



**Montana Legislative Services Division**  
**Legal Services Office**

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PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

October 30, 2019

TO: Transportation Interim Committee

FR: Todd M. Everts, Director of Legal Services/Code Commissioner

RE: Requested Legal Opinion Regarding the Authority of an Interim Committee to Decline to Conduct an Interim Study as Outlined in a Joint Study Resolution

During the Transportation Interim Committee's (TIC) September 16, 2019, meeting, the TIC requested a legal analysis regarding an interim committee's authority to choose not to do an interim study as outlined in a study resolution requested by the Legislature.

Specifically, I was asked to address the following question:

**QUESTION:** Does the TIC have the authority to choose not to conduct an interim study on passenger transportation as outlined in House Joint Resolution 34 (HJR 34) that was requested by the 2019 Legislature?

**SHORT ANSWER:** Yes, the TIC, in conjunction with Legislative Council, has the authority to choose not to conduct the interim study requested in HJR 34. HJR 34 passed by the 2019 Legislature is a request (not a mandate) by the Legislature for an interim committee to conduct an interim study. A joint resolution is not a general law passed by the Legislature and approved by the Governor and does not have the force of law (*Gildroy v. Anderson*, 162 Mont. 26, 507 P.2d 1069 (1973)). Pursuant to section 5-5-217(3), MCA, the TIC has the statutory authority to not conduct the assigned interim study requested by HJR 34 by making a recommendation to Legislative Council that the interim study not be conducted. The Legislative Council may adopt, reject, or modify the TIC's recommendation.

Set out below is my detailed legal analysis.

## LEGAL ANALYSIS

### I. **Factual Background**

During the Transportation Interim Committee's (TIC) September 16, 2019 meeting, the TIC voted to not conduct an interim study on passenger transportation as outlined in HJR 34 that was requested by the 2019 Legislature and requested that a letter be sent to the Legislative Council regarding the Committee's recommended action not to conduct the HJR 34 study.

At the end of the meeting, the TIC requested a legal analysis regarding an interim committee's authority to choose not to do an interim study as outlined in a study resolution requested by the Legislature.

### II. **Does the TIC have the authority to choose not to conduct an interim study on passenger transportation as outlined in HJR 34 that was requested by the 2019 Legislature?**

It is clear that pursuant to statutory and case law, an interim committee in conjunction with the Legislative Council can choose not to conduct an interim study requested by the Legislature in a joint resolution.

Unlike a general law passed by the Legislature and approved by the Governor, HJR 34 is a joint resolution that is effective upon passage by both houses and is not submitted to the Governor for the Governor's signature. A resolution does not have the force of general law (*Gildroy v. Anderson*, 162 Mont. 26, 507 P.2d 1069 (1973)).

The title of HJR 34 states the following:

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WAYS TO IMPROVE PASSENGER TRANSPORTATION SERVICE IN MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE. (*Emphasis Added*)

As reflected in the title, HJR 34 is a "request" for an interim study, not a mandate that the study occurs. Passage of a study bill (not a resolution) is the mechanism for the Legislature to mandate that an interim committee conduct an interim study.

HJR 34 further provides:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources

to investigate ways to improve passenger transportation services in Montana, including but not limited to the establishment of a passenger transportation commission and a review of laws that may need changing to allow use of autonomous vehicles and provide for public safety. (*Emphasis Added*)

Pursuant to section 5-5-217, MCA, the Legislative Council on May 29, 2019, assigned HJR 34 to the TIC. Section 5-5-217(3), MCA provides that the interim committee has been assigned an interim study "may recommend to the legislative council that an interim study assigned to that committee should be reassigned to another interim committee or statutory committee or should not be conducted" and that the "legislative council may adopt, reject, or modify the interim committee recommendation."

The TIC explicitly complied with the provisions of section 5-5-217(3), MCA, when the Committee voted to not conduct an interim study on passenger transportation as outlined in HJR 34 and requested that a letter be sent to Legislative Council regarding the Committee's recommended action.

Section 5-5-217, MCA provides the clear statutory authority for the TIC in conjunction with Legislative Council to choose not to conduct the interim study requested in HJR 34.

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