Montana Department of REVENUE

Summary of Legislation Affecting the Department of Revenue

60th Legislative Assembly
2007 Regular Legislative Session

June 2007

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Property Tax

HB102 **Revise laws on public financing for special districts**

Sponsor: Hal Jacobson

Description:

This bill makes a number of changes relating to special districts procedures. The only change affecting the Department: this bill clarifies that irrigation district assessments are fees rather than property taxes and are not subject to the mill levy limits in 15-10-420, MCA.

Fiscal Impact to General Fund: None

HB337 **Voted levy for firefighter disability insurance**

Sponsor: Jill Cohenour

Description:

This bill allows local governments to levy mills to pay for disability insurance for volunteer firefighters. It does not require any action by the Department.

Fiscal Impact: None.

Effective Date: Effective on passage and approval.

HB755 **Exempt certain gift certificates from abandoned property law**

Sponsor: Jim Keane

Description:

HB755 revises unclaimed property laws relating to gift certificates and stored value cards. Under prior law, the remaining face value of a gift card was considered abandoned property after three years following December 31 of the year the certificate was sold. If the gift card was redeemable in merchandise only, then 60% of the remaining face value would be abandoned property.

HB755 creates a threshold of $200,000 of value in gift cards sold during a fiscal year, under which a vendor is not required to turn the value of the gift cards into unclaimed property. This threshold is adjusted for inflation annually using the CPI. If the total value of gift cards issued by a vendor during the fiscal year exceeds the threshold, only a portion of the unused value is considered abandoned property. The amount of unused value is prorated by the ratio of the value of gift cards over the threshold over the total value of gift cards sold. In other words, the abandoned property is equal to:

$$UnusedValue * \left(\frac{TotalValueofGiftCardsSold - Threshold}{TotalValueofGiftCardsSold} \right).$$

Further, if the value is redeemable in merchandise only, the value reported as unclaimed property is 60% of the face value of the gift certificate.

For example, suppose the threshold, indexed for inflation, will be $210,000 for FY2007. If a vendor sold $200,000 in gift cards during this fiscal year, none of the value remaining after three years would be considered unclaimed property. On the other hand, if a vendor sold $250,000 in gift cards during FY2007 and $100,000 of this value was unused after three years, the amount reported as unclaimed property would be $16,000 ($100,000 * $40,000/$250,000), assuming none of the gift card value was redeemable in merchandise only.

Fiscal Impact to General Fund: Less than $20,000 per annum

Effective Date: April 30, 2007

Applicability Date: Applies to gift certificates issued or sold after September 30, 2005. The FY2006 threshold is (9/12) of the $200,000 indexed for inflation.

SB 16 **6-mill levy for university system referendum**

Sponsor: Bob Hawks

Description:

The six-mill levy to fund the university system is scheduled to expire January 1, 2009, resulting in no new collections starting in FY2010. This legislation places a referendum on the 2008 ballot to extend the 6-mill levy until 2019.

Fiscal Impact to General Fund: None.

Other Fiscal Impact:
If approved by the electorate, the mill levy is expected to raise $13,807,862 in FY2010 and $14,271,807 in FY2011. This funding is placed in the university special revenue account.

Effective Date: The six mills is effective Jan. 1, 2009, if approved by the electorate.

Termination Date: The 6-mill levy, if approved, will expire Jan. 1, 2009.

SB103 **Revise local government fire protection laws**

Sponsor: Greg Lind

Description:

This bill changes procedures for creating, dissolving, combining, and splitting rural fire districts. When the Department computes the mill levy limits in 15-10-420, MCA, the combined districts are considered a new district.

Fiscal Impact to General Fund: None

Effective Date: October 1, 2007

SB 233	**Allow multiple counties to create museum districts**

Sponsor: Jim Elliott

Description:

This bill allows for the establishment of museum districts and allows local government to levy taxes on property located within the museum district. The Department will need to track the establishments and the property taxes collected for annual reporting purposes.

Fiscal Impact to General Fund: None.

Other Fiscal Impact:

The number of local governments that will establish museum districts is unknown so the fiscal impacts to local property taxes cannot be estimated.

