

**Summary of statutory duties and other functions of the
Revenue and Transportation Interim Committee
and
2001-2002 Interim Proposed Work Plan**

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June 18, 2001

The 2001-2002 Revenue and Transportation Committee is a composite of old and new. The Committee retains many of the functions assigned to the Revenue Oversight Committee, a long-standing, permanent interim committee whose enabling language was stricken via Senate Bill No. 11 (SB 11) (Ch. 19, L. 1999) during the 1999 Legislative Session. SB 11 created the Revenue and Taxation Interim Committee, which performed most of the duties previously assigned to the Revenue Oversight Committee with one significant addition: the monitoring function for the Department of Transportation and transportation-related subject area jurisdiction.

After spending the 1999-2000 interim implementing the major changes brought about by SB 11, staff and the Legislative Council identified additional modifications to the interim committee structure and process that would clarify the new procedures and maximize interim committee efficiency and effectiveness. The 2001 Legislature enacted these changes via Senate Bill No. 10 (SB 10) (Ch. 210, L. 2001). Many of the differences were tweaks to what SB 11 had put in place, but a major policy change was also included.

SB 10 changed the name of the Revenue and Taxation Interim Committee (saddled with the unfortunate acronym, RAT) to the Revenue and Transportation Interim Committee (RTIC) to better reflect the Committee's relationship with the Department of Transportation. SB 10 also added agency draft legislation review to the list of responsibilities for all interim committees. The procedure for this review will be discussed in Part I of this document.

RTIC faces a busy interim, given all of the duties statutorily assigned to the Committee, the reports that are required to be made to the Committee, interim studies within its jurisdiction, and other matters likely to be considered.

This paper is divided into five parts:

- I. General Statutory Duties of the Committee;
- II. Other Statutory Duties and Required Reports;
- III. Interim Studies
- IV. Additional Topics within the Committee's Subject Area Jurisdiction and Topics Specific to the Departments of Transportation and Revenue
- V. A Proposed Work Plan and Meeting Schedule

I. GENERAL STATUTORY DUTIES OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A. Enabling Statutes

The general duties of interim legislative committees are contained in 5-5-215, MCA. SB 10 revised the duties of interim committees:

"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; ~~and~~

(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."

SB 10 also revised 5-5-227:

"5-5-227. Revenue and ~~taxation~~ transportation interim committee. The revenue and ~~taxation~~ 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."

B. Committee Review of Draft Legislation

The change common to both 5-5-215, MCA and 5-5-227, MCA, effected by SB 10 is a review of agency draft legislation. Prior to enactment of SB 10, legislation requested by Executive and Judicial Branch agencies could be requested by the Legislative Council, drafted, and preintroduced with a legislator-sponsor before the legislative session began. If agencies met specified deadlines, the Legislative Council acted as the official "Requestor" of the legislation, allowing the legislation to enter the Legislative Services Division's drafting and review system. The legislation would be officially

designated as "By Request Of", or on behalf of the agency. Although the Legislative Council acted as "Requestor", the Council did not actually review the legislation.

Draft Legislative Council rules implementing Section 5-5-215(d) envision a process by which interim committees have the opportunity to review agency EPP proposals and draft legislation and to act as the official "Requestor" of agency legislation on behalf of an agency, rather than the Legislative Council. Final details on this process await Legislative Council discussion and approval at the Council's June, 2001, meeting.

C. Agencies Assigned to RTIC

Because the language contained in 5-5-227, MCA, is sufficiently broad, Committee monitoring of the Department of Revenue and the Department of Transportation may also include the review of proposed budgets, pending litigation, and major contracts and personnel actions of the departments.

SB 10 in 5-11-210 assigns each interim or statutory committee the responsibility of acting as the clearinghouse for agency reports to the Legislature--formerly a function of the Legislative Council. By September 1 of each year before the regular session of the Legislature, each agency required to report to the Legislature must furnish to the appropriate interim committee the information about the report that is specified in Section 5-11-210.

