

PROPOSED 2003-2004 INTERIM WORK PLAN OF THE REVENUE AND TRANSPORTATION COMMITTEE

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INTRODUCTION

This report presents the 2005-2006 interim work plan for the Revenue and Transportation Interim Committee (Committee). This is a preliminary plan and is designed to allow for Committee discussion, revision, and adoption. The work plan is divided into five parts:

- statutory duties of the Revenue and Transportation Interim Committee, including revenue estimating duties;
- statutorily required agency reports;
- interim study assignments;
- other areas for review and analysis, including a proposal that the Committee review a major tax source each interim; and
- meeting schedule and Committee budget.

A proposed meeting schedule and a tabular summary of the proposed work plan are 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 proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
 - (e) 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.

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) 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.

(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 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 Duties

Revenue Estimates for the 2009 Biennium: One of the more important duties of the Revenue and Transportation Committee is the development of revenue estimates for the Legislature. 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 periodic status reports of general fund collections.

Montana relies on national economic forecasts in the development of revenue estimates. The state is under contract with *Global Insights, Inc.* for those forecasts. Previously, the contract provided for representatives of *Global Insights* to come to Montana to present information on national economic trends. Those presentations were intended to assist the Committee in developing revenue estimates for the next legislative session. At its April 30, 2004, meeting, the Committee discussed the value of those presentations and whether money would be better spent on obtaining more state-specific information from *Global Insights*. The Committee voted to encourage the Office of Budget and Program Planning to drop the personal visits from the contract in favor of obtaining state-specific forecasts from *Global Insights*. The Committee also requested that Paul Polzin, Director of the Bureau of Business and Economic Research, UM, and Myles Watts, Head of the Department of Agricultural Economics and Economics, MSU, discuss national and state economic trends at its November 16, 2004, meeting. They will be invited to provide similar presentations at the revenue estimating meeting scheduled for November 2006.

Update Revenue Estimates in Anticipation of December (?) Special Session: During the 1989 regular session, the Legislature required the former Revenue Oversight Committee to estimate the amount of revenue projected available for appropriation and to introduce a resolution containing a revenue estimate in each regular session and special session in which a revenue bill is under consideration (Ch. 608, L. 1989). During the 1991 regular session, the Legislature clarified that the Legislature's revenue estimates and the assumptions underlying those estimates be used by state agencies in the preparation of fiscal notes (Ch. 603, L. 1991). The Legislature

also eliminated the requirement that the Revenue Oversight Committee introduce a revenue estimating resolution in a special session in which a revenue bill is under consideration. However, the Revenue Oversight Committee requested a revenue estimating resolution for the January 1992 special session, the July 1992 special session, and the November 1993 special session. Although the Revenue and Transportation Committee did not request a revenue estimating resolution for the May 2000 special session or the August 2002 special session, a revenue estimating resolution was introduced by an individual member of the Committee in each of those special sessions. In 2000, the Committee had planned on requesting a resolution, but the resolution was instead presented to a joint hearing of the House and Senate Taxation Committees before the start of the special session.

Section 5-5-227(3) provides that the Committee's estimate is the Legislature's "current revenue estimate until amended or until final adoption of the estimate by both houses." Although House Joint Resolution 2, introduced during the 2005 session, "died in the process," it still constitutes the official revenue estimate of the Legislature. However, given the potential ramifications of school funding, the Revenue and Transportation Committee should consider at least updating the revenue estimates and introducing a resolution during the special session. The request for the resolution would likely be within the scope of the call for a special session. A revised resolution would provide more current financial information. Existing law does not require the Committee to prepare a revenue estimate for a special session, but doing so would be advisable given the likely nature of the special session.

