



Revenue and Transportation Interim Committee

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57th Montana Legislature

SENATE MEMBERS

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BOB DePRATU
JON ELLINGSON
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COMMITTEE STAFF

LEANNE KURTZ
RESEARCH ANALYST
LEE HEIMAN
STAFF ATTORNEY
MIKO OWA
SECRETARY

December 3-4, 2001

MINUTES

Room 102, State Capitol
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 documents.

COMMITTEE MEMBERS PRESENT

Rep. Ron Erickson, Chair
Sen. Bill Glaser, Vice-Chair

Rep. Robert Story
Rep. Ronald Devlin
Rep. Jesse Laslovich
Rep. Christine Kaufmann

Sen. Bob DePratu
Sen. Glenn Roush
Sen. Mike Taylor

STAFF PRESENT

Leanne Kurtz, Research Analyst
Lee Heiman, Attorney
Miko Owa, Secretary

AGENDA & VISITORS

Agenda (ATTACHMENT #1)
Visitors' list (ATTACHMENT #2)

COMMITTEE ACTION

- Adopted minutes of the September 13, 2001 meeting

CALL TO ORDER, ROLL CALL, ADOPTION OF MINUTES

The meeting was called to order at 8:32 a.m. by Rep. Erickson. Roll call was taken (ATTACHMENT #3) with all members present except for Rep. Somerville, Sen. Cocchiarella, and Sen. Ellingson who were excused. Rep. Devlin moved to adopt the minutes of the September 13, 2001 meeting. The motion was approved unanimously.

COMMITTEE BUDGET & OPERATING RULES

Leanne Kurtz, Research Analyst, Legislative Services Division, reviewed with the Committee the status of their budget (EXHIBIT #1). In addition, she reviewed the Rules, Procedures, and Guidelines for Interim Committees (EXHIBIT #2). Specifically she reviewed that the Committee will be responsible for reviewing agency legislation for the 2003 session.

Rep. Kaufmann asked how this is different than an agency requesting a bill and how that helps staff. Ms. Kurtz stated that it is a more efficient way of dealing with agency legislation and that bills will be processed sooner.

Rep. Erickson asked if this provided the Committee with the opportunity of rejecting the bill and is this a new process. Ms. Kurtz stated that the Committee can reject a bill, but the agency can still find an individual legislator to request the bill.

Rep. Story commented that the Department of Revenue brought bills forward during the last interim that did not meet with a positive response and therefore they did not go forward. He said that he doubted that the Committee would see anything other than routine, administrative bills.

Rep. Story then asked about the specifics of the rules of the Montana Senate and assigning sponsors to Committee bills. Sen. Glaser commented that there is not a significant difference between the House and Senate rules, and noted that it takes a quorum to start a meeting and to start voting.

Sen. Kitzenberg provided an update to the Committee about the status of funding for Highway 2 and the Environmental Impact Survey (EIS). He expressed his concern to the Committee about the possibility of waiting 6 years to begin construction as he would like to begin construction in 3 years. In addition, he assured the Committee that they will not be using state highway money and will be seeking additional funds elsewhere.

Rep. Story stated that the EIS provides options (including "no action") where the statute does not. Rep. Story asked Sen. Kitzenberg how that would be handled. Sen. Kitzenberg stated that that is the chance you take. He said that North Dakota has now finished its economic study and is amending its EIS which presents a strong case for a four lane highway which will build an economic corridor. He assured the Committee that he understands the intent of the bill and that they are going for additional funds not state funds.

TRANSPORTATION OF HAZARDOUS MATERIALS

Jim Greene, Administrator, Disaster & Emergency Services Division, Department of Military Affairs, gave a presentation of hazardous material accidents around Montana, and said that other disasters such as flooding can result in hazardous material emergencies.

Tom Ellerhoff, Department of Environmental Equality, State Emergency Response Commission (SERC) Co-Chair, provided a copy of the Montana SERC membership (EXHIBIT #3) and the Federal Emergency Planning Community Right to Know law (EXHIBIT #4). Mr. Ellerhoff reviewed several aspects of the law. He said that the SERC is responsible for creating local committees in each of the counties of Montana. In addition, the SERC does three things: it works with the local planning committees, it distributes federal money from the EPA to the local planning committees, and it stores information. From the federal law, Montana has created regional response teams.

Mr. Greene provided a brief history of the set-up of regional hazardous material teams which utilize large fire departments that already have teams. He said that there are five teams and they are working on a sixth. If a rural community needs assistance, they move a team or parts of several teams in to help. The funding for that still remains an issue.

Jane Ellis, Director, Emergency Services, Missoula County, gave a presentation of the 1996 Alberton Derailment (EXHIBIT #5). Primarily, she reviewed the first hours of the incident as they related to life safety issues. Ms. Ellis said that the life safety issue will always remain a local government responsibility as the state and federal government would not be able to respond in a timely fashion. Ms. Ellis provided a time-line of events and the response of emergency personnel. Ms. Ellis concluded with the fact that training is critical for local responders in reference to hazardous materials and command training. In addition, Ms. Ellis stated that additional funding would be needed to provide this training.

Jim Kraft, Coordinator, Disaster and Emergency Services (DES), Yellowstone County, provided an overview of the role of every DES Coordinator in Montana (EXHIBIT #6). Specifically he reviewed the primary goal as being protection of life, property, and environment. In addition, Mr. Kraft, reviewed the 11 preparedness functions and their details. Mr. Kraft also reviewed the role of DES in relationship to anthrax, bio-terrorism, and homeland defense.

Butch Weedon, Director, Fire Training School, Great Falls, provided a review of OSHA requirements in reference to hazardous waste operations and emergency response (EXHIBIT #7).

Lorrie Leighton-Boster, Public Health Disaster Coordinator, Department of Public Health and Human Services, provided a brief overview of public health needs in relationship to responses for hazardous materials, chemical events, and biological events (EXHIBIT #8). In addition, she provided a list of *Montana Biological Incidents Listed by City* (EXHIBIT #9).

Mr. Greene continued with his presentation and provided the Committee with the Homeland Security Task Force's Mission as well as background on the SERC (EXHIBIT #10). Mr. Greene said that the biggest disaster concern for Montana is that of an earthquake. He concluded by stating that preparedness is a matter of public policy and priority. In addition, the bottleneck for a higher level of preparedness is resource availability.

PUBLIC COMMENT

Rep. Bookout-Reinicke, House District 71, stated that she would like to see legislation to require truck drivers who drive through Montana with hazardous material to be U.S. citizens. In addition,

she would like the hazardous material book to cover potassium crystallite solution. She continued to state that the fee structure for fixed hazardous materials needs to be examined. In addition, she would like the state to require permits and inspections for any hazardous material and fees charged to carriers should be used to pay for hazardous material training programs. Rep. Bookout-Reinicke continued to speak about rail bridges needing replacement and said she would like the Department of Transportation (MDT) to survey all rail and highway bridges so federal money could be designated when available.

