

PROPOSED 2007-2008 INTERIM WORK PLAN OF THE REVENUE AND TRANSPORTATION COMMITTEE

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INTRODUCTION

This report presents the 2007-2008 interim work plan for the Revenue and Transportation Interim 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, including Senate Joint Resolution No. 31, House Joint Resolution No. 61, and House Bill No. 488;
- other areas for review and analysis, including a proposal that the Committee clarify the laws related to entitlement share payments to local governments and tax increment finance districts and a proposal to reorganize certain statutory provisions related to the individual income tax and the corporation license tax; and
- meeting schedule and Committee budgets.

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) (a) 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.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.¹

(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 and Related Duties

Revenue estimates for the 2011 biennium: One of the 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.

The Committee adopts the revenue estimates in November of the year preceding the next regular session. Staff of the Legislative Fiscal Division and the governor's budget office each present revenue estimates for the Committee's consideration. The Committee has in the past initially adopted the revenue estimates of the Legislative Fiscal Division and made changes to those estimates based on information presented by the budget office and economists from the Montana university system. The Committee may want to consider whether other people should be invited to present their views on the state's economic outlook.

Income tax credit relief multiple: House Bill No. 9 (Ch. 6, Sp. L. May 2007) provides a \$400 property tax rebate and an income tax credit for the amount property taxes paid associated with the 95 mills for school equalization levies on \$20,000 of market value of a taxpayer's principal residence times the relief multiple.

The relief multiple in the legislation is 0. However, if the unaudited general fund revenue

¹House Bill No. 21 (Ch. 5, L. 2007) added subsection (2)(b) that allows the Committee to develop revenue estimates for introduction during a special session.

received in fiscal year 2007 exceeds \$1,802,000,000,² for each \$1,000,000 greater than \$1,802,000,000, the relief multiple must increase by 0.1 for tax year 2007 only. The legislation directs the Committee to determine if a change in the relief multiple is justified, based upon actual and projected revenue and spending and any other appropriate factors. If the Committee determines that a change is justified, the Committee is directed to request a bill draft to change the relief multiple.

By September 2008, the Committee should establish criteria related to changes in revenue, spending, and other factors that would be used to determine whether a change in the relief factor would be justified. At the November revenue estimating meeting, the Committee should determine whether to introduce legislation to change the relief factor.

STATUTORILY REQUIRED AGENCY REPORTS

The Legislature often requires a state agency to report to the appropriate interim committee on a particular matter. The Departments of Revenue and Transportation 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, the total amount of the credit recaptured, 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
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

²This amount is 2.27% above the House Joint Resolution No. 2 fiscal year 2007 general fund revenue estimate.

Reports That are Required to be Provided to the Revenue and Transportation Interim Committee			
Citation	Reporting Entity	Report	Frequency
15-32-703, MCA Ch. 525, L. 2005	Revenue	The number and type of taxpayers claiming the credit for the costs of investments in depreciable property used for storing or 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
15-70-369, MCA Ch. 525, L. 2005	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 Ch. 366, L. 2005	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
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?

The purpose of most of the required reports is to allow interim committees to track the effectiveness of particular legislation. 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 ASSIGNMENTS

In May, Legislative Services Division staff presented the results of the poll of legislators regarding interim studies and recommendations for the conduct of the studies to the Legislative Council. The poll asked legislators to rank each of 22 study resolutions approved by the 60th Legislature.³

The Legislative Council assigned Senate Joint Resolution No. 31 (ranked 2nd), introduced by Senator Jeff Essmann, and House Joint Resolution No. 61 (ranked 13th), introduced by Representative Jill Cohenour, to the Committee.