STATUTORILY REQUIRED AGENCY REPORTS

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

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	Revenue	Number and type of taxpayers claiming the credit for contributions to a qualified endowment under 15-30-166, the total amount of credit claimed, <i>the total amount of the credit recaptured</i> , and the department's cost associated with administering the credit	At least once each year
15-31-322(2), MCA Ch. 521, L. 2003	Revenue	Update of countries that may be considered a tax haven under 15-31-322(1)(f)	Biennially

Reports That are Required to be Provided to the Revenue and Transportation Interim Committee			
Citation	Reporting Entity	Report	Frequency
15-70-234, MCA Ch. 772, L. 1991	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 HB 776	Revenue	The number and type of taxpayers claiming the credit for the cost of storage and blending equipment to be used for 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 beginning after January 1, 2006
15-70-369, MCA Ch. 525, L. 2005 HB 776	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 (formerly 61-10-141, MCA) Ch. 366, L. 2005 SB 459	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
60-2-135, MCA Ch. 192, L. 2003	Transportation	Updates on the design-build contracting pilot program (report to Governor and 61st Legislature)	As requested by the Committee
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	Commerce	Montana capital companies and Montana small business investment capital companies	Annually to the appropriate committee

State-Tribal Cooperative Agreements

Title 18, chapter 11, part 1, 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.

The Department of Revenue has entered into a variety of 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 the tax agreements; the Committee may want to request an update on those agreements and information on pending agreements, if any.

Time to Go?

Most of the required reports listed in the table above were established to follow up on the effects of certain legislation. Over the last two interims, the Committee has requested legislation to eliminate certain required reports. During the 2001-2002 interim, the Committee requested legislation to eliminate the requirement that the Board of Oil and Gas report to the [Revenue and Transportation] Committee regarding certain enhanced oil recovery projects. That report was required to monitor the effectiveness of reduced net proceeds taxes and state severance taxes on incremental oil production that were enacted during the November 1993 Special Session (Ch. 9, Sp. L. November 1993). Last interim the Committee requested legislation (on recommendation of staff) to eliminate the requirement that the Revenue and Transportation Committee "analyze the amount of state and local tax revenue derived from previously regulated natural gas suppliers that will enter the competitive market" and "report to the legislature on how revenue to the state or local government is changed by restructuring and competition" (Senate Bill No. 26 (Ch. 107, L. 2005)). In addition, the Department of Revenue requested legislation to eliminate the required reports on the exemption of intangible personal property and on the taxation of pass-through entities (House Bill No. 85 (Ch. 318, L. 2005)).

Each interim, the Committee should review the benefit of required reports. In particular, the Committee may want to consider eliminating the report required from the Department of Commerce under 90-8-311, MCA, on tax credits and other matters related to capital companies and small business capital companies.

INTERIM STUDY ASSIGNMENT

In May, Legislative Services Division staff presented the results of the poll of legislators regarding interim studies and recommendations for the conduct of the study to the Legislative Council. The poll asked legislators to rank each of 22 study resolutions approved by the 59th Legislature.¹

The Legislative Council assigned House Joint Resolution No. 43 (ranked 6th), introduced by Representative Jim Peterson, and House Joint Resolution No. 44 (ranked 4th), introduced by Representative Alan Olson, to the Committee.

¹See the "Back Page" article in the June 2005 issue of *THE INTERIM* newsletter (Vol. XV, No. 1) for a discussion of poll results and recommendations of the Legislative Council.

HJR 43 requests a study of "the classification, valuation, and taxation of agricultural land." In particular, the study requests an examination of the current methods used for the classification and valuation of agricultural land for property tax purposes and to examine alternative methods of classification and valuation. The Legislature appropriated \$571,000 of one-time-only funding to the Department of Revenue for an agricultural and forest land reappraisal program. The Agricultural Advisory Committee, appointed by the Governor, provides recommendations to the Department on the conduct of the reappraisal program for agricultural land. The advisory committee meets frequently with Department. The Committee may want to coordinate this study with the advisory committee and the Department.

HJR 44 requests a study of the assessment and property taxation of oil and natural gas property, with a focus on oil and natural gas property that is centrally assessed. During the 2005 legislative session, the Legislature considered House Bill No. 569 that would have included oil and gas flow lines and gathering lines owned by a producer as class eight property. Because of concerns raised about the fiscal effect on local governments and the state, uncertainty about the distinction between centrally assessed transmission pipelines and other types of pipelines, and uncertainty about which taxpayers would be eligible to have property reclassified as class eight property, the bill died in the Senate Taxation Committee.