Roger Chalmers, a constituent of Rep. Bookout-Reinicke's, said he had submitted a copy of Rep. Bookout-Reinicke's legislation (HJR 36) to U.S. Sen. Reid who took the legislation as written to the floor of the Senate and it passed. He continued to state that there are still problems in Alberton from the chemicals. In addition, he concurred with Rep. Bookout-Reinicke's proposal to charge a fee for hazardous materials moved through the state and to use that fee for hazardous material training programs. He continued to report on his personal experience with hazardous materials contaminating his home.

COMMITTEE QUESTIONS AND DISCUSSION

Rep. Kaufmann told Mr. Greene, that she was not clear if the Homeland Security Task Force that the Governor setup is related to the national task force. Mr. Green responded that it is part of the structure of the federal government. Rep. Kaufmann asked if there was money available at this point. Mr. Greene responded that the only funds received have been for the National Guard to provide additional airport security. Rep. Kaufmann then asked about threats or perceived threats to the Capitol complex. Mr. Greene responded that there have been no specific threats, but a broad general threat. Rep. Kaufmann then asked about the Alberton derailment and if we have the training to handle low-level nuclear contamination. Mr. Greene responded that there is the possibility that we could handle that scenario if it was limited in size.

Sen. Taylor asked how much total funding Mr. Greene was looking for. Mr. Greene responded that the budget request has not been refined, but he would imagine \$250,000 per year. Sen. Taylor asked Mr. Green if he was familiar with SB 1438 in Congress. Mr. Greene responded that \$20 billion has been designated for state support, but that is being divided between different agencies. Sen. Taylor asked if we should be increasing funding and training to those who already provide those services rather than creating a new entity. Mr. Greene responded that the homeland security task force is not looking for separate funding, they are looking to increase resources and training at local fire, law, and health departments.

Rep. Story asked Ms. Ellis to elaborate on her discussion about training and putting statutory requirements on volunteer departments. Ms. Ellis responded that there would continue to be volunteers, but training requirements put in statute may not be upheld. Most departments would lack the funds and time to participate in additional hazardous material training.

Rep. Story asked Mr. Greene if his department has mapped out the state and determined what the training priorities are. Mr. Greene responded no. In most cases, they have left it up to local entities. He added that the Homeland Security Task Force is looking at suggesting priorities.

Rep. Story asked Mr. Chalmers about transportation fees for hazardous materials and if they differentiate between types of hazardous material. Mr. Chalmers stated that there is a

differentiation if the material is nuclear. Rep. Story asked if there was any documentation of fee structures that Mr. Chalmers could provide. Mr. Chalmers responded yes and commented that states have no funds for resident lands in relationship to clean-up efforts. He also stressed the necessity for accurate reporting of bills of lading.

Sen. Roush asked Mr. Greene about Montana being held hostage by the federal government in terms of what state agencies can do. He said local governments are still being told that they are going to be responsible for financing down the road when they don't have that kind of money. Mr. Greene responded that Montana has made a conscious decision not to have additional regulations on the industry. He said they have found that if there is federal money they will implement a program and if there isn't federal money then they won't do it which permeates what they do at the local level and state level. Mr. Greene said that there is much more that can be done in terms of preparedness and staying on top of the situation better.

Rep. Erickson asked Mr. Greene if he would be willing to work with the Committee in the future. Mr. Greene responded affirmatively. Rep. Erickson then asked about the transportation of nuclear waste and who is informed when a train carrying these materials is moving through. Mr. Greene responded that Mr. Kraft and Ms. Ellis (the local responders) would be told, however the system has not been tested in ten years. The nuclear regulatory commission is required to give notice 3 days prior to the material coming through so that state officials may notify the counties along the route.

Rep. Erickson asked Mr. Kraft who else would know about a train moving through at the county level. Mr. Kraft responded that they alert the local sheriff's department. Rep. Erickson then asked about terrorist attacks on nuclear waste traveling through Montana and if Mr. Kraft would be changing the way the process worked. Mr. Kraft responded that a terrorist attack on radioactive waste, in his opinion, would be more difficult to execute and with fewer benefits than other types of attacks. Rep. Erickson respectfully disagreed with Mr. Kraft.

Rep. Story asked **Jim Currie, Deputy Director, MDT**, if they could examine bridge and railroad structures. Mr. Currie responded that the MDT does examine off system bridges relative to county roads, but they do not examine railroad bridges. He said there may be a jurisdiction issue as the railroad structures are privately owned.

Rep. Kaufmann asked Ms. Ellis about non-residents who died in the Alberton derailment. Ms. Ellis responded that there was one fatality with several people hospitalized.

Ms. Kurtz stated that other committees, such as State Administration and Children and Families, plan to review Homeland Security issues.

Rep. Story in light of what Ms. Kurtz stated this Committee should only be involved if there are requests of MDT.

Rep. Kaufmann added that there may be revenue issues because there is funding needed for an adequate response.

Sen. Glaser commented about the weaknesses of first responders such as a lack of cooperation between jurisdictions and the fact that there is no universal baseline training across

the state. He said that volunteers don't train because they don't want to but they don't have the tools to train. He thinks that the biggest risk in Montana is Montana Sulphur. He said he hopes staff can coordinate these issues among the other Committees.

Rep. Erickson asked when State Administration was meeting. Ms. Kurtz responded that they would probably be addressing the issue in the Spring.

Sen. Taylor concurred with Rep. Story and Sen. Glaser, but felt that more information was needed. In addition, he stated that the Governor's Task Force is going to make recommendations and that the Committee should not duplicate those efforts.

Rep. Erickson stated that he'd like the Committee to consider naming a subcommittee that is ready to receive information.

Ms. Kurtz stated that some issues that are specific to transportation (the possibility of charging fees, inspection of bridges, the rail inspector issue) are federal and the subcommittee may want to look deeper into the state and federal role. Maybe this spring the Committee may want to have a joint forum and invite all the legislators to discuss homeland security. Ms. Kurtz asked for any additional items from the Committee

Sen. DePratu stated that there should be a real concern for the private property owners as well. Rep. Erickson stated that it should include both hazardous material that has been left on a person's property as well as material that invades their home.

Sen. DePratu thought methamphetamine labs should be discussed as well.

Rep. Story stated that manifests are an issue as well and maybe a couple members of each committee can divide up the tasks.

Sen. Roush stated that a number of committees will be hearing this same testimony. He added that funding at local levels should be addressed regarding local emergency services. The regulations that come down at the federal level are when an accident happens.

Rep. Erickson wanted to follow-up with Rep. Story's idea and would like to name a two person subcommittee to be ready when a subcommittee of the other groups is formed. In addition, they would be the conduit through which information comes. Rep. Erickson named Sen. Glaser and Rep. Kaufmann to the subcommittee.

Rep. Kaufmann wanted to clarify what the Committee made of the response from Rail Link and if they consider themselves responsible to the federal regulations and not to state regulations. Rep. Erickson stated that Mr. Russ Ritter would be available this afternoon to answer questions. Rep. Story added that one of the issues that Ms. Kurtz may want to research is federal regulations which hinder states from interfering with railroads. He said that this would allow the Committee to know where they can make changes without interfering with federal laws. Sen. DePratu stated that the Committee should have some additional understanding for the rail system as additional restrictions have been placed on them since the 9/11 attack.