Effective Date: On passage and approval

Applicability Date: Local mill levies established after December 31, 2006

SB 316	**Clarify taxation of agricultural parcels reduced by state eminent domain**

Sponsor: Jim Elliott

Description:

This bill allows agricultural land less than 20 acres to continue to qualify as agricultural land if the reduction in acreage was due to eminent domain proceedings and the parcel had not been further split. The Department will need track these parcels to ensure the proper class codes is assigned.

Fiscal Impact to General Fund:

FY2008	$105
FY2009	$105
FY2010	$ 86
FY2011	$ 89

Effective Date: On passage and approval

Applicability Date: Applies retroactively to property tax years beginning after December 31, 2006

SB 403 **Revise property tax exemption for disabled veterans**

Sponsor: Greg Lind

Description:

SB403 increases the disabled or deceased veteran land exemption from a residence and lot to a residence and up to 5 appurtenant acres. In calendar year 2006, there were 442 properties that would have been affected by SB403.

Fiscal Impact to General Fund:

FY2008	($6,737)
FY2009	($7,002)
FY2010	($7,278)
FY2011	($7,565)

Other Fiscal Impact:

Projected loss to the university 6 mill state special revenue account is $423 in FY2008, $440 in FY2009, $457 in FY2010, and $475 in FY2011.

The projected local revenue loss is $29,644 in FY2008, $32,045 in FY2009, $34,640 in FY2010, and $37,445 in FY2011.

Effective Date: May 3, 2007

Applicability Date: Tax years following December 31, 2006

SB549 **Revise property tax classification criteria of certain agricultural land**

Sponsor: Robert Story

Description:

This bill clarifies what agricultural land parcels qualify for favorable property tax treatment, consistent with current classification practices by the Department. This legislation arose in response to a recent STAB decision about the qualification process, which may have resulted in non-qualifying land receiving preferential tax treatment as agricultural land, therefore reducing taxable values and tax revenues. The fiscal impacts are estimates of the losses that are avoided by the clarifications in this bill.

Fiscal Impact to General Fund:

FY2008	$1,244,006
FY2009	$1,264,588
FY2010	$1,289,278
FY2011	$1,308,878

Other Fiscal Impact:
University fund revenues will increase by $78,125 in FY2008, $79,417 in FY2009, $80,779 in FY2010 and $82,199 in FY2011. County and other local government revenues will increase by $6,293,421 in FY2008, $6,672,645 in FY2009, $7,078,934 in FY2010, and $7,513,057 in FY2011.

Effective Date: Passage and approval

Applicability Date: Tax years beginning after December 31, 2006

SB 550 **Revise local government study commission laws and tax provisions**

Sponsor: Rick Laible

Description:

This legislation allows a local government to levy more than one mill to fund a study committee. Study commission mills are not included in the restrictions on mill levies in 15-10-420, MCA.

Fiscal Impact: None.

Effective Date: Oct. 1, 2007

Individual and Corporate Income Taxes

HB 40	**Revise state movie incentive laws**
	Sponsor: Dave Gallik
	Description:
	HB40 amends the Big Sky on the Big Screen Act by removing the $1 million limitation on the amounts of tax credits allowed, standardizes the application fee for tax credits at $500, and increases the percentages used to determine the amount of allowable tax credits for Montana labor (from 12 to 14 percent) and for qualified Montana expenditures (from 8 to 9 percent). The amended bill also requires the taxpayer to certify that all Montana vendors have been paid in full before the credit can be claimed.
	The Department of Revenue is required to adopt rules necessary to implement this legislation.
	Fiscal Impact to General Fund:
	FY2008 -$51,300
	FY2009 -$51,300
	FY2010 -$51,300
	FY2011 -$51,300
	Effective Date: Passage and approval
	Applicability Date: Tax years beginning after Dec. 31, 2006
	Termination Date: The credit terminates Jan. 1, 2010, but unused credit can be carried over for use on returns for tax years beginning before Jan. 1, 2014.

