



Revenue and Transportation Interim Committee

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59th Montana Legislature

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May 2, 2006

TO: Revenue and Transportation Committee

FROM: Jeff Martin, Legislative Research Analyst

SUBJECT: Committee Consideration of Bill Draft Requests

This memorandum discusses two possible committee bill draft requests. One deals with specifically allowing this committee to estimate revenue for a special session and the other with reimbursements to local taxing jurisdictions for the fee in lieu of tax on heavy vehicles.

Allow Revenue and Transportation Committee to estimate revenue for special session

During the 1989 legislative session, the Legislature authorized the then-Revenue Oversight Committee to develop revenue estimates available for appropriation in "each regular session and each special session in which a revenue bill is under consideration." (Ch. 608, L. 1989) In 1991, the Legislature revised the revenue estimating provisions (Ch. 603, L. 1991). The relevant changes made to 5-18-107, MCA (since repealed), were as follows:

(5) (a) The committee shall have prepared BY DECEMBER 1 for introduction during each REGULAR session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

~~(b) The committee shall introduce a house joint resolution setting forth the committee's current revenue estimate in each regular session and each special session in which a revenue bill is under consideration. The committee shall issue periodic reports to the legislature in regular session and in the interim between regular sessions, indicating the committee's current revenue estimate.~~

~~(c)(b) The committee's estimate, as introduced in the legislature, ~~version of the joint resolution and subsequent periodic reports constitute~~ constitutes the legislature's current revenue estimate until amended or until final adoption of the joint resolution estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenues or costs, including the preparation of fiscal notes.~~

~~(d)(c) The committee may request the assistance of the staffs of the legislative council, the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.~~

The legislation eliminated the provision that authorized the Revenue Oversight Committee to estimate revenue for a special session. Session committee minutes do not reveal why the language in subsection (5)(b) was stricken. The Revenue Oversight Committee revised revenue estimates for the January 1992 and July 1992 special sessions.

When the Legislature revised the interim committee structure in 1999 it transferred revenue estimating responsibilities to the newly created Revenue and Transportation Interim Committee (now in 5-5-227, MCA). The committee had planned to revise revenue estimates for the May 2000 special session, but the House Taxation Committee and the Senate Taxation Committee met jointly to accomplish that task. The committee reviewed revised revenue estimates for the August 2002 special session, but did not request a committee bill. Instead, the committee chair requested a bill draft to revise the estimates.

The committee may want to consider requesting legislation to clarify that the committee may revise revenue estimates for a special session.

Reimbursements for fee in lieu of tax on heavy vehicles

The Legislative Audit Division conducted a financial-compliance audit of the Department of Revenue for the two fiscal years ended June 30, 2004.¹ The audit pointed out that there are two sections of law that provide for reimbursements to local taxing jurisdictions for fees in lieu of property tax on heavy vehicles.² The fee is imposed under 61-3-529, MCA.

In 1997, the Legislature revised the classification, valuation, and taxation of motor vehicles (Ch. 496, L. 1997). Part of that legislation exempted heavy vehicles from property taxation and imposed a fee in lieu of tax based on the age and rated capacity of the vehicle. Heavy vehicles were previously taxed as class eight business equipment. The new fee schedule was revenue neutral with respect to the tax rate on business equipment. During the 2001 legislative session, the Legislature reduced the fee in lieu of tax on heavy vehicles by 50 percent over a 3-year period (Ch. 500, L. 2001) to comport with the previous reduction in the class eight tax rate from 6% to 3% (Ch. 285, L. 1999). The initial reduction of the fee in lieu of tax occurred in tax year 2002. The legislation also provided for a phased-in reimbursement schedule to local taxing jurisdictions based on the reduction of fees over the 3-year period (15-1-113, MCA).

Also during the 2001 legislative session, the Legislature revised the laws governing local government and state revenue collection and allocation (House Bill No. 124, Ch. 574, L 2001). As part of the revision, the Legislature created an entitlement share payment to local taxing jurisdictions for a variety of taxes and fees, including the fee in lieu of tax on heavy vehicles, that were previously collected by local governments (15-1-121, MCA). The entitlement share payment was based on revenue received for the fiscal year ending June 30, 2001. The amount of the entitlement share payment for heavy vehicles was equivalent to the amount local taxing jurisdictions received for heavy vehicles before the reductions of the fee in lieu of tax took effect.

¹Legislative Audit Division, Financial-Compliance Audit For the Two Fiscal Years Ended June 30, 2004, Department of Revenue, October 2004, 04-14.

²Heavy vehicles include buses, motor vehicles having a rated capacity of more than 1 ton, and truck tractors.

The Department of Revenue includes fees for heavy trucks in the entitlement payment to local governments under 15-1-121, MCA, but does not reimburse local governments under 15-1-113, MCA. The audit report states that the department believes that 15-1-121, MCA, supersedes 15-1-113, MCA. It cannot be ascertained whether the Legislature meant to provide two reimbursements to local governments. The conflict, if there is one, would not have been discovered through a routine conflict check, because HB 124 did not amend 61-3-529, MCA.

This matter cannot be dealt with in the code commissioner bill. The committee may want to request legislation to resolve the two reimbursements to local governments. One solution would be to repeal 15-1-113, MCA.

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