

PROPOSED 2011-2012 INTERIM WORK PLAN OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

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INTRODUCTION

This report presents the preliminary 2011-2012 interim work plan for the Revenue and Transportation Interim Committee. The plan is designed to allow for Committee discussion, revision, and adoption. The work plan is divided into seven parts:

1. statutory duties of the Revenue and Transportation Interim Committee, including revenue estimating duties;
2. statutorily required agency reports, including the second Department of Revenue sales assessment ratio study as required by House Bill No. 658 (Chapter 483, Laws 2009);
3. interim study assignments, including House Joint Resolution No. 13 to study the individual income tax and options for revision (ranked #1 by poll of the Legislature), Senate Joint Resolution No. 17 to study the valuation of centrally assessed property and industrial property for tax purposes (ranked #8), and Senate Joint Resolution No. 23 to study the exemption of nonprofit organizations from property taxes (ranked #5);
4. other areas for possible review and analysis, including:
 - a. property tax assistance as requested by Section 14 of House Bill No. 658;
 - b. other agency reports; and
 - c. committee topics
5. Committee and agency legislative proposals;
6. proxy votes; and
7. meeting schedule and Committee budget.

A tabular summary of the proposed work plan is attached to this report.

STATUTORY DUTIES OF THE REVENUE AND TRANSPORTATION COMMITTEE

The general statutory duties of interim legislative committees are contained in 5-5-215, MCA:

5-5-215. Duties of interim committees. (1) Each interim committee shall:

- (a) review administrative rules within its jurisdiction;
- (b) subject to 5-5-217(3), conduct interim studies as assigned;
- (c) monitor the operation of assigned executive branch agencies with specific attention to the

following:

- (i) identification of issues likely to require future legislative attention;
 - (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
 - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
 - (d) review statutorily established advisory councils and required reports of assigned agencies to make recommendations to the next legislature on retention or elimination of any advisory council or required reports pursuant to 5-11-210;¹
 - (e) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
 - (f) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.
- (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.
- (3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee.

With respect to the requirement under 5-5-215(1)(d), MCA, for reviewing advisory councils and required reports, 2-15-1311, MCA, provides that the Director of Revenue shall appoint an advisory council for the purpose of complying with Article VI, section 1(b) of the Multistate Tax Compact and 60-2-601, MCA, requires the Transportation Commission to appoint an advisory council for the scenic-historic byways program. In addition, 15-7-201, MCA, provides for an agricultural advisory committee and 15-44-103, MCA, provides for a forest lands taxation advisory committee. Section 15-1-205, MCA, requires the Department of Revenue to prepare the biennial report in accordance with 5-11-210, MCA.

The specific duties of the Revenue and Transportation Committee are contained in 5-5-227, MCA:

5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue estimating and use of estimates. (1) The revenue and transportation interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and the department of transportation and the entities attached to the departments for administrative purposes.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may

¹House Bill No. 142 (Ch. 126, L. 2011) added subsection (1)(d) regarding interim committee review of advisory councils and required reports.

request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

Revenue Estimating and Monitoring

The Revenue and Transportation Interim Committee is required to prepare an estimate of revenue available for appropriation for each regular legislative session. The work plan calls for the Committee to be involved in revenue estimating topics and revenue collection status reports throughout the interim. The Legislative Fiscal Division will present general fund revenue collection reports. The Committee may request a report every meeting or periodically.

The Committee adopts the revenue estimates in November of the year preceding the next regular session. In the past, staff of the Legislative Fiscal Division and the governor's budget office each presented revenue estimates for the Committee's consideration. The Committee has in the past initially adopted the revenue estimates of the Legislative Fiscal Division and may make changes to those estimates based on information presented by the budget office and economists from the Montana university system. The Committee may want to consider whether other people should be invited to present their views on the state's economic and financial outlook.

At the September 2012 meeting, the Committee should establish a procedure for developing revenue estimates the following November.

Rule Review

Each legislative interim committee is required to review administrative rules proposed by state agencies within the committee's jurisdiction. The agenda for each meeting will likely include an item for this review. House Bill No. 543 (Ch. 333, L. 2011) established criteria for adopting a model code, rule, or other publication by a state agency. When appropriate, the rule review will discuss this requirement.

