Revenue and Transportation Interim Committee

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60th Montana Legislature

SENATE MEMBERS
JIM ELLIOTT
JEFF ESSMANN
KIM GILLAN
CHRISTINE KAUFMANN
JIM PETERSON
ROBERT STORY JR

HOUSE MEMBERS
TIMOTHY FUREY
GALEN HOLLENBAUGH
MIKE JOPEK
BOB LAKE
PENNY MORGAN
JON SONJU

COMMITTEE STAFF
JEFF MARTIN, Lead Staff
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

June 21, 2007

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.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. JIM ELLIOTT
SEN. JEFF ESSMANN
SEN. KIM GILLAN
SEN. CHRISTINE KAUFMANN
SEN. JIM PETERSON
SEN. ROBERT STORY JR

REP. TIMOTHY FUREY
REP. GALEN HOLLENBAUGH
REP. MIKE JOPEK
REP. BOB LAKE
REP. PENNY MORGAN

COMMITTEE MEMBERS EXCUSED

REP. JON SONJU

STAFF PRESENT

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

AGENDA & VISITORS' LIST

Agenda, Attachment #1
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Revenue and Transportation Interim Committee approved a bill draft request for revenue estimates.

TAPE 1 - SIDE A

CALL TO ORDER AND ROLL CALL

00:00:42 The meeting was called to order by SEN. ELLIOTT. The secretary took roll call, REP. SONJU was excused (ATTACHMENT #3). SEN. ELLIOTT asked the members and staff to introduce themselves.

00:07:03 **Jeff Martin, Research Analyst, Legislative Services Division (LSD),** provided a brief overview of the meeting and meeting materials.

ELECTION OF PRESIDING OFFICERS

00:11:02 SEN. PETERSON discussed the chair rotation history of the Revenue and Transportation Interim Committee (RTIC) and said that the rotation should be maintained. He nominated REP. LAKE as Committee Chair. REP. JOPEK said the he was tired of fighting in the session and the recent coverage in newspapers and that it is his hope that those problems won't be brought into interim work. He said that interim committees deal with important issues and that RTIC should focus on working together in a cooperative and non partisan fashion. Cooperation far outweighs the value of the rotation system. He nominated SEN. GILLAN as Committee Chair. SEN. PETERSON **moved** to close nominations.

SEN. STORY said that he could think of no worse way to start the interim than by creating controversy over the chair position. An interim chair is different than a legislative committee. He said that it is important to be nonpartisan and fair and that he has never seen the activities of previous session interjected into the interim. The rotation is a fair system. SEN. STORY said that he is aware of newspaper articles but thinks that it is political strategy for next session and should be ignored.

REP. MORGAN said that it would be a disservice to ignore tradition. She suggested that REP. LAKE be chair and SEN. GILLAN be vice chair. She said that SEN. ELLIOTT did great job as Chair in the last interim and was very fair.

REP. LAKE agreed with SEN. STORY's statement that there is a difference between session and interim committees. He said that if he was elected chair, he would be fair and impartial. The chair sets the agenda items but as far as personal agenda, REP. LAKE said that he has never seen that done and it wouldn't be in this committee. It is not a partisan process.

SEN. ELLIOTT said that he agreed with SEN. STORY about job differences, but his major concern is that RTIC has oversight of the Department of Revenue (DOR) and the Montana Department of Transportation. The editorials referenced by members have been accusatory of DOR and that is of great concern. SEN. ELLIOTT agreed in general with SEN. STORY and SEN. PETERSON but said that this is without precedent.

The roll call vote resulted in a tie - 6 votes for Rep. Lake (Rep. Sonju's proxy was voted by Rep. Lake) and 6 votes for Sen. Gillan (Attachment #4). Mr. Martin suggested that the Committee postpone election of officers until the end of the meeting. The committee agreed.

