee on April 20 for the marijuana tour and seeing how the marijuana industry is progressing.
- 15:25:54 Sen. Lang said he recommends not starting the meeting on April 18 before 1:00 p.m.

PUBLIC COMMENT ON ANY TOPIC UNDER COMMITTEE'S JURISDICTION

- 15:27:13 Bob Story, Montana Taxpayers Association ([Exhibit 19](#))

ADJOURNMENT

- 15:31:44 Sen. Cohenour adjourned the meeting at 3:31 p.m.