



Revenue and Transportation Interim Committee

60th Montana Legislature

SENATE MEMBERS

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KIM GILLAN--Vice Chair
JIM ELLIOTT
JEFF ESSMANN
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COMMITTEE STAFF

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

MINUTES

Teleconference Meeting

March 26, 2008

Room 137, Capitol Building
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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COMMITTEE MEMBERS PARTICIPATING

SEN. JIM PETERSON
SEN. JIM ELLIOTT
SEN. ROBERT STORY JR

REP. GALEN HOLLENBAUGH
REP. MIKE JOPEK
REP. BOB LAKE
REP. PENNY MORGAN
REP. JON SONJU

COMMITTEE MEMBERS EXCUSED

SEN. KIM GILLAN
SEN. JEFF ESSMANN
SEN. CHRISTINE KAUFMANN
REP. TIMOTHY FUREY

STAFF PRESENT

LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

Visitors

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Peterson called the teleconference meeting to order at 9:03 a.m. Lee Heiman called roll. Sen. Gillan, Sen. Kaufmann, Rep. Furey, and Sen. Essmann were excused. Present at the meeting were: Jim Lynch, Department of Transportation; Andy Huff, Office of Budget and Program Planning; Steve Garrison, Department of Transportation; Greg DeWitt, Legislative Fiscal Division; Pat Murdo, Legislative Services Division; Rep. Hollenbaugh, Judy Paynter, Office of Budget and Program Planning; Lee Heiman, Staff Attorney for RTIC.

AGENDA

Review of Gas Tax Agreement with Ft. Belknap Indian Reservation

00:05:24 Jim Lynch, Director, Montana Department of Transportation, said the purpose of the gasoline tax revenue sharing agreements with the Indian reservations is to prevent dual taxation of gasoline by both the tribe and the state [18-11-101 and 10-11-103, MCA]; to ensure that the same level of taxation is imposed on gasoline, both within and outside the boundaries of the reservation; to avoid legal controversy regarding the taxation of gasoline on the reservation; and to provide an efficient means by which revenues generated by the state and tribal taxes on gasoline may be shared and distributed.

Mr. Lynch reviewed the FY 2007 Fort Belknap Revenue Sharing Agreement (**Exhibit 1**). He said that the main points in the Fort Belknap agreement is that the state collects all the gasoline taxes and remits to the tribe on a quarterly basis, a payment as follows: the Montana per capita gasoline tax multiplied by the enrolled tribal members residing on the reservation, minus a 1% administration fee.

Questions

00:11:03 Rep. Morgan asked if the past agreement was on a per capita payment or was it based on the actual revenues that Ft. Belknap collected. Mr. Lynch said that when the revenue sharing agreements were made with the tribes during Governor Stevens' administration, Ft. Belknap wanted the payment to be on a per gallon basis. Over the years, money paid to Ft. Belknap was far short of the revenue that would be shared on a per capita basis. The Ft. Belknap Indian Reservation was asked to modify its agreement to a per capita basis. Under Ft. Belknap's current situation, it is to their advantage to be per capita rather than per gallon, although in some other locations, it may not be the best way to share the revenue. To be consistent with all the other reservations, the state and tribes renegotiated this agreement on a per capita basis.

00:12:45 Rep. Lake asked how the revenue sharing agreement affects the distribution of gas tax revenues to counties. Mr. Lynch said that the agreement does not affect the amount of money that the counties receive. The counties receive their share first and then the reservation shares the net amount on a per capita basis, so it does not come out of the county's share.

Rep. Lake said that since the gas tax is used for building roads, and a road is built through a reservation, do tribal governments share the cost or is it borne strictly by state and federal money? Mr. Lynch said that a state highway project or roadway on the federal aid system is paid by the federal government and the state gas tax match. Any roadway that is not on the federal aid system on the reservation is funded through the Indian Reservation Roads Program.

00:16:28 Sen. Elliott asked if this was a tax that is levied by the state of Montana or levied by the tribes within the tribal jurisdictional boundaries. Mr. Lynch said that according to the history of the revenue sharing agreements, it is actually sharing the state tax that is applied to every gallon of gas that is sold, so it is a share of the gas tax. The purpose of the legislation was to prevent dual taxation, that there would not be two taxes imposed on a gallon of gas sold on reservations.

Sen. Elliott asked if the distribution to counties is made through HB 124 allocation, or is the distribution on a per capita basis. Mr. Lynch said that they don't distribute to counties on a per capita basis, they distribute to counties according to statute [15-70-101, MCA].

00:20:04 Sen. Story asked if the agreement only deals with gas tax, and not diesel tax. Mr. Lynch said the revenue sharing agreement is only on gasoline. They do not have any revenue sharing agreements on diesel fuel with any of the reservations.

Sen. Story asked if the 1% administration fee is standard in all of the agreements. Mr. Lynch said all the gasoline tax agreements with the tribes have a 1% administration fee.

00:23:25 Sen. Peterson asked if the revenue sharing applies only to the gasoline sold on the tribal lands where the gas stations are located. Mr. Lynch said that the intent of the revenue sharing agreements is to reimburse tribal members living on the reservation for gasoline that they use. The formula is a per capita amount based on per capita for every citizen in the state of Montana against the total revenue collected.

00:24:49 Rep. Morgan said that the state is reimbursing the reservation for dollars that are spent by the tourists and that the reservations are collecting not only the tax back on what the tourists use, but the reservations are making a profit based on all the people that come to Montana and buy gasoline. Mr. Lynch said that we are sharing the total revenue with reservations that the state collects on gasoline from anybody who buys it.

Formal comments

None.

00:29:29 Sen. Story asked if there were other agreements coming up for renewal. Mr. Lynch said that this is the last agreement that the Department has entered into. Sen. Story wanted to know if they were also 10 year agreements. Mr. Lynch said

that they were.

00:30:00 Sen. Elliott asked if they are all based on per capita. Mr. Lynch said that that is correct. The Ft. Belknap agreement was the only agreement that they had that was paid on a per gallon basis, and the others are all on a per capita basis.

Adjournment

00:32:46 Sen. Peterson adjourned the teleconference meeting at 9:33 a.m.

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