CLAIMS FOR REIMBURSEMENT AND LEGISLATIVE SALARY

00:30:28 **Karen Berger, Chief Financial Officer, Legislative Services Division**. reviewed provisions of legislator claims for reimbursement (EXHIBIT #1). Ms. Berger also discussed the guidelines for reimbursement for travel, food, lodging expenses, and salary.

TAPE 1 - SIDE B

PROXY VOTES AND OTHER OPERATING RULES OF THE COMMITTEE

00:41:34 Mr. Martin said that with three studies assigned to RTIC, the issue of proxy voting may be important and recommended that the committee decide how it wished to handle proxy votes. He said that the Committee should also consider if it wanted to establish guidelines for adopting committee recommendations.

After a brief committee discussion, SEN. ELLIOTT summarized by saying that RTIC would allow proxy voting but that members should fax or mail their proxy to Mr. Martin in advance of each meeting. It was agreed that in order to stay abreast of RTIC issues, attendance is important and members should make every attempt to attend all meetings. Mr. Martin asked if the Committee wanted to establish a voting requirement for committee recommendations. SEN. STORY suggested that the Committee wait to make that decision until it has a better idea of its work load. SEN. ELLIOTT stated that he favored a simple majority and that the decision on this issue would be postponed.

COMMITTEE RESPONSIBILITIES, PROPOSED WORK PLAN, BUDGET, AND MEETING SCHEDULE

00:49:45 Mr. Martin led a detailed discussion of the Work Plan (EXHIBIT #2) which included the:

- statutory duties of RTIC;
- statutorily required agency reports;
- interim study assignments;
- other areas for review and analysis; and

- meeting schedule and interim committee budget.

Mr. Martin said that a revenue report was not on the agenda for this meeting, but that Terry Johnson, Legislative Fiscal Division (LFD), is available for questions.

REP. LAKE asked if general fund revenue trends are continuing. **Terry Johnson, Principal Fiscal Analyst, LFD,** said that the fiscal year ends on June 30 and that general fund revenue collections are being checked daily. To date, there is nothing to indicate that trends have changed significantly.

SEN. KAUFMANN said that at one time, the general fund ending fund balance was projected to be approximately $100 million. She asked for an update on what the actual ending fund balance was at the end of the 2007 special session. Mr. Johnson said the final calculations have just been completed and, based on those calculations, the June 30, 2009, projected ending fund balance will be $184 million. SEN. KAUFMANN asked if the governor can spend the funds or if they have to be legislatively appropriated first. Mr. Johnson said the governor does not have the authority to spend any of the ending fund balance but that an emergency fund is available to the governor, if necessary.

SEN. PETERSON asked if LFD has finished its final tally regarding the amount of estimated revenue that will be generated as a result of legislation passed in 2007. He asked to receive a copy of the report. Mr. Johnson said that the calculations have been completed and that final edits are underway. He said that the summary information would be provided to all legislators when it becomes available.

SEN. STORY asked if any of the 2007 legislation containing expenditures is contingent upon having a $100 million ending fund balance. Mr. Johnson said that there are several pieces of legislation that are contingent upon having a specific anticipated level of revenue for 2007 but not the fund balance. He discussed two possible scenarios: if the 2007 revenues exceed $1.802 billion, a triggering mechanism takes place that puts the additional revenue into schools; and if revenues reach an even higher level, another trigger is in place to determine how much will be used for an income tax credit.

SEN. ELLIOTT asked if softening of certain revenues has occurred. Mr. Johnson said that Montana may be somewhat isolated from certain markets, such as housing, but that he believed that there is some softening in the estimated payment stream, which could be a signal that nonwage income is softening.

TAPE 2 - SIDE A

REP. LAKE suggested appointing a subcommittee to deal with SJR 31, due to its depth and complexity. SEN. ELLIOTT said that discussion would be delayed until a chair is elected.

SEN. PETERSON asked what resources are available to RTIC to study the issues. Mr. Martin said that Department of Revenue and LFD staff will assist with the interim studies. He said that the 2007 Legislature appropriated $50,000 for HB 488 so there is funding available for outside resources for that study.