HB 155	**Extend National Guard life insurance reimbursement**
	Sponsor: Art Noonan
	Description:
	This bill provides state funds to reimburse National Guard members for premiums paid for federal service members' group life insurance and exempts the reimbursement from state income tax.
	Fiscal Impact to General Fund:
	FY2007 -$60,000
	FY2008 -$100,000
	FY2009 -$100,000
	Effective Date: Effective on passage and approval.
	Applicability Date: February 28, 2006.

HB166 **Extend biodiesel tax credit**

Sponsor: Holly Raser

Description:

HB166 expands and extends corporate and individual income tax credits for investment in property used in oilseed crushing, biodiesel production, and biodiesel blending. The credit is equal to 15% of the cost of the property. Prior to HB166, the credit could only be taken in the tax years that the property was purchased or put to first use. The credit can now be taken during the two tax years preceding initial operation of the facility or any tax year through 2014 that the equipment is in production. Unused credit may be carried forward seven years. HB166 extended the credit five years to allow the credit on property operating before January 1, 2015 (the previous limit was January 1, 2010). HB 166 also expands the credits to apply to investments in biolubricants, as well as investments in biodiesel.

If a facility that claimed the credit ceases production for over a year within 5 years of claiming the credit (or claiming a carryover credit from prior tax years), the credit amount is subject to recapture.

Fiscal Impact to General Fund:

FY2008	$0
FY2009	($67,500)
FY2010	($414,900)
FY2011	($594,000)

Effective Date: April 10, 2007

Applicability Date: Tax Years following December 31, 2004

HB 179 **Create Montana military family relief fund**

Sponsor: Julie French

Description:

This bill creates a "military family relief" special revenue fund to make grants to Montana National Guard and Reserve members and their families who face financial hardship from being called up for active duty or are injured in combat. A transfer from the general fund of $1 million is to be used to set up the new fund.

The Department is to administer a new checkoff program on income tax returns for taxpayers to contribute to the military family relief fund beginning with 2008 income tax returns.

Fiscal Impact to General Fund:

FY2008	-1,000,000

Effective Date: July 1, 2007

Applicability Date: Checkoff applies to tax years beginning after December 31, 2007.

Termination Date: None. Unlike the existing checkoff programs, this program does not terminate if contributions are less than a threshold for two years in a row.

HB 240 **Short-term emergency lodging tax credit**

Sponsor: Bill Nooney

Description:

Staring in tax year 2008, a refundable individual and corporate income tax credit is available to lodging establishments that provide free temporary lodging to individuals displaced from their homes due to domestic abuse. The credit is equal to $30 for each day of lodging provided, limited to a maximum of five nights' lodging for each individual per calendar year. The individuals must be referred to the lodging establishment by a designated charitable organization. The credit may be claimed only for lodging provided in Montana. The credit may not be claimed if the individual is displaced by a major disaster declared by the President under 42 USC 5170 or 5191 and who receives financial assistance for temporary housing under 42 USC 5174.

The Department is required to maintain a registry of qualified organizations that may refer individuals to lodging establishments. Further, rules are likely needed to ensure that this credit is implemented according to legislative intent and is not abused. In particular, it is not clear how to interpret the limitation of a maximum of five nights' lodging for each individual per calendar year. If this same individual moves to a different lodging establishment after five days, it is not clear whether the second

	establishment could claim the credit on the lodging or how the Department would track the individual. Further, it is not clear how the credit should be claimed for housed families. *Fiscal Impact to General Fund:* FY2008 $60,000 FY2009 $60,000 FY2010 $60,000 FY2011 $60,000 *Effective Date:* Oct. 1, 2007 *Applicability Date:* Tax years beginning after Dec. 31, 2007

HB 412	**Allow transactions between public benefit corporations** *Sponsor:* Bob Ebinger *Description:* This bill allows non-profit corporations to pay compensation, expenses, or make charitable contributions to officers, directors, and members. This slightly expands actions that are allowable for a tax-exempt charitable organization. *Fiscal Impact:* None *Effective Date:* October 1, 2007 *Applicability Date:* October 1, 2007

HB 490	**Adoption Tax Credit** *Sponsor:* Julie French *Description:* This bill allows taxpayers who are eligible for the federal adoption tax credit to claim a $1,000 credit against state income taxes in the year an adoption is finalized. The credit is non-refundable, but may be carried forward for five years. *Fiscal Impact to General Fund:* FY2008 ($227,926) FY2009 ($278,492) FY2010 ($330,000) FY2011 ($330,000) *Effective Date:* Passage and approval. *Applicability Date:* Applies to tax years beginning after December 31, 2006.