Staff will present study plans for the two resolutions at the September meeting detailing the Committee's options. Staff intends to meet with stakeholders over the summer to deal with the relevant issues for each study.

OTHER AREAS FOR REVIEW AND ANALYSIS

Review and Analysis of a Major Tax Source

In order to develop a better understanding of Montana's tax systems and to provide relatively current information, staff recommends that the Committee review and analyze at least one major tax source each interim. The goal would be to provide a reference source for legislators, policymakers, and the public. The reference source would be updated each interim. Although not necessarily a goal of the review and analysis, the effort could result in legislation that would clarify, modify, or revise existing law.

Staff further recommends that the Committee review business income taxes this interim as discussed below.

Last interim, the committee began a review of the corporation license tax. At the December 2003 meeting of the Committee, Chairman Bob Story wanted the Committee to look at whether reductions in corporation income taxes in recent years were attributable to the "normal" volatility of the tax or, perhaps, to a reduction in the tax base. At the February 2004 Committee meeting,

staff presented an oral report on several factors affecting state-level corporation taxes.² These factors included cyclical declines in corporate profits, changes to the federal corporate tax base, state policies to reduce corporate tax burdens, changes to the organizational structure of business entities, and more focused state tax planning strategies by corporations.

At the September 2004 meeting, staff presented a report on interstate comparisons of corporate tax bases and rates, reporting requirements, apportionment factors, minimum taxes, and net operating loss provisions. Legislative Fiscal Division staff presented a report on the Montana corporation license tax.³ The report presented information on the corporation tax structure in the state, historical collection data, estimated tax payments, audits, refunds, domestic versus "foreign" corporations, changes in business organization (e.g., limited liability companies), and the relationship between economic conditions and the corporation tax.

Senate Bill No. 461 (Ch. 606, L. 2003), in addition to mitigating the effects of the periodic property tax reappraisal cycle, created two interim study committees, both of which were attached to the Department of Revenue for administrative purposes. The Tax Reform Study Committee⁴ evaluated all of Montana's major tax sources, but according to that committee's final report, "[t]he corporation license tax was one of the least discussed taxes during the Tax Reform Study Committee's deliberations on Montana's tax structure; practically speaking, there were no public comments addressing this tax."

During the 2005 legislative session, several bills were introduced that dealt with some aspect of the corporation license tax. In particular, Senate Bill No. 513 was introduced to provide for compliance measures for income taxes and corporate license taxes. The bill passed the Senate but was tabled in the House Taxation Committee because there was concern that the bill had been introduced so late in the session that sufficient time was not available to adequately deal with the implications of the proposal. Rep. Gary Branae offered a motion that the House Taxation Committee request the Revenue and Transportation Committee evaluate the issues raised by SB 513. The Committee has received a copy of that request.

Given the current interest in business income taxes, it would be timely to review and analyze business income taxes and corporate license taxes. The review and analysis may include:

- a general overview of the taxation of business income;
- a review of state tax law applied to each type of business organization (e.g., corporations, limited liability companies, and small business corporations);

²The report was based on "State Corporate Tax Revenue Trends: Causes and Possible Solutions," by William Fox and LeAnn Luna, *National Tax Journal*, Vol. 55, No. 3, September 2002, and "The Future of State Corporation Income Tax: Reflections (and Confessions) of a Tax Lawyer," by Richard D. Pomp, in *The Future of State Taxation*, edited by David Brunori, (Urban Institute Press).

³"Montana Corporation License Tax," Terry Johnson and Catherine Duncan, Montana Legislative Fiscal Division, presented to the Revenue and Transportation Interim Committee, September 9, 2004 (Exhibit 1).

⁴The other committee was the Property Reappraisal Study Committee.

- a review of major changes in tax law;
- a discussion of how federal law affects the tax base in Montana;
- a discussion on the apportionment of income of multistate entities;
- an analysis of trends in the collection of business income taxes;
- a review of court decisions related to the taxation of business income and the process by which those decisions are reached;
- an update on interstate comparisons related to the taxation of business income;
- a review of issues related to tax evasion, abuse, avoidance, and compliance (as requested by the House Taxation Committee).