DEPARTMENT OF TRANSPORTATION

Jim Currie, Deputy Director, Department of Transportation, provided an update on the recruitment and retention of engineers (EXHIBIT #11).

Sen. DePratu asked if most positions were filled from within the department. Mr. Currie responded that that was true in a lot of cases, but they do try to recruit outside engineers.

Rep. Story asked Mr. Currie why engineers leave MDT after approximately 15 years. Mr. Currie responded that they have achieved a certain experience level and can move to a more lucrative position and after 15 years the "golden handcuffs" come into play.

Rep. Erickson asked Mr. Currie how MDT compares to other departments in state government that have technical positions. Mr. Currie stated that in reference to IT they are comparable, accountants are paid slightly higher, and they were unsuccessful in hiring an auditor who already works for the state because they were not able to offer a comparable salary.

Mr. Currie provided an update on the new economic stimulus package and the lack of funding for infrastructure, stating that Congress has not passed a package out. Mr. Currie provided the Committee with an update on Highway 2. He stated that the appropriation bill is out of conference committee but has not gone to a vote yet. From the conference committee, they have received approximately \$2 million. The MDT is ready to move on the project as soon as funds are available.

Rep. Story commented on the Capitol for the Day in Havre and the panel that discussed the Highway 2 plan. Rep. Erickson added that he was able to drive with MDT employees on the Havre road and it clearly needed some work. Rep. Story said that he was not certain the four lane highway would improve commerce.

Sen. Taylor asked Mr. Currie where the tribes were on this issue. Mr. Currie stated that he does not know. Sen. Taylor continued to talk about building a safe highway. Mr. Currie stated that they are planning for a 40 foot highway with a 4 foot shoulder that is striped for bikes/pedestrians.

Mr. Currie said that at the last meeting diesel and gas revenues were declining but now they are rebounding.

Sen. DePratu asked about dyed diesel. Mr. Currie responded that they have increased advertising as well as adequately designated the fuel pumps. There has also been a fairly intensive effort to write citations as well. MDT is planning to go out this spring to survey if the enforcement effort has done any good. Sen. DePratu asked if they were writing many citations. Mr. Currie stated that they are writing more than he anticipated though he does not have the exact number. Sen. DePratu asked who the violators were. Mr. Currie stated that it is diesel pick-up trucks and motor homes.

Rep. Devlin commented that the Motor Fuel Advisory Committee did meet, but after a month not many citations had been written with most of them being for placard violations. There have been a few cases where someone was cited under the new law (HB 131). Most of the discussion centered around probable cause. The question was whether or not public education on dyed fuels led to more adherence to the law.

Rep. Kaufmann asked about an official witness vs. a public witness. Rep. Devlin stated that reasonable suspicion would include a phone in tip from someone willing to testify. Mr. Currie added that the only people allowed to do the enforcement are MCS officers.

HB 2 TANF HOUSING TRUST FUND

Greg Petesch, Legal Director, Legislative Services Division, provided a report on language contained in HB 2 and the reduction of TANF funding. He stated that his conclusion is that HB 273 clearly requires the transfer of a specified amount of TANF funds to the low income housing revolving loan account and any attempt to insert language in HB 2 to amend the statutory requirement would be invalid because HB 2 cannot contain substantive law. He added that the Department's position is that the differing opinions can be harmonized and since HB 273 did not state when or how the funds should be transferred, then the HB 2 language can be used to do that. Mr. Petesch concluded that if the language in HB 2 is stating when or how, then it is substantive law.

Chuck Swysgood, Director, Office of Budget and Program Planning, stated that there are different legal opinions on the statutes leaving him to make a decision. He said that they have proportionally reduced the money as the language in HB 2 has directed and if there is a demand for the full \$3.4 million in this biennium then the funds will be made available.

Rep. Erickson commented that he was able to have a conversation with Director Swysgood who stated that if the money is spent and spent well then he will find additional funds.

Rep. Story asked Mr. Petesch that if a bill has a specific appropriation in it, can that appropriation be adjusted by HB 2. Mr. Petesch said that he did not refer to an appropriation, but stressed that substantive law could not be amended in HB 2. Rep. Story then asked about items in HB 2 and their legitimacy. Mr. Petesch stated that HB 2 can make appropriations, but cannot change substantive law, so the items Rep. Story mentioned would be legitimate so long as the specified use does not conflict with substantive law. Rep. Story asked about Mr. Swysgood's comment that the money was federal and not general fund. Mr. Petesch responded that in terms of appropriation they are not dealt with differently, but Mr. Petesch felt the accounting portion of the issue was out of his realm.

Rep. Story asked Mr. Swysgood where he would get additional funds if he needed them. Mr. Swysgood stated that he would have to make appropriate reductions in other areas that use TANF funds.

Sen. Glaser asked Mr. Swysgood who the interested parties would be and if any have come forward. Mr. Swysgood stated that the legislature and recipients of the assistance are interested parties in addition to others. Sen. Glaser asked if anyone has come forward to object. Mr. Swysgood responded that no one other than the legislative committee has objected. Sen. Glaser asked if any advocates for the money have come forward at this time. Mr. Swysgood stated that he is not aware of any.

Rep. Erickson stated that advocates for affordable housing have made their wishes known. But the rest of the groups that use TANF funds have not come forward. Mr. Swysgood stated that that is not quite correct, because when initial reductions were made, the Native American tribes

objected.

CITIZENS' JURY ON MONTANA'S TAX SYSTEM

Kathy van Hook, Montana Consensus Council, provided a report to the Committee on the Citizen's Jury on Montana's Tax System. Ms. van Hook provided a copy of a letter sent to interested persons (EXHIBIT #12) as well as a letter regarding the background of the Citizens Jury (EXHIBIT #13). She said that if the Citizens' Jury had clout in Montana with the recommendations being listened to by the legislature then the process could be used in other areas. Ms. van Hook continued to describe the process in which citizens are chosen to participate and what happens during and following the jury.

Sen. Taylor asked if there was a judge. Ms. van Hook responded no. Sen. Taylor then asked how they avoid loading the jury with one particular demographic segment. Ms. van Hook stated that employment is not necessarily a criteria for selection to serve on the jury, but that they will look at that. She continued to describe to the Committee how the target panel is created. Sen. Taylor then asked if numbers are randomly drawn. Ms. van Hook stated that numbers are pulled off of a grid.

Rep. Kaufmann asked about the complexity of tax issues and the relatively short time in which decisions will be made. Ms. van Hook stated that this has been tried in Minnesota and it was felt that the jury really did understand. However, it is incumbent upon her group to select good, graphic presenters.

Sen. DePratu asked what conclusions have been reached before. Ms. van Hook stated that questions being asked are what principals should be reflected by Montana's tax system and how do various tax types satisfy those principals. In addition, they will be asking what changes should be made to the system. Sen. DePratu asked if they will be broken down into groups or if they will be discussing the issue together. Ms. van Hook stated that the deliberation may be done together.