SB 76	**Revise law on agency access to tax and revenue information** *Sponsor:* Kim Gillan *Description:* When the Department provides a database of income tax returns to the Budget Office and Legislative Fiscal Division, it removes names, addresses, and social security numbers. This bill requires the Department to replace them with an identifier that can be used to match records from different years. It also requires the Department to provide, on written request, the name and address for individual taxpayers when that taxpayer's tax payments "are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed." The bill also clarifies that the Budget Office and Legislative Fiscal Division may request and receive corporation license tax and pass-through entity information. The bill clarifies that the Budget Office and Legislative Fiscal Division must treat tax return information as confidential and that employees of those offices are subject to the same penalties for disclosure as Department employees. *Fiscal Impact:* None. *Effective Date:* Effective on Passage and Approval.

SB 150	**Exclude property contributions from qualified endowment credit and extend credit** *Sponsor:* Kim Gillan *Description:* This legislation extended the charitable endowment tax credit through tax year 2013. In addition, the bill restricted the definition of a qualified endowment to exclude a fund where the contributions are expended directly for constructing, renovating, or purchasing operational assets, such as buildings or equipment. The interest from the endowment may be used to purchase operational assets, but the principle may not be used. *Fiscal Impact to General Fund:* FY2009 -$3,012,189 FY2010 -$3,168,110 FY2011 -$3,326,704 *Effective Date:* Passage and approval *Applicability Date:* Contributions made after passage and approval *Termination Date:* Credit terminates Dec. 31, 2013

SB 281 **Simplify income taxation for married couples filing individually**

Sponsor: Joe Balyeat

Description:

This bill would allow taxpayers filing separate returns to use the deductions calculated on their joint federal return for capital losses, passive and rental losses, individual retirement account contributions, and qualified education loan interest. Under prior law, taxpayers who filed separate returns and claimed one of these deductions were required to calculate federal adjusted gross income for their state income tax return as if they had filed separate federal returns.

In some cases, this changes the allocation of income between the two taxpayers. In others, it changes their combined taxable income.

Deductions for capital losses and passive losses over an annual limit must be carried forward to future tax years. Deductions for IRA contributions are limited in a year, but contributions over the limit are not taxed when they are withdrawn. The annual limits on these deductions are different for taxpayers who file a joint return than for taxpayers who file separate returns. This bill will reduce the amount of capital loss and passive loss deductions that are carried forward to future years and make deductions for IRA contributions and taxable IRA distributions the same as for federal taxes. On average, these changes will result in taxes being delayed.

The IRS code does not allow taxpayers who file separate returns to deduct rental losses or student loan interest. This bill allows taxpayers who file separate state returns to take this deduction, reducing their taxes.

Fiscal Impact to General Fund:

FY2008	-$502,000
FY2009	-$502,000
FY2010	-$502,000
FY2011	-$502,000

Effective Date: Effective on passage and approval.

Applicability Date: Applies to tax years beginning after December 31, 2006.

SB 378	**Use of comparable federal tax definitions** *Sponsor:* Kim Gillan *Description:* This legislation states that if state regulations do not define a specific term, the term has the same meaning as it does when used in a comparable context by the Internal Revenue Code. Expenditures are included for the training of Department employees on the IRS definitions. *Fiscal Impact to General Fund:* FY2008 -99,000 FY2009 -99,000 FY2010 -99,000 FY2011 -99,000 *Effective Date:* Passage and approval. *Applicability Date:* Tax years beginning after Dec. 31, 2006.