Senate Joint Resolution No. 31

This resolution requests a study of taxation and school funding. In particular, the study is to examine the future viability of the use of property taxes to fund education, examine equalization through a statewide equalization district that could levy taxes against specific classes of property, and inquire into the use of a statewide sales tax and use tax to provide education funding that would include property tax relief in a permanent manner. The Committee is directed to:

- (1) (a) examine future demographics of property taxpayers, school age children, retirees, and other factors relating to the viability of property taxes to fund education; and
- (b) examine the distribution or maldistribution of classes of taxable property in counties and school districts;
- (2) study the feasibility of a statewide school equalization district with property tax levies against particular classes of property and other sources of statewide revenue; and
- (3) study the use of a sales tax and use tax for funding to replace property taxes and provide tax relief for homes, commercial properties, and agricultural and forest lands.

The resolution identified the following reasons for requesting the study:

- Montana's population over the age of 65 will increase from 14% in 2007 to over 20% in 2019.
- That aging demographic shows itself in the number of counties with more than 20% of their population over the age of 65 rising from 4 of 56 counties in 2000 to 45 of 56 counties in 2025.

³See the "Back Page" article in the June 2007 issue of *THE INTERIM* newsletter (Vol. XVI, No. 1) for a discussion of poll results and recommendations of the Legislative Council.

- During the same time period, the percentage of the state's population represented by children of elementary school attendance age will continue to decline.
- The current system of school funding and equalization of school funding has resulted in 60 to 65% of the typical homeowner's property tax bill consisting of property taxes for the funding of education.
- Montana residents who are retired and living largely on fixed incomes will be faced with difficult decisions when voting on property tax levies for funding education.
- It is in the best long-term interest of the state to examine if there may be a better way to equalize education funding in Montana that is not reliant on property taxes as its primary means.
- Two reports, "Disparities in School Mill Levies" and "Property Tax Information Related to K-12", presented to the Quality Schools Interim Committee on July 21, 2005, demonstrated that wide variations exist in the distribution of the industrial and business equipment classes of property among the 400 plus school districts in the state and thereby contribute to the difficulty of equalizing school funding through a property tax mechanism.
- The concept of creating a single, statewide school equalization district to levy a uniform tax on the industrial and business classes of property while leaving the classes of property composed of agricultural lands, forest lands, and residential and commercial property to serve as the tax base for the local school districts deserves further study and analysis.
- Equalizing school funding by means of a statewide school equalization district would permit focusing property tax relief on the classes of property composed of agricultural lands, forest lands, and residential and commercial property.
- A school funding equalization plan that uses a general statewide sales tax on goods and recreational services to grant property tax relief to owners of homes, commercial properties, and agricultural and forest lands should be put before the voters for review and approval only if there is a companion constitutional amendment guaranteeing that the statewide levies being eliminated by the referendum would be forever prohibited.

Preliminary study approach:

1. analyze current demographics of property taxpayers, school-age children, and projected changes in demographics;
2. evaluate how demographics affect the viability of property taxes to fund K-12 education;
3. review K-12 school funding laws and sources of revenue;

4. tabulate the distribution of, financial contribution from, and burden on the various classes of taxable property in counties and school districts (may include an update of "Disparities in School Mill Levies" and "Property Tax Information Related to K-12");
5. evaluate the feasibility, taking into account constitutional considerations, of a statewide school equalization district funded with property tax levies against particular classes of property and other sources of statewide revenue; and
6. estimate the amount of revenue derived from a sales tax and use tax to replace property taxes for school mill levies.

House Joint Resolution No. 61

This resolution requests a study to assess the conformity of Montana's income tax laws with federal income tax laws and to consider reorganizing certain provisions of Montana's income tax laws. The Committee is directed to:

- (1) conduct a general review of federal income tax laws;
- (2) review Montana statutory provisions that conform with or are related to federal income tax laws and statutory provisions that do not conform with federal income tax laws and the reasons for nonconformity;
- (3) analyze the legal implications of Montana's income tax provisions as they relate to federal income tax laws;
- (4) review the extent of other states' conformity or nonconformity with federal income tax law;
- (5) review the differences between federal income tax laws and state income tax laws in the tax treatment of business activities; and
- (6) determine whether improvements may be made to Montana's income tax laws to give the state more control over its tax policy and taxing authority.