Sen. Glaser asked about the completion of the calls. Ms. van Hook stated that it takes twice as many randomly selected numbers to complete the calls. Sen. Glaser then asked about the interest of the caller. Ms. van Hook stated that it is broken into three divisions, not interested, probably interested, and interested. Sen. Glaser then asked how the bias is taken out of the list of names. Ms. van Hook stated that they are speaking to the person in the house who is 18 years or older and had the most recent birthday. She added that as the survey progresses, you can also make adjustments. In addition, she said that if people say no or hang-up, there is nothing they can do about it.

Sen. Taylor asked about the three areas they are looking at. Ms. van Hook stated that they have gone from a broader perspective to try and make it a manageable set of information. Sen. Taylor does not want to expand the scope, but he feels that you need to look at the whole issue to determine a solution. Ms. van Hook stated that she will take Sen. Taylor's suggestion back to the working group.

Rep. Erickson asked how often the aim of other citizen juries was to change legislation for a state and how many times that succeeded. Ms. van Hook stated that on the property tax issue,

dealt with in Minnesota, the Jefferson Center felt the recommendations were taken seriously by decision makers and that those recommendations did impact legislation. Rep. Erickson asked if it would be feasible to provide information regarding successful legislation and reform. Ms. van Hook stated that she would look into that and provide the information to Ms. Kurtz.

Rep. Story asked about the funding for the Citizen's Jury. Ms. van Hook stated that it would be 50% private funding and 50% public funds.

REVENUE COLLECTION UPDATE

Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division, provided an update on revenue collection and the general fund status (EXHIBIT #14). Mr. Johnson concluded that the state is currently doing fine, but that we have not fully felt the effects of the down turn in corporate profits and oil prices. In addition, individual income taxes are starting to slow in comparison to the previous year.

Rep. Story asked about the \$30 million in vehicle and gambling money and that we are really only seeing \$10 million in growth. Mr. Johnson responded that that is correct from the standpoint of the \$40 million growth from last year to this year. Rep. Story then asked about additional money coming in from audit collections and if this was one time funds. Mr. Johnson stated that audit collections is a subjective exercise unless it is very clear. However, he does highlight in his report those items which he believes will be repeated and those he believes to be one time.

Sen. Taylor asked about the revisions and projections and if one could make the analogy that lower energy prices leading to lower income for the state, will stimulate the corporations who laid people off because they could not afford the energy to put people back on now. Sen. Taylor asked if the spending in HB 2 for the agencies to project higher energy costs will reverse because they won't spend those funds. Mr. Johnson responded that he is correct in terms of corporate profits. However, he feels it depends on the overall economy in general. In terms of the second question, he would have to go back and look at specific inflation increases. His recollection is that they did not build in for inflationary prices but he can find out.

Rep. Story asked about expenditures to local assistance. Mr. Johnson responded that the total for local assistance includes payments to school districts as well as payments from SB 184.

Sen. Glaser asked about oil and gas and the division of those funds and if, when oil and gas prices go down, states are hit twice because they have to subsidize local schools more. **Jim Standaert, Legislative Fiscal Division**, responded that when prices go down, locals lose money, but the state subsidizes the costs. Sen. Glaser asked if there was a state surplus of \$4 million. Mr. Standaert stated that that sounded correct, but he was unsure of the exact amount. Rep. Erickson asked Mr. Johnson to provide an analysis on estimated income taxes. Mr. Johnson responded that he has looked at monthly activity for fiscal year 2001 in comparison to 2002. He then looks at each month's withholding taxes and compares that to what was received in fiscal year 2002. Though the state is currently up, they are starting to see some areas of concern in the estimated tax arena. Rep. Erickson asked Mr. Johnson to provide an update at the next meeting. Mr. Johnson asked if the Committee would like to receive this update monthly. Rep. Erickson stated that they would.

ADMINISTRATIVE RULES

Lee Heiman, Staff Attorney, Legislative Services Division, reviewed for the Committee administrative rule activity (EXHIBIT #15) as well as the administrative rule update from the Department of Revenue (EXHIBIT #16).

Sen. Glaser asked Mr. Heiman about the bill associated with the universal system benefits program. Mr. Heiman stated that it was HB 474. Sen. Glaser asked if it was Rep. Sliter's bill wasn't it rescinded to go to a vote. Mr. Heiman responded that he did not know. Sen. Glaser stated that if it goes to a vote then until such time that it is voted on then it isn't effective. Sen. Glaser asked Mr. Heiman to make sure that irrigated agriculture is in something other than the rescinded bill. Mr. Heiman stated that he would.

Rep. Erickson thought that this was a separate bill and not part of 474. Mr. Heiman stated that Mr. Erickson was correct that it is not a provision of 474 but he is not aware of what bill it is in.

Neil Peterson, Process Lead, Department of Revenue, provided an update on small brewery rules (EXHIBIT #17). Specifically Mr. Peterson spoke of the definition of a "sample room" and the related activities of such. He continued to state that the Department is still looking for more information to determine if they need to make additional rules.

Brian Smith, President, Montana State Brewers Association, presented the MSBA position on the establishment of additional rules in relationship to "sample rooms" (EXHIBIT #18). Specifically, he stated that it is solely the Department that thinks additional rules are necessary. In addition, he asked the Committee to recommend to the Department that they withhold from any additional rule making until the next session.

Kurt Alme, Director, Department of Administration, clarified points that Mr. Smith made, in the second paragraph, he stated that the Department is not certain what they are going to do. He said it is not the Department's position that the brewers should be subject to the 600 foot rule for churches and schools but they need to determine what a sample room is.

Rep. Kaufmann commented that the legislation answers the question when they regulate the hours of operation and the amount of product that can be served and that she wasn't sure why this is an open question.

Rep. Story stated that he did not remember the argument on the floor, but he thought it was to give brewers the opportunity to provide a sample of their product to get people interested as well as provide a small portion of additional income. Mr. Smith said that is correct.

Sen. DePratu asked Mr. Smith if the small brewers association feels a sample room can be anything as long as it complies with the criteria set forth in legislation. Mr. Smith responded yes.

Sen. Taylor asked Mr. Smith if he feels he should be under the 600 foot rule and if he doesn't, wouldn't that be jeopardizing breweries' ability to continue because most people indicate that rule as being in effect wherever alcohol is served. Mr. Smith stated that the 600 foot rule does not present a problem, but he doesn't think that the rulemaking process is the proper place to do it. He feels that the next legislature should address the issue. He noted that a similar law in

Missouri was thrown out as being unconstitutional. Sen. Taylor then stated that he does concur with Ms. Kaufmann.

Rep. Story asked Mr. Peterson what the statute says if the brewer provides 4-6 drinks. Mr. Peterson responded that the Department can do a number of different things from revoking the license, fining them up to \$1500, or suspend the license. Rep. Story asked what statute that was done under. Mr. Peterson responded that is under the Department's regular enforcement practice.

Rep. Story stated that he would hate to have things done by rule that were not considered in legislation. He continued to state that he is not certain that the problem lies with tavern owners, but with the Department.

Rep. Erickson commented that if there is a need to have clarification of legislation then it ought to go through the legislature next session.

Mr. Peterson commented that some brew pubs have a brewers license with a retail license next door.