SB 439	**Withholding for natural resource royalty payments** *Sponsor:* Jim Elliott *Description:* This bill requires mineral producers to withhold income tax from mineral royalty payments to individuals, trusts, and business entities that receive more than $2,000 per year in royalties. Smaller oil and gas producers (producing less than 100,000 barrels of oil and 500 million cubic feet of gas) will be allowed to make an annual report in lieu of withholding. Producers who withhold are required to remit the amounts withheld each quarter, along with a quarterly statement. They also are required to provide annual statements to royalty recipients and the Department. *Fiscal Impact to General Fund:* FY2008 $1,054,738 FY2009 $2,364,457 FY2010 $2,371,642 FY2011 $2,368,318 *Effective Date:* January 1, 2008 *Applicability Date:* Applies to royalty payments made after December 31, 2007.

SB 553	**Revise incentives for certain physicians**

Sponsor: Jerry W Black

Description:

This bill phases out the rural physicians' tax credit starting in tax year 2008 and terminates the credit after tax year 2011. A taxpayer first taking the credit in tax year 2007 is eligible for the credit for the next three tax years; however, only taxpayers who claimed the credit in the previous tax year and have not yet taken the credit for four years will be eligible for the credit in tax years 2008-2010. By tax year 2011, the credit will be fully phased out, and the credit will be terminated.

This bill also requires the Department of Revenue to determine the total amount of rural physicians' credit claimed in 2006 and 2007 and report the average of these two years to the treasurer. The state treasurer transfers a portion of this amount to a special revenue account that benefits physicians practicing in underserved areas. The portion of the amount transferred begins at 25% in FY2009, increases by 25% each fiscal year through FY2012, and remains at 100% for fiscal years after FY2012.

Other Fiscal Impact:

The revenues and expenditures through the general fund are designed to balance so that the fiscal impact to the general fund is zero. The state special revenue account will have increases in their revenues starting in FY2009 and increases in their expenditures starting in FY2008.

Effective Date:	The changes to the tax credit is effective on passage and approval. The termination of the tax credit is effective Dec. 31, 2010. The remainder of the bill is effective for FY2009.
Applicability Date:	The changes to the tax credit apply for the 2007 tax year. The remainder of the bill applies for FY2009.

Natural Resource Taxes

HB 75 **Statutorily appropriate bentonite tax proceeds**

Sponsor: Bill McChesney

Description:

This legislation statutorily appropriates bentonite tax revenues. The bentonite tax bill, SB276, passed during the 2005 Legislative Session, did not include appropriation authority for the Department of Revenue to distribute the taxes as specified in statute. The expenditures shown in this fiscal note represent the distribution of the bentonite tax to counties.

Fiscal Impact to General Fund:

FY2007	$709,124
FY2008	$1,419,446
FY2009	$1,417,234
FY2010	$1,293,519
FY2011	$1,176,728

Effective Date: 3/30/2007

Applicability Date: Bentonite produced after June 30, 2006

HB116 **Revise RIT funding laws**

Sponsor: Rick Ripley

Description:

This legislation amends the distribution of:

1. oil and natural gas production taxes;
2. metal mines license tax;
3. resource indemnity and groundwater assessment taxes (RIGWAT);
4. resource indemnity trust investment income (RIT income);
5. eliminates the reclamation and development grants account and the renewable resource grant and loan account; and
6. makes distributions to new state special revenue accounts.

These changes are described below.

1. HB116 makes the following changes in the distribution of oil and natural gas production taxes:
   - increases the distribution to the general fund from 90.22% to 90.23% in FY2008-FY2011;
   - eliminates the distribution to the reclamation and development grants account;
   - increases the distribution to the orphan share account from 2.95% to 2.99% for FY2008-FY2011;

- distributes 1.45% to the new natural resources projects account during FY2008-FY2011, increasing to 2.16% after FY2011; and
- distributes 1.45% to the new natural resources operations account during FY2008-FY2011, increasing to 2.02% after FY2011.

2. HB116 redirects the 7% distribution of oil and natural gas production taxes from the reclamation and development grants account into the new natural resources operations account.

