



HJ 35 STUDY OF STATE AND LOCAL TAX POLICY

September 2020
Revenue Interim Committee
Megan Moore

FINAL REPORT TO THE 67TH MONTANA LEGISLATURE

REVENUE INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Revenue Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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This report is a summary of the work of the Revenue Interim Committee, specific to the Revenue Interim Committee’s 2019-2020 study of state and local tax policy as outlined in the Revenue Interim Committee’s 2019-20 work plan and House Joint Resolution 35 (2019). Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the Revenue Interim Committee in reaching its conclusions. To review additional information, including audio minutes and exhibits, visit the Revenue Interim Committee website: <https://www.leg.mt.gov/committees/interim/2019rvic>.

A full report including links to the documents referenced in this print report is available at the Revenue Interim Committee website: <https://www.leg.mt.gov/committees/interim/2019rvic>.

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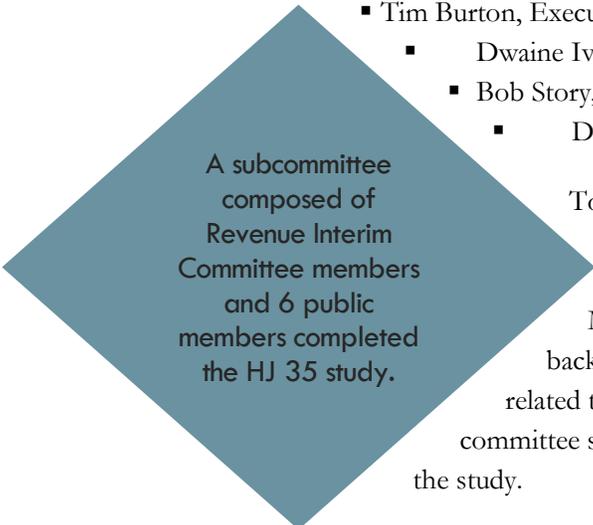
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BACKGROUND

The Legislature ranked the [House Joint Resolution 35](#) study of state and local tax policy first among the 27 studies ranked by legislators. As provided in the study resolution, the Revenue Interim Committee appointed a subcommittee to undertake the study in order to include public members. The subcommittee included all 12 members of the Revenue Interim Committee and 6 public members:

- Rose Bender, Senior Fiscal Policy Analyst, Montana Budget and Policy Center;
- Eric Bryson, Executive Director, Montana Association of Counties;
 - Tim Burton, Executive Director, Montana League of Cities and Towns;
 - Dwaine Iverson, Certified Public Accountant;
 - Bob Story, Executive Director, Montana Taxpayers Association; and
 - Doug Young, Professor Emeritus, Montana State University.



A subcommittee composed of Revenue Interim Committee members and 6 public members completed the HJ 35 study.

To help narrow the scope of the study, the committee used the National Conference of State Legislature's [Principles for Evaluating State Tax Sources](#)¹ as a structure for examining Montana's state and local tax systems. The committee received background information about each principle along with details related to the principle and specific to Montana's tax system. A committee survey and small group discussions helped the committee focus the study.

The committee focused on two main topics: consideration of the adequacy of revenue for the state of Montana and for local governments and whether the tax system relies on diverse and balanced sources of revenue. Committee work centered on reviewing existing revenue sources, including the property tax, the individual income and corporate income taxes, and natural resources taxes, and exploring other revenue options such as a sales tax.

FINDINGS AND RECOMMENDATIONS

The Revenue Interim recommended to the 2021 Legislature two bill drafts resulting from the HJ 35 study:

- [HJ35-02](#): Providing for a property tax circuit breaker income tax credit to replace existing property tax assistance programs; and
- [HJ35-03](#): Increasing the minimum corporate income tax to \$200.

¹ National Conference of State Legislatures, "[Tax Policy Handbook for State Legislators](#)," February 2010.

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PROPERTY TAX

The HJ 35 Committee began its evaluation of revenue sources with the property tax. The property tax is an important source of revenue for local governments and school districts and a common source of taxpayer complaints.