Sen. Glaser commented that there is a delicate balance with this issue and he is unaware if all parties have taken into account the risk of going before the legislature. He said it behooves the parties to try and make this work on their own.

Gene Walborn, Subprocess Lead, Department of Revenue, provided an update on energy rules (EXHIBIT #19). He said that last week they had their administrative rule hearing with the close of comment on the USB Rules being Friday, December 7, with finalization of those rules in January. He continued to review the five major energy rules.

Rep. Kaufmann asked about the energy industry being involved in reviewing rules and if there were other interested parties. Mr. Walborn stated that they have tried to make the interested persons list as broad as possible and if there was any interest from a non-industry party, they are more than welcome to the table.

Rep. Erickson asked if groups such as MEIC are automatically on the list. Mr. Walborn stated that they are not on the list, but he would be more than willing to add them. Rep. Erickson commented that AERO (Alternative Energy Resource Organization) would be another interested party.

Rep. Story asked about concern over selling power and the arms length transaction issue. Mr. Walborn stated that they are still working through that issue and what they are trying to figure out is the industry standard. Rep. Story then asked about the bill which reduces the coal severance tax and if their legal analysts have looked that over. Mr. Alme responded that the legal analysis has not yet been completed and that is one of the issues they are working through.

Mr. Walborn stated that if there are other interested parties that the Committee could provide, he would make sure that they are added to the list. Rep. Erickson stated that Rep. Kaufmann would provide that list. Mr. Walborn said that the rules provided are in very draft form and may look completely different at the end of the process.

COMMITTEE DISCUSSION

Rep. Erickson asked if the Committee had any questions for Russ Ritter of the Washington Corporation regarding transportation of hazardous materials.

Rep. Story asked Mr. Ritter about the transportation of hazardous material and how people know what is on a particular car on a particular train. Mr. Ritter commented that there is a list that indicates to the engineer on a train and to dispatch what particular cars are and in what particular order they are. Rep. Story continued to ask if there was a problem then the information would be readily available. Mr. Ritter stated that that is correct. Rep. Story then asked if there is any requirement as to what kind of cars can be next to each other. Mr. Ritter stated that he cannot comment on that question.

Rep. Kaufmann asked about the tone of the response and Mr. Ritter's refusal to provide a presentation to the Committee regarding the Alberton derailment. Mr. Ritter stated that he apologizes if there was any negative tone to his letter. However, he is currently not allowed through instructions by the FRA and the FBI to discuss any train movement issues with the public due to the events of 9/11. Rep. Kaufmann then asked about the enclosed policy referenced in the letter. Mr. Ritter stated that this is a policy adopted by the Federal Railroad Administration.

Rep. Story commented about testimony heard that morning and the discussion relating to hazardous transportation. He asked if counties would be informed when hazardous waste moves through their area. Mr. Ritter responded that the Department of Energy has an entire policy regarding the movement of "white trains" (trains that carry nuclear materials). Mr. Ritter cannot answer the question specifically, but he believes that the policy enforced prior to 9/11 would continue. Rep. Story then asked about not providing information to the public. Mr. Ritter stated that that is an issue between the FBI and other agencies.

Clayton Schenk, Executive Director, Legislative Fiscal Division, asked about coordination of POINTS presentations as the Department of Revenue has to report to three different committees. He is asking this Committee for guidance as they have legislative oversight of the Department. He said that Sen. Tester of the Audit Committee is considering creating a subcommittee and that the subcommittee may contain members from the other two committees.

After much discussion, Rep. Erickson determined that the issue will be addressed tomorrow.

Rep. Story asked for members of Audit and Finance to attend the meeting. Ms. Kurtz stated that she would see if they were available.

RECESS

The meeting recessed at 4:58 p.m. and will reconvene at 8:30 a.m. on Friday, December 4, 2001.

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:30 by Rep. Erickson. Roll call was taken (ATTACHMENT #4) with all members present except for Rep. Somerville, Rep. Laslovich, and Sen. Cocchiarella who were excused.

NATIONAL ECONOMIC OUTLOOK

Michael Donnelly, Senior Economist, DRI-WEFA, presented to the Committee a presentation (EXHIBIT #20) regarding the current economic status of the country as well as an executive summary of Montana (EXHIBIT #21). Specifically, Mr. Donnelly stated that the country entered a recession in March with the average recession lasting 11 months. He said that DRI-WEFA feels this will be a moderate recession.

Sen. Ellingson asked about lowering interest rates and increased bank restrictions on what banks will lend. Mr. Donnelly responded that increased restrictions are primarily commercial and institutional lending, not consumer lending. The federal reserve is trying to impact the consumer.

Sen. DePratu asked about increased restrictions for high credit risk consumers. Mr. Donnelly stated that delinquencies increase during recessions. There is also an increased usage of pay day loans which have tripled in the last year. Sen. DePratu said that it is not uncommon to see people in the C and D risk range with \$30-50,000 in credit card debt.

Sen. Taylor asked about the dot com fallout and asked if there was any tie to that. Mr. Donnelly responded that dot coms did not borrow too much money as most of it was acquired through the sale of stock.

Sen. Ellingson asked with over investment in capital goods and banks tightening their loan requirements, are we at the point where monetary policy is becoming increasingly irrelevant. Mr. Donnelly stated that the federal reserve does not have much impact on business investment or credit card debt. However, he does believe that the federal reserve does have a big impact on consumer purchasing with the best example being auto sales. Sen. Ellingson asked if he was essentially speaking of consumer durables. Mr. Donnelly responded yes.

Mr. Donnelly reviewed the impact of September 11 on the economy of the country. He stated that consumer confidence fell with a short term impact on productivity as the country moved into a recession. The long term effects will be that manufacturing sectors will hold more inventory and unemployment will increase to approximately 6.3% nationwide.

Rep. Erickson asked about technology and increasing productivity. Mr. Donnelly stated that his company concurs with the federal reserve stance that productivity will increase at a faster rate due to technology and that is why they anticipate a 2% increase over 1%.

Sen. Taylor asked about the tax holiday for FICA and short term investment credits. In reference to short term investment credits, Mr. Donnelly said that had the biggest impact on the economy, but right now it would take awhile to work because firms are not going to invest right away. Mr. Donnelly said that he liked the payroll tax break as a long term solution or even an expansion of the earned income tax credit.

Sen. Ellingson asked if the falling exports is related to growth rates. Mr. Donnelly said yes. Sen. Ellingson stated then that the growth rate for 2000 was 9.5% which has fallen to 4.5% now. Mr. Donnelly stated that that is correct.

Rep. Erickson asked about Mr. Donnelly's argument that the stock market is going to be a bad investment for some time to come but there will be continued investment in the market by other countries. Mr. Donnelly responded that U.S. productivity is still fairly good and there is no other attractive area for them to invest. In addition he stated that Wall Street does not believe their analysis.