The resolution identified the following reasons for the study:

- Conformity with federal income tax laws facilitates both taxpayer compliance with and the administration of a state's income tax laws.
- Many states routinely enact conforming legislation with federal income tax laws.
- A state's conforming legislation may also include provisions to "decouple" from certain elements of federal income tax laws.
- Montana law provides that individual income taxes and corporation net income taxes are, for the most part, intricately tied to the Internal Revenue Code of 1986, as amended.
- Because Montana does not routinely enact conforming legislation with federal income tax laws, the state may be improperly delegating much of its tax policy and taxing authority to the federal government.

- Certain business activities in a state, including Montana, may be treated for state income tax purposes in ways that are different for federal income tax purposes.
- The existing organizational structure of Montana's income tax laws may be confusing to taxpayers, tax preparers, and tax administrators alike.

Preliminary study approach:

1. conduct a general overview of federal income tax law;
2. review the structural relationship between states' individual and corporation income taxes and federal income taxes, including:
 - a. extent of conformity or nonconformity with federal income tax law;
 - b. rolling conformity or fixed-date conformity; and
 - c. advantages and disadvantages of conformity -- e.g., compliance and administration versus more direct control over tax policy;
3. analyze the effects of recent federal income tax law on state conformity--e.g., bonus depreciation, expensing of depreciable assets, domestic production deduction, [and estate tax, technically outside the scope of the study resolution];
4. assess the implications of Montana's rolling conformity, including legal issues;
5. determine the differences, if any, in Montana corporate elections for federal tax purposes and state tax purposes;
6. review state corporation tax law to determine whether conformity provisions are adequate; and
7. consider options to revise conformity provisions, taking into account taxpayer compliance and burden and audit implications.

House Bill No. 488

This bill directs the Committee to conduct a study on the revaluation of class three agricultural land, class four residential and commercial property, and class ten forest lands. The Committee is required to:

- (a) evaluate, using the best data available for the revaluation of property that goes into effect January 1, 2009:
 - (i) changes in the productivity value of class three agricultural land and nonqualifying agricultural land by county;
 - (ii) changes in market value of class four residential and commercial property by county;
 and
 - (iii) changes in the productivity value of class ten forest lands by county;

- (b) consider strategies to mitigate the effects of changes in revaluation, including strategies to maintain:
- (i) equity among property taxpayers; and
 - (ii) the financial integrity of local governments and school districts;
 - (c) review the department of revenue's methods for revaluing class three, class four, and class ten property and consider procedures that would improve the periodic revaluation process;
 - (d) review other matters that the committee considers relevant in the conduct of the study; and
 - (e) make recommendations to the 61st legislature.

The bill notes the following:

- Section 15-7-111, MCA, requires the periodic revaluation of class three agricultural land, class four residential and commercial property, and class ten forest lands;
- class three, class four, and class ten property in each county must be revalued by January 1, 2009;
- recent periodic revaluations have resulted in disparate changes in assessed valuations across the state;
- these disparate changes in assessed valuations have a significant effect on property taxpayers, local governments, and school districts;
- Article VIII, section 3, of the Montana Constitution requires that the state equalize the valuation of all property that is to be taxed in the manner provided by law;
- the Legislature has not developed a prospective method for dealing with the periodic revaluation of property;
- some responses to periodic revaluations have been constitutionally suspect; and
- the 60th Legislature desires to respond to the new revaluation of property in a systematic and rational way.

Because new values for agricultural land, residential and commercial property, and forest lands are effective for tax year 2009, the study required by HB 488 is timely. However, accurate data on reappraisal will not be available until late 2008. One of the important aspects of the study is to develop strategies to mitigate large changes in reappraisal values. The Committee may have to rely on preliminary or proxy data in much of its analysis.