3. HB166 alters the distribution of the RIGWAT taxes. Under current law, a portion of the RIGWAT taxes are first distributed into the CERCLA debt service fund and the groundwater assessment account. HB166 does not change these distributions. However, current law requires the remainder to be distributed into the reclamation and development grants account and the orphan share account. These accounts will no longer receive funding under HB166. Instead, the remainder will be distributed as follows:
   - 25% to the Environmental Quality Protection Fund;
   - 25% to the Hazardous Waste / CERCLA account; and
   - 50% to the Natural Resources Projects account.

   In FY2008 only, there is a $0.150 distribution to the water storage account prior to making the above distribution.

4. HB116 alters the distribution of the RIT investment income:
   - prior law changed the distribution after FY2009 and again after FY2014, while current law maintains the same distribution from FY2008 onwards;
   - eliminated funding to MSU-Northern, the renewable resource grant and loan account, the reclamation and development grants account, the environmental contingency account, and the renewable resources operations account;
   - directed $3.50 to the natural resources projects account and $0.175 to the environmental contingency account; and
   - directed the 65% of the remainder (after making the initial distributions to various funds) that previously went to the renewable resource grant and loan account and the reclamation and development grants account into the new natural resources operations account.

5. HB116 also requires agencies to make the following distributions:
   - In the 2009 Biennium, the Department of Environmental Quality shall transfer $3,650,000 from the orphan share account as follows:
     - $600,000 to the hazardous waste / CERCLA account;
     - $50,000 to the oil and gas production damage mitigation account;
     - $ 2 million to the environmental quality protection fund;
     - $200,000 to the natural resources operations account; and
     - $800,000 to the natural resources projects account.
   - At the beginning of the 2009 biennium, the Department of Administration is to transfer from the general fund $346,145 to the orphan share account and

- $153,855 to the environmental contingency account.
- At the beginning of FY2008, the Department of Natural Resources will transfer the ending fund balances in the renewable resource grant and loan account and the reclamation and development grants account to the natural resources operations account.

HB116 included an inconsistency in sections 4, 9, and 33 that will need to be addressed in future legislatures. Section 4 requires ongoing *annual* distributions of $175,000 to the environmental contingency fund, while sections 9 and 33 require ongoing *biennial* distributions of $175,000 to this account.

In addition, Section 31 of the bill states that the new natural resources operations and natural resources projects state special revenue accounts are to be codified as part of Title 15, chapter 38, although the accounts will be administered by the Department of Natural Resources and Conservation. Greg Petesch of Legislative Legal Services is confident the Department of Revenue will bear no responsibility for maintaining adequate fund balance or other administrative duties attached to these new accounts.

Fiscal Impact to General Fund:

FY2008	-$488,780
FY2009	$11,227
FY2010	$10,105
FY2011	$9,853

Other Fiscal Impact:
A number of special revenue accounts are affected by this legislation, as described above. The Department of Revenue does not administer the accounts affected by this legislation.

Effective Date: July 1, 2007

HB 778 **Clarify government exemption from oil and gas production taxes**

Sponsor: Wayne Stahl

Description:
This bill clarifies that the towns of Baker and Saco are not subject to the oil and gas production tax for natural gas produced by wells owned by the towns. When the various taxes on oil and natural gas were combined into one tax in the 1990's, the draftees failed to retain the language exempting government entities from the tax. No taxes have been assessed to or collected from the towns in the years that followed.

Fiscal Impact: None
Effective Date: Passage and approval
Applicability Date: Production after December 31, 1995

HB688	**Provide an allocation of coal severance taxes to DEQ for certain mines programs**
	Sponsor: Alan Olson
	Description: HB688 redirects $250,000 of coal severance taxes per fiscal year to a new state special revenue account for coal and uranium permitting and reclamation. The account will be managed by the Department of Environmental Quality. HB688 will not affect the Department of Revenue, except for the change in distribution of coal severance taxes.
	Fiscal Impact to General Fund: FY2008 ($250,000) FY2009 ($250,000) FY2010 ($250,000) FY2011 ($250,000)
	Effective Date: July 1, 2007

Liquor and Tobacco Taxes

HB 84 **Clarify court jurisdiction for sales of alcohol to minors**

Sponsor: Dave McAlpin

Description:

Clarified that district courts have concurrent jurisdiction with justice of the peace courts in sale of alcohol to minor prosecutions.