The committee delved into the property tax, spending an entire meeting on the topic in January 2020. The meeting covered the basics of property taxation, a history of property taxation in Montana, legal issues associated with property taxes, and a primer on school funding.

Agenda items focused on evaluating the property also included data on city and county mill levies, property taxes paid by class of property, and changes in taxable values and taxes over the years. The committee also considered other states' property tax policies by learning about property tax limits and property tax assistance programs throughout the country.

Property Tax Legislation

The HJ 35 Committee recommended two property tax-related bills to the Revenue Interim Committee:

- [HJ35-01](#): Allowing taxing jurisdictions to use the full rate of inflation when calculating maximum mill levies; and
- [HJ35-02](#): Providing for a property tax circuit breaker income tax credit to replace existing property tax assistance programs.

The HJ 35 Committee also considered, but did not recommend, [HJ35-07](#) to tax second homes at the commercial tax rate.

INDIVIDUAL INCOME TAX

The individual income tax is the largest source of state general fund revenue. In addition to reviewing the structure of Montana's individual income tax, the committee also considered the state's reliance on the tax and how demographic changes may impact individual income tax revenue.

Other specific topics of interest included income tax collections by county, types of capital gains and capital gains collections by income decile, exempt tip income, and changes to the net operating loss deduction contained in the Coronavirus Aid, Relief, and Economic Security Act passed by Congress in March 2020.

Individual Income Tax Legislation

The HJ 35 Committee considered three individual income tax-related proposals and recommended [HJ35-04](#) and [HJ35-08](#) to the Revenue Interim Committee.

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- [HJ35-04](#)²: Revising the capital gains tax credit by calculating the credit on the lesser of net capital gains or taxable income.
- [HJ35-05](#): Providing for a public infrastructure program using individual income and corporate income tax collections that exceed inflation.
- [HJ35-08](#): Revising the net operating loss deduction for individual income taxpayers to decouple from changes contained in the federal Coronavirus Aid, Relief, and Economic Security Act.

The committee also recommended [HJ35-02](#), an income tax credit for property taxes paid. See the property tax section of this report for more information.

CORPORATE INCOME TAX

The \$50 minimum corporate income tax was an area of interest to the HJ 35 Committee, specifically how many taxpayers and which industries tend to pay the minimum tax. The committee also requested information on a gross receipts tax, which some states levy in lieu of a corporate income tax.

Corporate Income Tax Legislation

The HJ 35 Committee recommended to the Revenue Interim Committee [HJ35-03](#) to increase the minimum corporate income tax to \$200.

NATURAL RESOURCE TAXES

A presentation on Montana's natural resources covered the state's fiscal policies for hard rock mining, coal, and oil, and included recommendations on good fiscal policies related to these natural resources.

The HJ 35 Committee did not consider any natural resource tax legislation.

SALES TAX

While Montana levies selective sales taxes on lodging, rental cars, alcohol, and tobacco and allows small resort communities to levy a resort tax on luxury goods, the state is one of five states without a general statewide sales tax. The HJ 35 Committee received information on how sales taxes fit into an overall tax system and how other states structure sales taxes. The Department of Revenue also reviewed its sales tax model, which provides estimated revenue from a sales tax.

² The link shows the version of the draft considered by the Revenue Interim Committee on September 11, 2020. The committee requested changes to the [draft](#) considered on July 20, 2020.

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Sales Tax Legislation

Following the sales tax discussion, the HJ 35 Committee voted to request a draft of a statewide sales tax proposal for discussion purposes.

The committee considered [HJ35-06](#), which provides for a 4% sales and use tax modeled after South Dakota's and allows cities and counties to adopt a 3% local option sales tax upon a vote of the electorate. Another [document](#) included options the committee could include in a sales tax proposal. The options revise other taxes and fees to offset the additional revenue from a sales tax.

The HJ 35 Committee did not recommend a sales tax draft to the Revenue Interim Committee.