Income tax credit relief multiple

House Bill No. 9 (Ch. 6, Sp. L. May 2007) provided a one-time \$400 property tax rebate and an income tax credit for the amount property taxes paid associated with the 95 mills for school equalization levies on \$20,000 of market value of a taxpayer's principal residence times a relief multiple (15-30-2336, MCA). The relief multiple in statute is 0. For tax year 2007 only, a relief multiple was determined based on the amount that the unaudited general fund revenue received in fiscal year 2007 exceeded a certain amount.

Section 15-30-2336, MCA, directs the Committee to determine if a change in the relief multiple is justified, based upon actual and projected revenue and spending and any other appropriate factors. If the Committee determines that a change is justified, the Committee is directed to request a bill draft to change the relief multiple.

In 2008, the Committee concluded it would not have information to make an informed decision on whether to recommend a change in the relief multiple. One suggestion was to introduce legislation during the session after budget and revenue amounts were better known.

The Committee should consider whether it wants to: develop criteria for determining a recommended change to the relief multiple, eliminate the requirement that the committee make a recommendation, repeal of the statute, or simply leave it alone.

STATUTORILY REQUIRED AGENCY REPORTS

The Legislature often requires a state agency to report to the appropriate interim committee on a particular matter. The Departments of Revenue and Transportation are required to submit a variety of reports to the Committee.

The governor's budget office is required to notify the Revenue and Transportation Committee of the amount of actual or projected receipts that is than the amount projected to be received in the revenue estimate (17-7-140, MCA). The Committee is required to make recommendations to the budget director on the amount of the revenue shortfall. The budget director must consider the recommendations before certifying a general fund budget deficit. The budget office is also required to present an explanation of any significant change in agency or program scope to the appropriate interim committee (17-7-138, MCA).

Sales Assessment Ratio Studies

House Bill No. 658 (Chapter 483, Laws 2009) amended 15-7-111, MCA, to require the Department of Revenue to provide the Committee with a sales assessment ratio study of residences during the end of the second and fourth year of each reappraisal cycle. The Department of Revenue presented the final results of the first study to a joint hearing of the House and Senate Taxation Committees on January 12, 2011. The second study should be scheduled for the fall of 2012, either in September or November.

State-Tribal Cooperative Agreements

Title 18, chapter 11, part 1, MCA, provides that the state may enter into cooperative agreements "to promote cooperation between the state or a public agency and a sovereign tribal government in mutually beneficial activities and services" and "to prevent the possibility of dual taxation by governments while promoting state, local, and tribal economic development." Section 15-70-234, MCA, requires the Department of Transportation to report on the status of cooperative agreements on motor fuel taxation to the Committee and to present an agreement to the Committee for review and comment before the final agreement is presented to the attorney general for approval. Because the timing of the agreements seldom coincides with the Committee's meeting schedule, the Committee may review and comment on the agreement by teleconference.

The Department of Revenue also enters into cooperative tax agreements with tribal governments but is not specifically required to report to the Committee. In the past, the Department has reported to the Committee on tax agreements; the Committee may want to request an update on those agreements and information on pending agreements, if any.

Summary of Required Reports

The required reports are summarized in the table below. The summary table of the Committee's

draft work plan at the back of this paper shows a proposed schedule for presentation of the reports.²

Reports That are Required to be Provided to the Revenue and Transportation Interim Committee			
Citation	Reporting Entity	Report	Frequency
15-1-230, MCA Ch. 537, L. 1997	Department of Revenue	Number and type of taxpayers claiming the credit for contributions to a qualified endowment under 15-30-2328, the total amount of credit claimed, the total amount of the credit recaptured, and the department's cost associated with administering the credit	At least once each year The credit terminates December 31, 2013
15-7-111(4), MCA Ch. 483, L. 2009	Department of Revenue	Sales assessment ratio studies of residences to assess housing and market trends	During the end of the second and fourth year of revaluation cycle
15-31-322(2), MCA Ch. 521, L. 2003	Department of Revenue	Update of countries that may be considered a tax haven under 15-31-322(1)(f)	Biennially
15-70-234, MCA Ch. 772, L. 1991	Department of Transportation	Status of motor fuel tax cooperative agreement negotiations with the state's Indian tribes	As needed, after negotiations are complete and before final agreement is submitted to Attorney General for approval
15-32-703, MCA Ch. 525, L. 2005	Department of Revenue	The number and type of taxpayers claiming the credit for the costs of investments in depreciable property used for storing or blending biodiesel with petroleum diesel, the total amount of the credit claimed, and the department's cost associated with administering the credit.	At least once each year
15-70-369, MCA Ch. 525, L. 2005	Department of Transportation	The number and type of taxpayers claiming the refund (1 cent a gallon for retailers or 2 cents a gallon for distributors) of biodiesel sold, the total amount of the refund claimed, and the department's cost associated with administering the refund	At least once each year
61-10-154, MCA Ch. 366, L. 2005	Department of Transportation	Authority to stop and inspect, if probable cause exists, diesel-powered vehicles to determine compliance with provisions of special fuels use tax; impacts enforcement has had on the state special revenue fund	At least once each year