The purpose of the review and evaluation would be to develop an objective resource document to assist policymakers and the general public to better understand the taxation of business income and to provide a basis for evaluating proposed tax policy changes. This effort should include the participation of taxpayers, tax professionals, the Department of Revenue, and other interested parties. If the Committee decides to undertake this task, staff will prepare for the September meeting a work plan to accomplish the task. The effort would build on the review analyses conducted last interim. At the September meeting, the Committee will need to determine how much time it wants to devote to the assigned studies, the review and analysis of the taxation of business income, and other assigned duties.

Property Taxes

Senate Bill No. 48 (Ch. 531, L. 2005) eliminated the "trigger" that would have phased out the taxation of class eight personal property and increased the exempt aggregate market value of class eight property from \$5,000 to \$20,000 beginning in tax year 2006. The Committee should review the effects of the higher exemption amount on taxpayers and on taxing jurisdictions.

Senate Bill No. 461 (Ch. 606, L. 2003) provided "extended property tax relief" for residential property of qualifying taxpayers to further mitigate the effects of the last reappraisal cycle. The Committee should request updates from the Department of Revenue on the extent of property tax relief under this provision.

Tax Incentives

Several tax incentive measures were enacted during the 2005 legislative session. The Committee should review the extent to which these incentives are being utilized. Committee members may review the tax summary prepared by staff to determine which incentives should be reviewed.

Computer Systems

Senate Bill No. 271 (Ch. 597, L. 2003) required the Department of Revenue to replace the Process Oriented Integrated System (POINTS) computer system with a different system. That system, Integrated Revenue Information System (IRIS), was implemented in 2003 and has been expanded. In the 2005 legislative session, the Legislature authorized the Department to develop a new property tax system. The Committee should schedule meeting time to review progress of IRIS and the new property tax system.

Department of Transportation

Highway Funding

The Committee should monitor the status of the highway state special revenue account, federal reauthorization of highway funds, funded projects, and other matters affecting the Department. The Committee should also invite the Montana Transportation Commission to report to the Committee.

Litigation Reports

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

Irritants to Committee and Staff

The Committee and staff may identify other issues for review and analysis as the interim proceeds. Staff may make recommendations regarding legislation to clarify existing law.

MEETING SCHEDULE AND INTERIM COMMITTEE BUDGET

Attached to this report is a proposed meeting schedule. The Committee will meet seven times during the interim (not including this year's organizational meeting), including a meeting in November 2006 to adopt the revenue estimates for the 2009 biennium. The 2-day meetings are scheduled for December 1 and 2, 2005, and June 29 and 30, 2006.

Each 12-member interim committee has been allocated \$39,369 for the interim. The budget includes legislative salaries and expenses as well as other minor operational costs, such as postage and printing, of the Committee. The budget would allow the Committee to have eight meetings during the interim, two of which may be 2-day meetings. The proposed meeting schedule includes seven meetings, including the revenue estimating meeting. The Revenue and Transportation Committee typically holds its organizational meeting in conjunction with a joint meeting with the Legislative Finance Committee in June following the regular session. The budget assumes 100% participation by all committee members and makes certain assumptions about travel costs and overnight lodging.

Last interim, the Committee budget was approximately \$32,000. The Committee met seven times (two of those meetings were 2-day meetings) and spent about \$22,700, for an average cost of \$3,240. Based on the average cost for meetings last interim, it may be possible to schedule an additional 2-day meeting.

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
PROPOSED MEETING SCHEDULE FOR THE 2005-06 INTERIM**

Friday	June 17, 2005	Organizational meeting (FY 2005 budget)
Friday	Sept. 30, 2005	
Thursday	Dec. 1, 2005	Adopt revenue estimates for special session
Friday	Dec. 2, 2005	
Friday	Feb. 17, 2006	
Friday	April 28, 2006	
Thursday	June 29, 2006	Legislative proposals from the Departments of Revenue and Transportation
Friday	June 30, 2006	
Friday	Sept. 8, 2006	Conclude interim work except for revenue estimates
Tuesday	Nov. 14, 2006	Adopt revenue estimates for 2009 biennium

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