SEN. PETERSON said that these issues have been studied numerous times and that he was hopeful that substantial changes could be achieved this time. SEN. GILLAN said that, given the magnitude of the studies assigned to RTIC, she would like to see additional staff assigned to assist Mr. Martin and Mr. Heiman.

Regarding HB 488, SEN. ESSMANN asked Mr. Martin to include review of constitutional issues contained in HB 488, specifically if Montana can constitutionally create a homestead approach that discriminates against certain taxpayers, based upon the state of residence of the taxpayer and homeowner, Montana residents and nonresidents alike.

01:48:52 Discussion was held regarding meeting dates. Mr. Martin said that may be some meeting date conflicts with the Water Policy Interim Committee. SEN. GILLAN and REP. MORGAN asked if the February 14, 2008, meeting date could be changed. SEN. GILLAN also suggested that either an outside meeting or a teleconference meeting be held regarding the property tax study in order to give Montana citizens increased involvement.

TAPE 2 - SIDE B

SEN. ELLIOTT asked if the members were agreeable to using a conference call to decide on a meeting calendar in order to give members a chance to look at their schedules. SEN. STORY said that he thought the current meeting schedule was workable and he urged no changes be made. SEN. PETERSON suggested that everyone look at their own calendar and email Mr. Martin with conflicts, who would then make changes, if needed.

REP. LAKE and SEN. PETERSON agreed with the request to change the February 14 date. It was agreed that the February 2008 meeting date be changed from February 14 and 15 to February 7 and 8.

DEPARTMENT OF REVENUE REPORTS

02:25:20 **Dan Bucks, Director, Department of Revenue (DOR),** said that the Department is looking forward to being actively engaged with RTIC, as it was in the previous interim. Regarding the property tax reappraisal cycle, he said that the initial basic values will be available in October 2008.

Randy Wilke, Property Assessment Division, DOR, distributed copies of Governor Schweitzer's press release stating that there would be no tax increase due to the reappraisal (EXHIBIT #3). Mr. Wilke reviewed the types of property being reappraised and said that the focus is on valuing property correctly and meeting the equalization requirement. Mr. Wilke also distributed copies of the reappraisal time line for the previous cycles, beginning in 1972 (EXHIBIT #4). He distributed copies of the 2009 reappraisal work plan (EXHIBIT #5) and said that the work plan identifies the key activities that must be completed and a target date for completion. He said there is an additional work plan that breaks down each activity into much greater detail and that he could present that work plan to the Committee at a future meeting, if needed. Mr. Wilke reviewed the work plan with the Committee.

SEN. STORY asked when enough information will be available to determine if trend increases will create problems. Mr. Wilke said that the Department will know more after the income and market modeling process begins in July 2008 and that the availability of the information will depend on how quickly the counties complete their work. He assured SEN. STORY that the reappraisal process will be completed as quickly as possible.

SEN. ESSMANN said, regarding agricultural land revaluation, that there has been a trend recently for productive ag land to be made less productive. He asked if the valuation process of those properties is based on the historic productive use or the less productive current status. Mr. Wilke said that ag reclassification is very challenging due to the infrequency of it being done, as well as factors such as changes in farming techniques. He said that DOR will rely a great deal on Farm Service Agencies (FSA) and the Natural Resource and Conservation Service (NRCS) for yield and productivity information.

REP. JOPEK said that in certain areas of the state, people are paying well beyond market values. He asked if those were the types of anomalies Mr. Wilke referred to in his presentation. Mr. Wilke said that he was referring to smaller aberrations that would be dealt with on a case-by-base basis.