Sen. Taylor asked about falling prices of agriculture commodities and what Mr. Donnelly sees for production prices. Mr. Donnelly stated that the forecast is very pessimistic with the average price forecast being 1% per year. Mr. Donnelly asked what commodity he was thinking of specifically. Sen. Taylor responded grains and cattle. Mr. Donnelly stated that there are two groups at his company who could speak more specifically on the topic. However, he did believe that with the entire world going into a recession, he could not imagine prices increasing until 2003-2004. Sen. Taylor then asked about lumber tariffs. Mr. Donnelly stated that there is a lumber analyst who can respond more specifically to his question. He did state that housing starts should remain strong for the next five years with continued population growth. There will also be a continued demand for paper.

Sen. Roush asked about natural gas and energy prices and their impact on the country for the next few years. Mr. Donnelly responded that there is an energy group that can respond to his question. He said that with oil prices declining, natural gas will fall as well. In addition, the movement of electricity prices to a more market oriented environment, increases the ability for prices to remain low for a longer period.

Sen. Ellingson asked if it is the judgement of his organization that the problems of high energy prices due to lack of supply are over. Mr. Donnelly responded that that is a fair statement. Mr. Donnelly asked about the closing of a mine in Butte and the current standing of their situation. Sen. DePratu responded that they are looking to begin working at 25% capacity with the possibility of going to 50%. He added that the reason they are not talking about 100% capacity is because the metals market is so low. Sen. Taylor stated that they would like to move to full capacity because of the low energy prices, but cannot do so because of the metals market.

Sen. Ellingson asked about states which have successfully deregulated. Mr. Donnelly responded that Pennsylvania completed the process successfully as well as some southwestern states.

Rep. Story asked about tourism and future predictions. Mr. Donnelly does not think that travel and tourism will bounce back to 2000 levels. He said that a lot of tourism is dependent upon the airline industry and if they begin to offer more flights and consumers become more comfortable with flying then there may be a slight rebound. Mr. Donnelly directed Rep. Story to the travel and tourism group of his company. Rep. Story asked about people spending money on travel and tourism closer to home, and if marketing should be directed to that market. Mr. Donnelly responded that that was probably the case though he does not know if that is the official position of his company.

Rep. Devlin asked about manufacturing capacity and the increase throughout the 90s. Mr. Donnelly responded that there was amazing productivity in the business sector where business increased training and changed business practices. In addition, there was an increase in the number of plants built.

Sen. Taylor asked if companies will be decentralizing due to 9/11. Mr. Donnelly stated that he does not see it happening with any of his clients, and it may not be seen because people are so unwilling to spend money right now.

Sen. Glaser asked about face to face communication and if that tradition will continue to hold. Mr. Donnelly stated that telecommunications will grow at a far greater speed than travel. However the need for face to face communication will continue to be necessary as well as efficient.

DEPARTMENT OF REVENUE

Judy Paynter, Process Lead, Department of Revenue, provided an update to the Committee regarding audit revenues recorded on SABHRS (EXHIBIT #22, TAB - Audit--SABHRS).

Jeff Miller, Process Lead, Department of Revenue, provided an update to the Committee regarding POINTS (EXHIBIT #22, TAB - POINTS Progress).

Dr. Joel Henry, Computer Science Professor, University of Montana, reviewed the consulting task he has been given and the results of his preliminary assessment (EXHIBIT #22, TAB - POINTS Progress).

Sen. Ellingson asked Dr. Henry if the Department was on the right track in achieving the functionality desired. Dr. Henry responded yes, but they still need to assure that the product delivered by the contractor is quality. In addition, defects need to be clearly documented when they are found as well as corrections being re-tested in a timely fashion. Dr. Henry said that in terms of POINTS I, there needs to be a process change in order to increase the number of defects closed per month. Sen. Ellingson asked if Dr. Henry would be retained and able to report back on progress. Dr. Henry responded yes.

Rep. Erickson asked about resources and if the salaries offered allow us to attract the people needed to do the job. Dr. Henry cannot comment directly on salary, but stated that it is difficult throughout the U.S. to find qualified information technology people. Rep. Erickson then asked about training for phase II and if it is Dr. Henry's sense that it will be easier retain and hire people. Dr. Henry stated that he was not tasked to review the training materials so he could not answer the question. Mr. Alme responded that the training is for the DOR staff to operate the system and not the IT staff. He said that **Dan Ellison, IT Manager, Department of Revenue**, could respond to his question regarding salary. Mr. Ellison responded that they receive few applications for higher level systems analyst positions. However, he cannot comment if it is due to salary or the difficulty of the POINTS system. **Brian Wolf, Chief Information Officer, State of Montana**, added that retaining, developing, and maintaining appropriate IT staff in Montana is a challenge. He continued to comment about a broadband pay approach which fits more closely to market.

Rep. Story asked Dr. Henry if POINTS I is a particularly complex program or if it is poorly designed. Dr. Henry responded that in terms of an accounting application it is somewhat complex. In terms of software application, it is not complex. However, he does believe the system has some core design and code difficulties. Rep. Story asked if there was some misunderstanding in the process as to what the program was supposed to do. Dr. Henry stated that he has not been tasked to answer that question. Rep. Story asked if POINTS came online too soon. Dr. Henry stated that he wasn't present and has not been asked to look at that decision. Rep. Story asked why a pre-existing system would not have worked for the Department. Dr. Henry stated that the business rules that are used in the Montana tax system would prevent the use of off the shelf software.

Sen. Taylor asked Dr. Henry if given the right support personnel, when would the system be acceptable to what was purchased. Dr. Henry stated that that is the next task he is to work on, but he would estimate that POINTS I would not be at acceptable levels of functionality for approximately nine months.

Sen. Taylor asked Mr. Wolf if in looking at the original contract, he sees an ability to move forward without ending up in a long term lawsuit. Mr. Wolf responded that the DOR has built a complex piece of software and does not have the structure for testing defects and releasing new versions of software. He continued to state that there may be aspects of the contract which will result in global changes in how the state deals with software contracts.

Rep. Erickson asked Dr. Henry if the basic structural problem can truly be solved. Dr. Henry responded that that can be done.

Rep. Devlin asked about Dr. Henry's role and the Department's role. Dr. Henry responded that he makes recommendations and the Department implements those changes. Mr. Alme added that there are two aspects and the DOR is doing the maintenance on POINTS I. In relationship to POINTS II, it is a balanced approach where recommendations made by Dr. Henry are followed by the Department and the contractor. Rep. Devlin asked if we own POINTS I. Mr. Alme stated that we have accepted the system, but we do not take off the table contractual responsibilities for other parties. Rep. Devlin then asked if DOR has accepted delivery of POINTS II at this time. Mr. Alme stated that DOR has not.

Rep. Devlin asked Dr. Henry about POINTS I and if the Department should have accepted delivery of the system. Dr. Henry responded that he has not studied the circumstances of the decision made. He said that it would be very difficult to justify and substantiate a system with that many defects, but they don't know that in advance.

Sen. Glaser asked Mr. Schenk about revenue estimating. Mr Schenk responded that creating reports is a struggle when you have an unstable data base which leads to a challenge over the next ten months to present information to the Committee that is accurate as well as timely. Sen. Glaser asked Mr. Schenk if they were working on an alternative way of obtaining the information. Mr. Schenk stated that Mr. Johnson is working on that project.