²The table does not include the requirement that the Department of Revenue report to the Committee by September, 2014, on the use of the property tax abatement for gray water systems under Senate Bill No. 265 (Ch. 405, L. 2011).

Reports That are Required to be Provided to the Revenue and Transportation Interim Committee			
Citation	Reporting Entity	Report	Frequency
17-7-138, MCA	Office of Budget and Program Planning	Significant change in agency or program scope (budget change)	Regular basis
17-7-140, MCA	Office of Budget and Program Planning	Estimated amount of receipts less than the amount projected to be received in the previous session's revenue estimating resolution	Upon determination of budget director that contingency in 17-7-140, MCA, has occurred
90-8-311, MCA	Repealed by House Bill No. 44 (Ch. 9, L. 2011)		

Time for a change?

These reports are outside the scope of 5-5-215, MCA. The purpose of the reports is to allow the Committee to track the effectiveness of particular legislation. The Committee may want to consider eliminating certain required reports or revising the frequency of the reports. House Bill No. 44 eliminated the requirement that the Department of Commerce report on an annual basis to the appropriate legislative interim committee concerning Montana capital companies and Montana small business investment capital companies.

INTERIM STUDY ASSIGNMENTS

In May, Legislative Services Division staff presented the results of the poll of legislators regarding interim studies and recommendations for the conduct of the studies to the Legislative Council. The poll asked legislators to rank each of 16 study resolutions approved by the 62nd Legislature.³

The Legislative Council assigned House Joint Resolution No. 13 (study the state income tax and options for revision), Senate Joint Resolution No. 17 (study the valuation of centrally assessed property and industrial property for tax purposes), and Senate Joint Resolution No. 23 (study tax exemptions for nonprofit organizations) to the Committee.

Study plans detailing the Committee's options for the study resolutions will be discussed separately by the Committee at the meeting.

³See the "Back Page" article in the June 2011 issue of *THE INTERIM* newsletter for a discussion of poll results and recommendations of the Legislative Council.

OTHER AREAS FOR REVIEW AND ANALYSIS

Property Tax Assistance

Section 14 of House Bill No. 658 (Ch. 483, L. 2009) requests that the Committee as part of its oversight duties under 5-5-227, MCA, "review methods of providing assistance to property taxpayers, including circuit breaker programs and assistance to low-income, veteran, and elderly property owners and whether the assistance should be accomplished through income tax or property taxation means." Last interim, the Committee reviewed a variety of property tax assistance programs but did not agree on a recommendation. The Committee may want to discuss whether to examine the topic again this interim.

Department of Transportation

The Committee should monitor the status of the highway state special revenue account; federal funding of highway projects; major highway construction and maintenance projects, including cost increases; highway safety; and other matters affecting the Department of Transportation.

Litigation Reports

The Committee may request reports from the Department of Revenue and the Department of Transportation on litigation affecting the respective department.

Other Committee and Staff Topics

As provided in 5-5-215(1)(c) and (1)(f), MCA, the Committee may identify other concerns or policy matters for review and analysis as the interim proceeds. If a Committee member proposes a topic that is not taken up by the Committee, the member may submit an information request to the Legislative Services Division. Staff may devote up to 16 hours on an information request.

Committee staff may also suggest topics for the Committee's consideration.

Section 5-11-105, MCA, provides that if "a question of statewide importance arises when the legislature is not in session and a legislative interim committee has not been assigned to consider the question, the legislative council shall assign the question to an appropriate interim committee, as provided in 5-5-202, or to the appropriate statutorily created committee." The Committee may submit a request to the Legislative Council to undertake such a question.