SEN. ESSMANN said in the previous appraisal cycle, he was concerned about the valuation placed on his own home. He said that he went through the informal review process with DOR and was told that the low valuation was thrown out, but not the high. He said that he thought that structure was unfair and asked if that would be the policy in this reappraisal cycle. Mr. Wilke said that neither valuation should be thrown out and that the market value should be based on three comparable properties. If that hasn't occurred, the taxpayer should appeal the valuation and DOR should be able to clearly explain how the property was valued and demonstrate that ample comparable sales were used to defend that value. He said that adjustments can be made in certain situations.

REP. FUREY said that certain areas of Montana are changing very quickly from one use to another use. He said that he hoped DOR would assist the Committee in understanding how the Department will deal with that and what the process is.

TAPE 3 - SIDE A

SEN. STORY asked if DOR could present an analysis of the effectiveness of the six-year reappraisal cycle. He said the cycle used to be three years and asked what the costs would be if the cycle was once again a three-year cycle and if it would be as effective or more effective than the current six-year cycle. Director Bucks said that if the reappraisal cycle is done more frequently, costs will increase. He said that DOR would investigate that for SEN. STORY. SEN. STORY agreed that cost is a problem but said that equalized value is also an important issue. He said that this is an issue that RTIC needs to look at and that input from DOR would be helpful.

SEN. STORY said, regarding the governor's press release (EXHIBIT #3), that it may be misleading to taxpayers because some will experience an increase in property taxes. He provided examples of property in places such as the Gallatin

Valley and Whitefish Lake. Director Bucks said that the press release was carefully worded in order to avoid that assumption.

SEN. STORY asked how the computer system set up is progressing. Director Bucks said that several extra weeks will be needed but that the project is very close to being on track. Data is being transferred from the old system and the software is working very well. It is anticipated that it will be available to complete the reappraisal cycle.

Director Bucks also reported on the $400 property tax rebate (EXHIBIT #6) and proposed DOR rules relating to the rebate (EXHIBIT #7). **Dave Hunter, Deputy Director, DOR,** said that the outreach efforts will be made by the Department to make sure that all eligible Montana taxpayers are aware of the rebate and how to apply for it.

SEN. KAUFMANN asked what the rule is for two people jointly owning property. Director Bucks said that only one check per primary residence will be issued. SEN. KAUFMANN asked which party the check will be written out to. Director Bucks said that the property owners will have to make that decision.

SEN. ESSMANN asked if verification will be made on the deed to make sure names match. Director Bucks said yes, that DOR staff will be working from property tax base in order to do that and that verification has been a priority from the outset.

SEN. STORY asked if a person buying a home on a contract for deed will be able to apply for the rebate. Director Bucks said yes.

Director Bucks discussed the issuance of the new restaurant beer and wine (cabaret) licenses available in Montana on July 1, 2007.

Director Bucks updated the committee on SB 439 - *Mineral Royalty Backup Withholding Act*, saying that a standard definition of a small operator is being formulated. He asked Gene Walborn to provide further details.

Gene Walborn, Administrator, Business and Income Tax Division, DOR, discussed the time line for implementation of SB 439 (EXHIBIT #8).

Director Bucks reported on the implementation of HB 680 (out-of-state tax collections) and explained the process for collecting out-of-state tax debts. He provided a table indicating where the greatest delinquencies are (EXHIBIT #9).

Director Bucks said that the direct electronic filing system is being expanded for the convenience of individual and business taxpayers. This will also improve the timeliness, extent, and quality of data available to legislators for decision making, as well as DOR efficiency of operations.

Director Bucks distributed a list of recent District Court and State Tax Appeal Board decisions (EXHIBIT #10) and noted that DOR has had good success in resolving several major decisions.

Mr. Hunter discussed a table on tax increment finance (TIF) districts (EXHIBIT #11). He said that the table indicates significant growth in TIFs. He said that three areas will be addressed through the rulemaking process: time lines for documentation and implementation of a TIF district, setting standards for what constitutes a development plan, and standards of proof.