Study plans

Staff will present background reports and study plans detailing the Committee's options for the two study resolutions and HB 488 at the September meeting. Staff will involve a variety of people in the formulation of each study plan. Because two of the studies deal with property

taxation, it might be useful to prepare a primer on constitutional issues related to property taxation.

OTHER AREAS FOR REVIEW AND ANALYSIS

Reorganize certain provisions of individual income tax and corporation license tax

The Committee work plan for the 2005-07 interim contained a recommendation that the Committee review one major tax source each interim in order to develop a better understanding of Montana's tax systems and to provide relatively current information. The goal was to provide a reference source for legislators, policymakers, and the public. During the discussion of the work plan, Committee staff informally recommended that the Committee review property taxation this interim. SJR 31 and HB 488 studies deal directly with property taxation. In addition, the HJR 61 study will provide insights into the individual income tax and the corporation license tax. The Committee does not have time to take on an additional tax source. However, staff recommends that the committee review a bill draft that would reorganize certain provisions of the individual income tax and the corporation license tax. Virtually all of the sections available under Title 15, chapter 30, part 1, MCA, have been used. The purpose of the reorganization would be to put certain provisions, such as tax credits, in a new part or a new chapter. In addition, the reorganization may involve combining tax credits that apply to individuals, corporations, and pass-through entities. The purpose of the reorganization would be to make the income tax codes more accessible; it would not involve policy changes. The effort would be similar to the recodification of property tax exemptions recommended by the Property Tax Exemption Study Committee in Senate Bill No. 68 (Ch. 532, L. 2005).⁴

Clarify laws related to entitlement share payments

House Bill No. 529, introduced during the 2007 legislative session, would have reduced personal property taxes. An amended version of the bill would have provided reimbursement to local governments for the reduction in property taxes through the entitlement share payment under 15-1-121, MCA. That section was amended to make the calculation of the entitlement share payments much easier to understand, and the amended version apparently did not cause any controversy. The Committee may want to consider requesting legislation to clarify and simplify 15-1-121, MCA.

Department of Transportation

The Committee should monitor the status of the highway state special revenue account, federal funding of highway projects, major highway construction and maintenance projects, including cost increases, highway safety, and other matters affecting the Department of Transportation. The Committee should also invite the Montana Transportation Commission to report to the Committee.

⁴The Property Tax Exemption Study Committee was created in House Bill No. 429 (Ch. 160, L. 2003).

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.

Department Reports

Time will be available at each meeting for the Department of Revenue and the Department of Transportation to report on department activities.

MEETING SCHEDULE AND INTERIM COMMITTEE BUDGET

Attached to this report is a proposed meeting schedule. The Committee will meet seven times during the interim (exclusive of the organizational meeting), including a meeting in November 2008 to adopt the revenue estimates for the 2011 biennium. Because the Committee has three studies to complete, the meeting schedule calls for 2-day meetings for most of the interim.

The Committee's budget is \$46,250 for the interim. The budget includes legislative salaries and travel, lodging, and meal expenses as well as other minor operational costs, such as postage and printing. In addition, the Legislature appropriated \$50,000 for the HB 488 study.

**REVENUE AND TRANSPORTATION INTERIM COMMITTEE
PROPOSED MEETING SCHEDULE FOR THE 2007-08 INTERIM**

Thursday	June 21, 2007	Organizational meeting (FY 2007 budget)
Thursday	Sept. 20, 2007	HJR 61, SJR 31, HB 488 study plans
Thursday	Dec. 6, 2007	
Friday	Dec. 7, 2007	
Thursday	Feb. 14, 2008	
Friday	Feb. 15, 2008	
Thursday	April 17, 2008	
Friday	April 18, 2008	
Thursday	July 10, 2008	Legislative proposals from the Departments of Revenue and Transportation
Friday	July 11, 2008	
Thursday	Sept. 11, 2008	Conclude interim work except for revenue estimates
Friday	Sept. 12, 2008	
Monday	Nov. 17, 2008	Adopt revenue estimates for 2011 biennium