II. OTHER STATUTORY DUTIES AND REQUIRED REPORTS

In addition to the general duties related to all interim committees contained in 5-5-215, MCA, and the specific Committee duties under 5-5-227, MCA, the Committee is assigned the following duties:

A. Department of Revenue

1. The Department of Revenue is required to "report to the Revenue and [Transportation] Interim Committee at each meeting during the 2003 biennium on the progress of integrating POINTS with the state accounting system to enable the reporting of audits, penalties, and interest collections separately on SABHRS." (HJR 2, 2001) House Bill No. 2 states that "the department shall provide status reports on the POINTS system to the Revenue and [Transportation] Interim Committee at each regularly scheduled Committee meeting. The status reports must include work plan benchmark updates, progress on fixing mission-critical and nonmission-critical defects, and the status of implementing and operating all phases of the system." (HB 2, 2001, p. A-11)
2. The Department of Revenue is required to report (HB 434, Ch. 537, L. 1997) to the Committee at least once each year regarding the tax credit for planned gifts made to qualified charitable endowment funds (15-1-230, MCA). This requirement terminates December 31, 2007 (termination extended by HB 377, Ch. 226, L. 2001).
3. The Department of Revenue is required to review the taxation of pass-through entities and report to the Revenue and Transportation Interim Committee at least once each year (HB 143, Ch. 143, L. 2001).
4. In 1999 the Legislature exempted intangible property from property taxation (SB 111, Ch. 583, L. 1999). The Department of Revenue is required to report on intangible personal property annually to the Committee and to the Legislature meeting in 2001 (15-6-218, MCA).

B. Department of Transportation

1. The Department of Transportation is required to report to the Committee concerning the status of cooperative agreement negotiations with Indian tribes on the taxation of motor fuels. Any cooperative agreement must be presented to the Committee for review and comment before the final agreement is submitted to the Attorney General for approval (15-70-234, MCA). The Revenue and Transportation Committee has

generally been kept informed regarding all areas of negotiated tax agreements between the state and tribal governments. The authority for negotiated tax agreements is contained in the "State-Tribal Cooperative Agreements Act" (Title 18, ch. 11, MCA).

2. House Bill No. 131 gives the Department "the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3" and requires that: "The Department of Transportation shall report to the Revenue and Taxation interim committee at least once each year on its enforcement, pursuant to the authority provided in subsection (6)(c), of the provisions of Title 15, chapter 70, part 3, and on any impacts that enforcement has had on the state special revenue fund."

C. Other (HJR 2, Budget Director, Electric Utilities, Board of Oil and Gas)

1. The Committee is responsible for the preparation by December 1 preceding each regular session of an estimate of the amount of revenue projected to be available for legislative appropriation (5-18-107, MCA). The Committee also periodically reviews general fund revenue collections.

2. In accordance with the reduction in spending authority granted to the Governor, the budget director is required to report to the Committee when actual or projected revenue is less than the revenue estimates adopted by the Legislature. The Committee must provide the budget director with recommendations concerning the shortfall (17-7-140, MCA).

3. The Committee is required to analyze the amount of state and local tax revenue derived from previously regulated electric utilities (69-8-502, MCA) and natural gas suppliers (69-3-1409, MCA) in a competitive market.

4. Previously, the Department of Commerce was required to report on an annual basis to the Revenue Oversight Committee concerning Montana capital companies and the Montana small business investment capital companies (90-8-311, MCA). Senate Bill No. 11 assigned the review to the "appropriate legislative interim committee".

5. The Board of Oil and Gas Conservation is required to report at least

once a year to the Committee regarding oil production from new enhanced recovery projects or from horizontally completed wells (sec. 21, Ch. 9, Sp. L. November 1993). The first and only report was delivered September 1994.

III. INTERIM STUDY ASSIGNMENTS

In May, Legislative Services Division staff presented the Legislative Council with the results of the interim study poll, together with information on available staff and committee time, and staff's recommendations whether or not to proceed with particular studies and to which committees studies should be assigned.

Three study resolutions emerged from the 2001 Legislative Session that logically fell within the Revenue and Transportation Committee's subject area jurisdiction. The Legislative Council assigned one study to RTIC and suggested that two others be monitored by the Committee.

