



# Revenue and Transportation Interim Committee

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## 58th Montana Legislature

### SENATE MEMBERS

GREGORY BARKUS  
JERRY BLACK  
VICKI COCCHIARELLA  
JON ELLINGSON  
ROBERT STORY  
KEN TOOLE

### HOUSE MEMBERS

JOE BALYEAT  
EILEEN CARNEY  
RONALD DEVLIN  
CHRISTINE KAUFMANN  
KARL WAITSCHIES  
BILL WILSON

### COMMITTEE STAFF

LEANNE KURTZ, Research Analyst  
JEFF MARTIN, Research Analyst  
LEE HEIMAN, Staff Attorney

## MINUTES Conference Call

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 conference call are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Room 155, State Capitol  
August 20, 2003

### COMMITTEE MEMBERS PRESENT

Sen. Robert Story, Chairman  
Rep. Eileen Carney, Vice Chairman  
Sen. Gregory Barkus  
Sen. Ken Toole  
Rep. Ronald R. Devlin  
Rep. Christine Kaufmann  
Rep. Karl Waitschies

### COMMITTEE MEMBERS EXCUSED

Sen. Jerry Black  
Sen. Vicki Cocchiarella  
Sen. Jon Ellingson  
Rep. Joe Balyeat  
Rep. Bill Wilson

### STAFF PRESENT

Leanne Kurtz, Research Analyst  
Lee Heiman Staff Attorney  
Cindy Amundson, Secretary

### Visitors

Visitors' list, Attachment #1.

### COMMITTEE ACTION

The Revenue and Transportation Interim Committee (Committee) voted to endorse the Fort Belknap Community Council and Montana Gas Tax Agreement.

## **CALL TO ORDER AND ROLL CALL**

The Committee conducted a conference call for the purpose of commenting on the renewal of the Fort Belknap Community Council & Montana Gas Tax Agreement (Exhibit 1), which expired on April 1, 2003. The Committee was called to order by Sen. Story at 9:00 a.m.

## **DEPARTMENT OF TRANSPORTATION (MDT)**

**Bob Turner, Bureau Chief, Fuel Tax Management & Analysis Bureau, Department of Transportation (MDT)**, presented a synopsis of the Fort Belknap Community Council & Montana Gas Tax Agreement, which included the purpose of the agreement, gasoline tax agreement, collection of tax, tax remitted, and term of the agreement. He explained that the old agreement between the state and the tribe expired on April 1, 2003, and the purpose of this agreement is to avoid legal controversy and possible litigation over taxation of gasoline on the Fort Belknap Indian Reservation and to avoid dual taxation of gasoline.

Mr. Turner provided a history of the original agreement, which was effective April 1, 1993, for a period of ten years. The agreement states that six months prior to expiration of the initial ten-year term the parties shall meet to negotiate a renewal for an additional ten year term, and thereafter, meet to negotiate successive ten year or other appropriate term renewals of the agreement. Mr. Turner explained that there was a misunderstanding between the tribe and MDT as to the actual termination date of the agreement, which was the reason why the agreement had not yet been renewed.

Sarah Bond, Assistant Attorney General, reviewed the renewal agreement and stated it is identical to the original agreement, except for the expiration date.

At the request of Sen. Story, Mr. Turner presented a broad overview of the agreement. He explained how the tax is collected and distributed back to the tribes. This tax must be remitted to the tribes no later than 60 days after the end of a quarter. Although the term of the agreement is ten years, the agreement allows either party to terminate the agreement with thirty days written notice. Sen. Story also asked if they had cleared the confusion or misunderstanding concerning the expiration date. Mr. Turner said that the confusion was cleared up and the effective date of the renewal agreement would be retroactive to April 1, 2003.

Sen. Story asked if there were any bulk fuel sales on the reservation, which is referred to in item number 4 (Equity of taxation rate) on page 2 of the agreement. Mr. Turner explained that this is addressed in the agreement to prevent any unnecessary bulk sales to outlets outside the reservation, which would increase gas sales, and therefore, increase the amount of tax to be refunded to the reservation. He added that there are only four outlets on the reservation and they are retail.

In response to a question by Sen. Barkus regarding restrictions on the remitted tax money, Mr. Turner said there are no restrictions. He further explained that this issue was addressed a couple of years ago during negotiations of the Crow reservation agreement. The state of Montana has no jurisdiction with regard to these funds. Therefore, the tribal governments can spend the money as they see fit.

Rep. Devlin asked for clarification with regard to which cities or counties receive a percentage of

the taxes. Mr. Turner said 14 percent of the gasoline tax revenue is distributed to the counties where the retail outlets are located, and are based on a specific formula. He responded to another question from Rep. Devlin as to whether the gas tax revenues were declining. Mr. Turner said the numbers have decreased because of various reasons, but noted that the figures show that between 2000 and 2003, the numbers actually increased. He told the committee members that although there was a decline in 2002, the revenue is fairly steady now and he expects this status to continue. Mr. Turner explained that there is a provision in the agreement which allows the tribal government to directly renegotiate with the counties the percentage of the revenue which is distributed to the counties.

Sen. Barkus asked if this agreement is universal with all tribes throughout Montana. Mr. Turner confirmed that it is universal. He stated, however, that there is no such agreement with the Salish-Kootenai tribe because their constitution does not allow them to tax their members. Sen. Story added that they still have a gasoline tax, but all the proceeds go to the state, not the tribe. Mr. Turner also stated that out of the six gas tax revenue agreements, this one is the only one that is based on actual gasoline gallons. The other five are based on a formula that is driven by the number of enrolled members on the reservations.

Rep. Waitschies asked how they accounted for utilization by nontribal members on the reservation. Mr. Turner responded that the agreement is based on total sales on the reservation, which includes tribal and nontribal members.

Jim Vogel, representative for the Fort Belknap Tribe, stated that the tribe had no issues with the agreement.

**MOTION:** Sen. Toole moved that the Committee endorse the Fort Belknap Community Council and Montana Gas Tax Agreement. **VOTE:** The motion carried unanimously.

There being no further business, the conference call adjourned at 9:32 a.m.

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