Sen. Glaser asked **Tori Hunthausen, Legislative Audit Division**, how to overcome the POINTS problem. Ms. Hunthausen stated that the audit team will give their opinion on the revenues of the Department as they are recorded in SABHRS. In a system where there are

recognized control weaknesses, auditors are required to audit around the system. If they are unable to work around the system, they can issue a qualified opinion.

Sen. Glaser asked Mr. Alme how he can develop a relationship with Audit and Finance so they can make the appropriate changes if necessary. Mr. Alme responded that he likes the subcommittee approach for communication. In addition, he stated that they will do everything possible to provide written reports and any additional information needed to complete their goals.

Rep. Erickson asked if Dr. Henry could return in February. Dr. Henry responded that he could.

Don Hoffman, Process Lead, Department of Revenue, provided an update to the Committee regarding tax processing (EXHIBIT #22, TAB - Tax Processing).

Judy Paynter, Process Lead, Department of Revenue, provided an update to the Committee regarding HB 124 Payments (EXHIBIT #22, TAB - HB 124 Payments).

Rep. Story commented that OPI will begin some reasonableness testing on their side regarding HB 124 payments as there is an issue of a district which received more funds than necessary due to a clerical error. Rep. Story recommended that OPI report to the Committee regarding the issue.

Neil Peterson, Process Lead, Department of Revenue, provided an update to the Committee regarding HB 124 fee collections, customer service center structure, and liquor licensing (EXHIBIT #22, TAB - HB 124 Fees, CSC Structure, and Liquor Licensing).

Rep. Story asked about residency requirements for licenses. Mr. Peterson stated that the Department has not taken a position regarding residency requirements. Rep. Story asked who were the proponents and opponents of the issue. Mr. Peterson responded that there are arguments on both sides. From a regulatory stand point, it is advantageous to have the person in the state to obtain information.

Sen. DePratu asked if having the residency requirement is stifling the influx of national chains. Mr. Peterson responded that national chains add complexity to the issue, but they have been able to work through the difficulties from a regulatory standpoint and a business standpoint.

Mr. Alme updated the Committee on tax policy and the Department's role in the Citizens' Jury. He said that an economic development package will be presented in early January, with the Citizens' Jury following in late January. Mr. Alme asked if any Committee member would care to submit a stable tax policy plan for Montana.

SJR 21

Sen. Glaser provided an update on SJR 21 to the full Committee. He stated that SJR 21 deals with a study on seven times agricultural value for certain types of property.

Lee Heiman, Attorney, Legislative Services Division, provided to the Committee the legislative history of agricultural lands property tax (EXHIBIT #23).

Brad Simshaw, Office of Tax Policy and Research Analysis, Department of Revenue and **Dallas Reese, Office of Tax Policy and Research Analysis, Department of Revenue**, provided a *Summary Analysis of Non Qualified Agricultural Land* (EXHIBIT #24).

Rep. Story asked Mr. Simshaw if there was any way to see how the land was classified prior to being classified as non qualified. Mr. Simshaw responded that with the data bases available, that would be difficult to do. He added that they may be able to do a random sample to provide that information.

Rep. Erickson asked about ownership parcel counts and distribution by county. Specifically he asked about reasons for the high number in Wheatland County. Mr. Simshaw responded that he does not know the answer to that. Sen. Taylor answered that in Petroleum County the issue could be related to hunting. Rep. Story said that in Wheatland county it is probably recreational property.

Ms. Kurtz provided to and discussed with the Committee a state summary of agricultural land titled *Agricultural Land Tax* (EXHIBIT #25). She said that the most important information is in relation to income and acreage requirements.

Rep. Erickson asked about the exclusive farm use zone in Oregon and why it was created. Ms. Kurtz responded that she could not answer that question. Rep. Erickson requested that Ms. Kurtz review that information. Sen. Glaser stated that he thought Oregon was trying to promote green areas but would like to see if that was true.

Ms. Kurtz then provided to the Committee *Policy Questions for Discussion Purposes SJR 21* (EXHIBIT #26). In addition she provided options for the Committee to consider.

Rep. Erickson stated that question #7 should be moved to the top of the list as it asks what the Committee wants to ultimately accomplish.

PUBLIC COMMENT

Rod Wilson, Legislative Chair, Montana Association of Realtors, provided comments to the Committee regarding land taxation (EXHIBIT #27). Specifically, he stated that MAR would like to see business growth and new jobs that bring new tax revenue. In addition he encouraged the Committee not to simply make small changes to the tax system.

Tim Davis, Executive Director, Montana Smart Growth Coalition, provided options to the Committee regarding taxes for farmers and ranchers (EXHIBIT #28). He said that the system could be improved by changing the agricultural use test, tying taxes to household incomes, and eliminating subsidies that promote speculation.

COMMITTEE DISCUSSION

Rep. Erickson asked Mr. Davis about property that is agricultural land that is purchased for

conservation. Mr. Davis responded that a conservation easement could be a test for designating agricultural land.

Rep. Story commented that making changes can affect 20,000 people and wondered if seven times grazing should have been done differently. He added that one of the issues is our tax system creating secondary effects.

Rep. Devlin commented that a lot of the information Brad Simshaw presented confirmed his thoughts that this is not an issue in the eastern half of the state. He believes the laws we have in place are adequate and that he would not like to see the size values change. Rep. Devlin said he doesn't see where wholesale changes in the system would be in the benefit of the state right now.

Sen. Glaser presented to the Committee a memo from **Mr. John Bloomquist, Montana Stockgrowers Association** regarding SJR 21 (EXHIBIT #29).

Rep. Erickson commented that in terms of dollars, the amount of money is very small, which leads him to wonder what the Committee should change. In addition, Rep. Erickson would like to add conservation easements to the list of options Ms. Kurtz distributed. He added that from the testimony and information received, he does not see any obvious solution or an obvious need for change.

Sen. DePratu commented that he is not interested in making changes at this point in time as well.

Sen. Glaser commented about agricultural land investments and how the land can no longer be bought for its productive value. He said he does not know if the subcommittee can make any recommendations to the full Committee at this time and would like to table the issue until the next meeting.

Rep. Story and Rep. Kaufmann concurred.

Rep. Devlin commented that tying taxes to personal income is not the best idea because agriculture is not the only source of income and not the major source of many households' income therefore it would not be an accurate value of the agricultural land. He said he would definitely leave agricultural land based upon its production capability.

Sen. DePratu commented that it is becoming more and more apparent that the geographic differences make it more difficult to apply tax policies broadly.

Rep. Erickson commented that we may want to allow the county commissioner to help determine value. In addition, the Michigan and Maryland ideas presented by Mr. Davis may work if we want to keep farm land as farm land. Finally, he commented that maybe we would want to use some percentage of class four for non-qualified agricultural land.

Sen. Glaser recommended to the full Committee that the subcommittee would review the issue until the next meeting.

INSTRUCTIONS TO STAFF

Rep. Erickson commented that the Committee needs to make a determination about POINTS reporting requirements. Rep. Erickson provided several options to the Committee. He stated that his recommendation would be that two people from RTIC would be appointed to a subcommittee that would be involved with the Audit Committee.