Study	Poll Ranking (out of 20 studies)	Legislative Council determination
SJR 21 Study taxation of agricultural land v. nonagricultural land	10th	To be conducted by RTIC
SJR 6 Study traffic codes	19th	MDT to take the lead, update RTIC
HJR 37 Study bicycle safety	20th	MDT to take the lead, update RTIC

Although the SJR 21 study is assigned to the Committee, the Committee has the authority to determine the depth and breadth of the study after considering the time involved with the Committee's statutory duties and agency liaison work. Options before the Committee range from appointing a subcommittee that would devote significant time to the study to directing staff to research and prepare a "white paper" on the subject. The determination of the scope of the SJR 21 study and the time commitment that will be involved can be made at the September meeting.

IV. ADDITIONAL TOPICS WITHIN THE COMMITTEE'S SUBJECT AREA JURISDICTION AND TOPICS SPECIFIC TO THE DEPARTMENTS OF TRANSPORTATION AND REVENUE

A. Department of Revenue (Topics other than statutorily-required reports)

1. The Committee should review the Department of Revenue's progress in developing the reappraisal cycle plan for the next reappraisal cycle under 15-7-111, MCA. Under the provisions of Senate Bill No. 184 (Ch. 584, L. 1999), the reappraisal cycle began January 1, 2001.

B. Department of Transportation

1. Status of the Highway Special Revenue Account

2. Recruitment and retention of engineers

3. MDT's construction schedule was of interest to the 1999-2000 Revenue and Taxation Committee.

4. House Joint Resolution No. 30 (HJR 30) provides, in part: "that the Transportation Commission, the Department of Transportation, the Governor's Office, and any other appropriate state agencies work together and seek the input of the Revenue and Taxation Interim Committee in studying and implementing methods for including economic development criteria in the Department of Transportation's ranking and funding apportionment process."

5. A member of the Committee has requested that some Committee time be devoted to examining any real or perceived differences in the number of contracts awarded to in-state contractors versus contractors headquartered out of state.

C. Other

1. In 1993, the Legislature eliminated the Coal Tax Subcommittee and transferred coal tax oversight duties to the Revenue Oversight Committee (Ch. 40, L. 1993). Senate Bill No. 11 (1999 Session) removed the legislative coal tax oversight function. The Committee should retain this function as part of its oversight responsibilities. In

particular, the Committee should monitor the effectiveness of the reduced coal severance tax rate for coal used by a new electrical generation facility for the production of electrical energy for use within the state. Senate Bill No. 134 (Ch. 399, L. 2001) provided that coal is taxed at 1/3 the applicable coal severance tax rate if the first one-half of the amount of power produced by a new electrical generation facility is offered to Montana customers and distribution service providers at a cost that reflects the producer's cost of generating the electricity plus a reasonable return on investment.

2. The 57th Legislature provided several other tax benefits to encourage the production of electrical energy in Montana. The Committee should also monitor the effectiveness of these benefits. Senate Bill No. 508 (Ch. 592, L. 2001) provided property tax incentives for new electrical generation facilities. The legislation also required the payment of impact fees to local governments. The Committee may want to examine ways to improve the method for the distribution and use of the impact fees.

3. Because of the many changes in property taxation, the 56th Legislature made several revisions to the statutes related to bonding capacity. These changes raised the issue of whether bonding capacity laws may be simplified to alleviate the necessity to revise these laws in response to other legislative enactments. In the last interim, the Committee recommended legislation to revise the method of determining bonding capacity local governments and schools (HB 23 and HB 24). These recommendations were enacted into law. Although technically a local government issue, the Committee may want to look at consolidating local government bonding limitation laws.

4. Staff has identified two sections of the MCA that are subject to numerous amendments every legislative session and have become unwieldy. Staff propose possible rewrites of Sections 15-6-201 (property tax exempt categories) and 61-3-332 (number license plates)-to break the sections up, making them easier to read and easier to amend. Neither rewrite would involve policy decisions.

V. PROPOSED WORK PLAN AND MEETING SCHEDULE