Department Reports

Time will be available at each meeting for the Department of Revenue and the Department of Transportation to report on department activities.

COMMITTEE AND AGENCY LEGISLATIVE PROPOSALS

If the Committee requests legislation as a result of an interim study or for another reason, the proposal must be preintroduced.

In addition, interim committees are required to review legislative proposals of assigned agencies as provided by joint legislative rules. Joint Rule 40-40(5)(a) provides that unless requested by a

legislator, "a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee." A committee request for the drafting of an agency bill does not imply that the committee endorses or supports the agency proposal.

Staff may recommend clarifying existing law. Last interim the Committee introduced legislation to clarify the entitlement share payments to local governments, repeal the Capital Company Act, lower the withholding tax rate on lottery winnings, correct an erroneous figure related to the extended property tax assistance program, and correct terminology related to state agency liquor stores. Except for the legislation on entitlement share payments, each of the Committee proposals was enacted into law. Changes to the entitlement share payment were enacted by House Bill No. 495 (Chapter 393, Laws 2011).

If a bill draft requested by the Committee or a state agency is not preintroduced by December 15 prior to the convening of the legislative session, the request is canceled.

PRIORITY OF COMMITTEE PROJECTS

The draft Committee work plan details a significant amount of work for the interim, including three studies; revenue estimating and monitoring; a possible review of property tax assistance programs, and sales assessment ratio studies. The Committee should establish priorities for these tasks to ensure that it can complete its work in a timely fashion.

PROXY VOTING

The Legislative Council publication "Rules, Procedures, and Guidelines for Legislative Interim Committees and Activities" generally discourages proxy votes and provides:

Employment of a proxy is inappropriate whenever a question before a committee has not received a prior hearing or where new debate occurs the day of the vote.

For the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member that specifies the question to which the proxy applies. Where a written proxy refers generally to a question but does not precisely address the question called to a vote, the [presiding officer] shall determine whether the proxy will be allowed.⁴

Last interim, the Committee agreed to allow proxy voting provided the votes were submitted in writing or by e-mail or fax.

MEETING SCHEDULE AND INTERIM COMMITTEE BUDGET

Attached to this report is a proposed meeting schedule. Included with the schedule are possible conflicts with other interim committees.

⁴"Rules, Procedures, and Guidelines for Legislative Interim Committees and Activities", Montana Legislative Council (Helena, MT, revised June 26, 2009), p. 3.

The Committee will meet seven more times this interim, including a meeting in November 2012 to adopt the revenue estimates for the 2015 biennium. Because the Committee has three studies to complete and a variety of other tasks, the meeting schedule includes 2-day meetings for most of the interim. The Committee can decide when 2-day meetings are necessary.

The Committee's budget is \$46,645 for the interim. The budget includes legislative salaries, travel, lodging, and meals as well as other operational costs, such as postage and printing.

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
PROPOSED MEETING SCHEDULE FOR THE 2011-12 INTERIM**

Wednesday	June 15, 2011	Organizational meeting
Thursday	June 16, 2011	
Thursday	Sept. 15, 2011	
Friday	Sept. 16, 2011	
Thursday	Dec. 1, 2011 (or Dec. 8)	Montana Taxpayers Association annual meeting
Friday	Dec. 2, 2011 (or Dec. 9)	
Thursday	Feb. 16, 2012	
Friday	Feb. 17, 2012	
Thursday	April 26, 2012	
Friday	April 27, 2012	
Thursday	July 19, 2012	Legislative proposals from the Departments of Revenue and Transportation
Friday	July 20, 2012	
Thursday	Sept. 13, 2012	Conclude interim work except for revenue estimates
Friday	Sept. 14, 2012	
Friday	Nov. 16, 2012 (tentative)	Adopt revenue estimates for 2015 biennium

Possible Meeting Conflicts with Other Interim Committees							
Secretarial support conflicts							
CFHHS	Sept. 19 or 23	Nov. 18	Jan. 23 or 27	March 19-20	May 7 or 11	June 22	Aug. 23-24
SAVA	Oct. 20	Jan. 27	April 19	June 7-8	Aug. 8-9	Sept. 6	
Committee member conflicts							
Legislative Council	Aug. 25/26 or Sept. 26-30 (2 days)	Nov 7-10 (2 days)	Jan. 23-25 (2 days)	March LC/LFC training	May 7-11 (1 day)	Aug. 22-24 (1 day)	Nov. 2, 9, or with caucus (1/2 day)