Rep. Story commented that he is not clear of what the Audit Committee's involvement is in the process. He said that this Committee is charged with overseeing the POINTS system and if the Audit Committee would like to send a couple people to RTIC's meeting then that would be fine.

Rep. Erickson commented that Sen. Tester is very upset with the way POINTS is going and is anxious to work towards a solution.

Sen. Taylor concurred with Rep. Story and asked about funding. Ms. Kurtz commented that members of the Audit Committee would not have to ask the Legislative Council for additional funds as the money would come from the Audit budget. In addition, she commented that RTIC would have enough money to form a subcommittee. Sen. Taylor said that if RTIC is charged with POINTS, that they should fulfill that charge.

Rep. Story commented about the budget discussion and subcommittees because there are other subcommittees already established by RTIC. He said that as the interim comes to an end and RTIC is working on revenue estimates, the Committee may have to go to the Legislative Council and ask for additional funds.

Rep. Erickson commented that Sen. Tester's idea that a new subcommittee be formed is possibly very expensive and asked Ms. Kurtz to comment. Ms. Kurtz stated that it would be and she did not know who would staff the new subcommittee.

Sen. Glaser commented that he spoke to Sen. Keenan regarding this issue and he was concerned that Mr. Schenk receive the information that he needed.

Rep. Erickson asked Mr. Schenk about a two person subcommittee attending the Audit Committee and if that would be useful to him. Mr. Schenk commented that he was simply a messenger and that he does not question the role of any of the Committees receiving the information. He said that he does believe there is a more efficient way. He added that the Audit Committee has not been able to accurately convey the amount of valuable staffing they are able to devote to this issue.

Rep. Story asked if the audit staff only works for the Audit Committee. Ms. Kurtz commented that staff may be able to coordinate and work with other committees. Rep. Story continued to comment that if the Audit staff has the time and expertise then they could possibly work for this Committee rather than the Audit Committee.

Sen. Roush commented that this Committee has the jurisdiction and if the Audit Committee would like to form a joint subcommittee or be present at RTIC Committee meetings then that would be fine.

Sen. Taylor commented that the Audit Committee's job is to review contracts which is where their interest lies. He said that this Committee should be the point with a possible substructure relating to audit and finance that can be determined.

Rep. Story commented about getting information and making sure the Legislative Fiscal Division gets the information they need is still the responsibility of this Committee.

Sen. DePratu moved that RTIC appoint two members to a subcommittee and invite two members of the Audit and Finance Committees to join.

Sen. Glaser commented that if Sen. Tester is careful then he can appoint two members who also sit on Appropriations or Finance and Claims.

Sen. Taylor asked Sen. DePratu how he envisions this subcommittee meeting. Sen. DePratu commented that he would see the subcommittee increasing communication, ensuring resolution, and determining what the ultimate cost will be. Sen. Taylor asked how often they would meet. Sen. DePratu stated that monthly would probably be necessary for awhile.

Sen. Glaser stated that the appropriate motion would be that the Chair be authorized to appoint a subcommittee composed of two members of this Committee and joined by two members of the Audit and Finance Interim Committees and that subcommittee would subject to the call of the Chair and it would be the prerogative of Rep. Erickson to select the Chair.

Sen. DePratu withdrew his motion and concurred with Sen. Glaser's motion.

Sen. Taylor commented that he has some concern in creating busy work as there are a lot of committees working on this system. He asked Mr. Alme for his opinion on creating another subcommittee. Mr. Alme asked if reporting to the new subcommittee would replace the other reporting requirements, and said that he did not expect that the subcommittee would be created to take more active management of the situation.

Sen. DePratu commented that he envisioned that the subcommittee would be the only reporting requirement of the Department and they could disseminate the information back to various committees.

Ms. Kurtz commented that the language in HB 2 requires the Department to report to RTIC on POINTS at every meeting.

Rep. Erickson commented that he envisioned a subcommittee that may not directly help with Mr. Alme's problem of three separate committees to report to, but would ensure that the Audit Committee and this Committee would know what each other is doing and therefore Director Alme would not be getting too many different types of advice from each committee. At least if there was some crossover, we could be sure of what each committee is saying.

Rep. Story commented that the Department is doing everything it can do to rectify the problem, and to meet monthly to determine how the situation is going is not going to help the situation. He said that the statute clearly requires the Department to report to this Committee and if a subcommittee was created have them operate in concurrence with this Committee.

Rep. Devlin stated that there are three separate committees taking an interest in the POINTS system, but it is RTIC's charge and RTIC could harmonize the efforts of the three committees. Rep. Devlin said if a subcommittee could help the Department with the process then that would be helpful.

Sen. Ellingson commented that the subcommittee model will not work in streamlining our ability to keep tabs on revenue. He said that his level of concern has changed markedly following the presentation today and that it would appear that the Department is on the right track to solve the situation. He is also struck by the usefulness of the resources of the Audit Committee to make sure that what is promised by the Department is feasible and they follow through. He added to state that it would be a better use of time to designate someone from this Committee to go to the Audit Committee to hear what they have to say, invite staff from the Audit Division to present at the next RTIC Committee, and invite legislators from the Audit Committee to report back to us. He said that this would allow someone other than the Department to report that things are on course.

Sen. Glaser withdrew his motion in light of Sen. Ellingson's suggestion.

Sen. Taylor asked the Chair to appoint one member from this Committee to attend the Audit Committee meeting. After the findings are discussed, then a subcommittee may be formed.

Rep. Erickson asked Rep. Devlin if he would be willing to attend the Audit Committee meeting. Rep. Devlin stated that he would. Rep. Erickson stated that the issue would be reviewed again in February.

Ms. Kurtz asked if the Committee would like her to invite audit staff to present a report. The Committee stated yes.

Ms. Kurtz commented that the next meeting will include reports from the Departments of Transportation and Revenue. In addition the work plan contains the POINTS reports and the requirement that is in 15-1-230 which is tax credits for planned gifts. She said there will be a report on the special revenue fund as well as a discussion of in-state versus out-of-state road construction contracts. Ms. Kurtz continued that Mr. Johnson will present a revenue estimating update and the Citizens' Jury will have completed their work and an update will be provided. Ms. Kurtz stated that OPI would be added to the agenda at Rep. Story's suggestion. She asked the Committee if they would like additional research on SJR 21. Rep. Erickson responded that the subcommittee may make suggestions on that topic.

Rep. Kaufmann asked if the subcommittee will meet in concurrence with the next meeting. Sen. Glaser commented that that would be determined based upon what the subcommittee determines they want to do.

Rep. Story commented that he would like to see the Department of Transportation present reports to the Committee on current bids, invite the Contractors Association to attend to see if they have any issues, and see if the consulting firm for the Department of Transportation could provide a report on the economic status and development of Montana.

Sen. Roush commented that the Department of Transportation negotiates contracts with

reservations and they should come before the Committee to report how much the contracts cost the state or the federal money expended on them. Rep. Erickson stated that that could be put on the agenda for next time.

ADJOURN

The meeting adjourned at 4:30.

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