TAPE 3 - SIDE B

REP. HOLLENBAUGH asked about the application process for cabaret licenses. Director Bucks said that an advertising campaign began four weeks in advance of the July application date in order to speed the process of allocating the licenses.

MONTANA DEPARTMENT OF TRANSPORTATION REPORTS

03:52:42 **Jim Lynch, Director, Department of Transportation Report (MDT)** presented an update on priority highway construction projects and a materials and fuel costs update. He distributed:

- a list of every project in the five different state districts for next biennium (EXHIBIT #12);
- a green bar graph (EXHIBIT #13) depicting how money is distributed in the five different districts;
- an explanation of why project costs have increased (EXHIBIT #14); and
- a tentative construction plan for 2007-2011 (EXHIBIT #15) and discussed obstacles to construction projects.

REP. MORGAN asked why MDT (back page of Exhibit #12) is doing landscaping, window replacement, and historic preservation work. Director Lynch said that Community Transportation Enhancement Program (CTEP) money may be involved or an earmark. REP. MORGAN asked why this is a state responsibility. Director Lynch said that the funding source is often a determining factor, particularly if it is federal funding.

SEN. ESSMANN said that Shiloh Road in Billings is in his senate district and asked when it will be done. Director Lynch said that Shiloh Road is an earmarked project and as soon as the total funding source becomes available and the environmental document process is complete, it will be programmed into the schedule.

SEN. ESSMANN asked for an update on Beartooth Highway. Director Lynch said that the State of Montana received an earmark years ago to rebuild Beartooth Highway on both the Montana and Wyoming border. He explained how the earmark was to be used but that complicating factors have changed the project somewhat. The end result is that the funds will be used to rebuild pavement from the Montana line to Cooke City. A portion of the money will be reserved and used to pay for plowing the highway in order to open it for travel by Memorial Day for the next four years.

REVISION AND ADOPTION OF COMMITTEE WORK PLAN AND MEETING SCHEDULE

04:09:18 Mr. Martin asked if the Committee wanted to adopt the work plan and meeting schedule or would the Committee prefer to wait. He said that sales assessment ratio studies information, as discussed by Director Bucks, will be presented at a later meeting. Mr. Martin said that the information may help the Committee get a better idea of what the trends are.

SEN. STORY asked to have two issues added to the work plan:

- how to deal with protested taxes in a more efficient time frame so that local governments will have a better idea of what tax revenues will be available to them; and
- a constituent concern about a contractor's gross receipts tax issue that the constituent is having difficulty resolving.

SEN. ELLIOTT noted that Dave Hunter, DOR, was taking notes on SEN. STORY's concerns. SEN. STORY said DOR is aware of situation but can't do anything because of the way current law is written. He said that he would like RTIC to look at the statute to see how or if it could be amended to resolve this situation.

Mr. Martin suggested that the next committee meeting be set for September 20 and 21, 2007. After discussion, it was agreed that the committee would meet on September 19, 2007, and to reserve the 20th, in the event additional meeting time is needed.

REQUEST BILL DRAFT FOR REVENUE ESTIMATING RESOLUTION AND FOR REVISING RELIEF MULTIPLE FOR INCOME TAX CREDIT

04:16:36 Mr. Martin said that it was not necessary to take action on this immediately but that requesting a bill draft would guarantee priority in the 2009 session. SEN. STORY **moved** to request a bill draft for the revenue estimate. The **motion passed** on a unanimous voice vote.

PUBLIC COMMENT

04:18:05 No public comment was given.

OTHER BUSINESS

04:18:13 SEN. ELLIOTT suggested that officer election be delayed until the September meeting. The Committee agreed. The next meeting will be September 19. SEN. STORY suggested that, in the absence of an elected chair, temporary authority be granted to SEN. ELLIOTT and REP. LAKE to work on the agenda for next meeting. It was agreed.

ADJOURN

04:21:04 With no further business before the committee, SEN. ELLIOTT adjourned RTIC until 8:00 a.m., September 19, 2007.

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