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
SUMMARY OF DRAFT WORK PLAN, 2011-12 INTERIM**

ACTIVITY	June 2011	Sept. 2011	Dec. 2011	Feb. 2012	April 2012	July 2012	Sept. 2012	Nov. 15, 2012
GENERAL COMMITTEE DUTIES								
Administrative rule review of the Department of Revenue and the Department of Transportation (5-5-215 and 5-5-227, MCA)	On every committee meeting agenda							
Draft legislation, program evaluation, and monitoring for Department of Revenue and Department of Transportation (5-5-227, MCA). See "Additional Agency Reports" at end of table.		Agency reports	Agency reports	Agency reports	Agency reports	Committee review and decision to request agency bills	Agency reports	
Review advisory committees and required reports	As scheduled							
REVENUE ESTIMATING & TAX CREDIT								
Revenue collection reports -- Legislative Fiscal Division	Schedule every meeting or periodically							
Revenue estimating resolution (5-5-227, MCA)							Establish procedures for November meeting	
Tax credit--relief multiple (15-30-2336, MCA,)	As scheduled							
REQUIRED REPORTS								
Department of Revenue								
Tax credit for planned gifts made to qualified charitable endowment (15-1-230, MCA)								
Report on countries that may be considered a tax haven (15-31-322, MCA)	As scheduled							
HB 658--Sales assessment ratio studies reported by DOR								
Credit for blending biodiesel fuel (15-32-703, MCA)	As scheduled							

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
SUMMARY OF DRAFT WORK PLAN, 2011-12 INTERIM**

ACTIVITY	June 2011	Sept. 2011	Dec. 2011	Feb. 2012	April 2012	July 2012	Sept. 2012	Nov. 15, 2012
Department of Transportation								
Cooperative agreements with tribes on motor fuel taxation (15-70-234, MCA)	As negotiations occur--committee review may be conducted by teleconference							
Inspection of diesel-powered vehicles to determine compliance with special fuel laws and impact on highway fund (61-10-154, MCA)	As scheduled							
Refund for biodiesel sold (15-70-369, MCA)								
Other Required Reports								
Budget Director must report when actual or projected revenue is less than estimates adopted by the Legislature (17-7-140, MCA)	If necessary							
Budget office explanation of change in agency or program scope (17-7-138, MCA)	As provided							
INTERIM STUDY ASSIGNMENT								
HJR 13--Study of state income tax and options for revision	Study plan	Background report	Staff reports, panel discussions and Committee work	Staff reports, panel discussions, and Committee work	Staff reports & Committee work as necessary	Consider options & recommendations	Final recommendations	
SJR 17--Study of the valuation of centrally assessed property and industrial property for property tax purposes	Study plan	Background report	Staff reports, panel discussions and Committee work	Staff reports, panel discussions, and Committee work	Staff reports & Committee work as necessary	Consider options & recommendations	Final recommendations	
SJR 23--Study of exemption of nonprofit organizations from property taxation	Study plan	Background report	Staff reports, panel discussions and Committee work	Staff reports, panel discussions, and Committee work	Staff reports & Committee work as necessary	Consider options & recommendations	Final recommendations	
HB 658--Review of property tax assistance	Optional--depending on Committee decision							

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
SUMMARY OF DRAFT WORK PLAN, 2011-12 INTERIM**

ACTIVITY	June 2011	Sept. 2011	Dec. 2011	Feb. 2012	April 2012	July 2012	Sept. 2012	Nov. 15, 2012
OTHER TOPICS AND STUDIES								
Staff recommendations for clean-up legislation						Initial presentation	Review draft legislation if requested	
Review necessity of required reports								
Committee topics and other matters	As topics come up							
OTHER AGENCY REPORTS								
Department of Revenue								
Update on cooperative tax agreements								As scheduled
General reports and litigation reports								As scheduled
Department of Transportation								
Review status of highway special revenue account								As scheduled
Status of highway and other projects, including status of federal funding								As scheduled
General reports and litigation reports								As scheduled
Highway safety reports								As scheduled

As of: June 2, 2011 (11:27am)

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