



# Revenue and Transportation Interim Committee

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## 59th Montana Legislature

### SENATE MEMBERS

JIM ELLIOTT--Chair  
GREGORY BARKUS  
JERRY BLACK  
KIM GILLAN  
SAM KITZENBERG  
KEN TOOLE

### HOUSE MEMBERS

KARL WAITSCHIES--Vice Chair  
JILL COHENOUR  
CYNTHIA HINER  
BOB LAKE  
DAVE MCALPIN  
PENNY MORGAN

### COMMITTEE STAFF

JEFF MARTIN, Lead Staff  
LEE HEIMAN, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

December 16, 2005

Room 137, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

### COMMITTEE MEMBERS PRESENT

SEN. JIM ELLIOTT, Chair  
REP. KARL WAITSCHIES, Vice Chair

SEN. GREGORY BARKUS  
SEN. JERRY BLACK  
SEN. KIM GILLAN  
SEN. SAM KITZENBERG

REP. JILL COHENOUR  
REP. CYNTHIA HINER  
REP. BOB LAKE  
REP. DAVE MCALPIN  
REP. PENNY MORGAN

### COMMITTEE MEMBERS EXCUSED

SEN. KEN TOOLE

### STAFF PRESENT

JEFF MARTIN, Lead Staff  
LEE HEIMAN, Staff Attorney  
DAWN FIELD, Secretary

### AGENDA & VISITOR'S LIST

Agenda, [Attachment #1](#).  
Visitors' list, [Attachment #2](#).

### **CALL TO ORDER AND ROLL CALL**

SEN. ELLIOTT called the meeting to order at 7:33 a.m. The secretary took the roll, SEN. TOOLE was excused ([ATTACHMENT #3](#)).

### **GASOLINE TAX REVENUE SHARING AGREEMENT WITH ROCKY BOY INDIAN RESERVATION**

**Jim Lynch, Director, Montana Department of Transportation (MDT)**, presented the proposed revenue sharing agreement for the Committee's review and comment, pursuant to 18-11-103 and 15-70-234, MCA ([EXHIBIT #1](#)). Director Lynch discussed the purpose of the revenue sharing agreement and the minor changes made from the previous agreement. He discussed the:

- determination of number of enrolled tribal members residing on the reservation;
- formula for sharing the tax revenue;
- tax remitted to the Tribe;
- term, effective date, and termination date of the agreement; and
- attachments.

REP. LAKE asked about the Revenue and Transportation Committee's duties regarding the revenue sharing agreement. Director Lynch said according to state statute, the MDT negotiates a tax agreement with the tribal government. The proposed agreement is presented to the Revenue and Transportation Committee for review and comment only. The agreement is submitted to the Attorney General (AG) after comment has been taken from the RTIC. REP. LAKE what happens if the AG rejects the agreement. Director Lynch said that if the AG identifies a problem with the agreement, the agreement comes back to the Committee for additional review and comment after the needed adjustments are made.

SEN. ELLIOTT asked Director Lynch to review the formula used to calculate the agreement. Director Lynch referred the members to the last page of EXHIBIT #1 and reviewed each step of the calculation process.

SEN. ELLIOTT asked why the tax is determined by per capita rather than mileage. Director Lynch said that the rationale for that is because the State of Montana could end up refunding gasoline taxes that were paid by non-Native Americans if mileage was used and that the purpose of the agreement is to just refund the gasoline tax paid by Native Americans.

SEN. BARKUS referred to the last page of EXHIBIT #1 and pointed out that the total gas tax refund amount is approximately \$406,000. He said that amounts to about \$110 per tribal member and, at \$.20 per gallon, amounts to about 11,000 gallons of gas tax refunded per enrolled member. He said that is lot of gasoline and asked if his calculation was correct. Director Lynch said his calculation was correct and explained that the cost per capita determination was based on all of the residents of the State of Montana (the total gas tax collected in the state divided by the total number of residents of the state).

SEN. BARKUS asked how this tribal agreement differs from other tribal agreements. Director Lynch said there is little difference between this agreement and the other tribal agreements.

The only changes made were in the number of enrolled members and granting authority to the State to perform audits to determine the actual number of enrolled members of the reservation.

REP. MORGAN asked for an explanation of "less: the gas tax refunds", as listed on the last page of EXHIBIT #1. Director Lynch said if a citizen pays a gasoline tax, the citizen may file for a refund of that tax paid. The MDT didn't want to use a gross tax number without that refund amount taken away when determining the per capita amount in order to make sure that more revenue was not being refunded than was actually collected.

REP. MORGAN said that tourism is a major industry in Montana and that the tribes are getting the advantage of tourism dollars in their gas tax refunds. She asked Director Lynch if he thought that was reasonable. Director Lynch said the agreements are the result of a 1992 lawsuit brought by the tribes because of the double taxation issue.

SEN. BLACK asked if the 1% administrative fee is new or if an administrative fee has been included in past agreements. Director Lynch said in essence, no, but when used for calculation purposes, yes. It was determined years ago, that one percent of the gas tax would not be given back and would be used for the costs of administering the tax fund and to carry out the negotiations.

SEN. BLACK asked if the one percent administrative fee is charged to all of the tribes. Director Lynch said that a one percent administrative fee is assessed in each agreement.

SEN. ELLIOTT thanked Director Lynch for reviewing the revenue sharing agreement and stated that it had been officially reviewed and commented on by the Revenue and Transportation Interim Committee, as required by statute.

SEN. GILLAN asked when the next meeting is scheduled for the Committee. SEN. ELLIOTT said the next meeting was scheduled for February 16 and 17, 2006, in Helena.

SEN. ELLIOTT asked if the members were agreeable to not taking salary for the meeting. REP. MORGAN stated that she intended to claim salary for the meeting.

REP. LAKE asked if the day of travel is considered a salary day. SEN. ELLIOTT said it is. REP. MORGAN said she has never claimed salary for travel days.

SEN. BARKUS said he didn't think it was appropriate for the Committee Chair to suggest that the Committee members not take salary for the meeting. If it is appropriate to be paid, then the members should be paid.

SEN. ELLIOTT said the members are entitled to be paid but that they also have the option to decline salary and that he will decline his salary.

With no further business before the Revenue and Transportation Committee, SEN. ELLIOTT adjourned the meeting at 8:14 a.m.  
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