Fiscal Impact to General Fund: None

Effective Date: October 1, 2007

Applicability Date: October 1, 2007

HB113 **Revise residency requirements for liquor licenses**

Sponsor: Bill McChesney

Description:

This legislation removes the residency requirement for liquor licenses to bring Montana into compliance with a 2005 Montana District Court decision. In addition, this legislation requires that corporations applying for a liquor license meet the following requirements:

- all stock owners owning more than 10% of a corporation applying for a liquor license must meet the license requirements or, if no owner owns more than 10% of the stock, the designated board members and owners of 51% of the stock must meet the license requirements;
- each individual who has control over the operation of the license meets the license requirements;
- each person who shares in the profits or liabilities of a license meets the requirements; and
- the corporation is authorized to do business in Montana.

The costs associated with this bill are expenditures by the Department of Revenue and the Department of Justice associated with out-of-state investigations and the more complicated applications of corporations.

Fiscal Impact to General Fund:

FY2008	-$208,962
FY2009	-$173,364
FY2010	-$176,907
FY2011	-$180,556

Other Fiscal Impact:

The proprietary fund experiences the loss of expenditures shown above. However, because the profit from the proprietary fund is deposited into the general fund, this will have a net impact on the general fund, as shown above.

Effective Date: October 1, 2007

HB300	**Revise false statement provisions in alcoholic beverage licensing law** *Sponsor:* Mike Milburn *Description:* HB 300 clarifies that a statement made on an application or at a hearing may not be used for a denial or revocation of a license due to false statement if the statement was based on a verifiable assertion made by a governmental officer, employee, or agent that the applicant relied on in good faith. *Fiscal Impact:* None. *Effective Date:* April 26, 2007 *Applicability Date:* Applies to license denial or revocation proceedings commenced but not finally adjudicated by effective date.

HB 461	**Cigarette fire safety standards** *Sponsor:* Bob Ebinger *Description:* This legislation establishes safety standards for cigarettes and requires cigarette manufacturers to pay $250 to the Department of Justice to cover the costs of processing, testing, enforcement, and other activities necessary to enforce the new standards. The legislation also states penalties for noncompliance. Although this legislation is primarily a concern of the Department of Justice, the Department of Revenue may inspect cigarettes to determine whether the cigarettes are marked. Cigarettes must be market to show compliance with safety standards. If the cigarettes are not marked, the DOR must notify the Department of Justice. *Fiscal Impact to General Fund:* FY2008 $66,000 FY2009 $66,000 FY2010 $66,000 FY2011 $66,000 *Effective Date:* May 1, 2008

HB 633	**Revise quota lottery liquor license applications and prohibit gambling** *Sponsor:* Ernie Dutton *Description:* When the Department of Revenue determines that the number of liquor licenses in a particular quota area exceeds the quota (by the amount established in 16-4-204), licenses become available to be transferred to a quota area that is short on liquor licenses. The Department holds a lottery to determine who can purchase a license from a different quota area, which is quite profitable to the winner of the lottery. HB633 would require that lottery entrants meet certain criteria: that the applicant has not made another application for a lottery-awarded license; the applicant has an irrevocable letter of credit for at least $100,000; and the applicant does not have an ownership interest in an all-beverage license. In addition, this legislation requires that a successful lottery applicant commences business within one year of the lottery and prohibits the new establishment from offering gambling. *Fiscal Impact to General Fund:* None. *Effective Date:* July 1, 2007

HB 789	**Allow use of tribal identification cards for state identification purposes** *Sponsor:* Margarett H Campbell *Description:* This legislation allows tribal identification cards to be used for identification purposes. Although this legislation does not affect the Department directly, a tribal identification card may now be used as proof that a purchaser of alcoholic beverages is of the legal age. *Fiscal Impact to General Fund:* None.

SB 127	**Revise out-of-state winery access to Montana retailers** *Sponsor:* David Wanzenried *Description:* The bill amends statutory provisions to allow out-of-state wineries to ship directly to licensed retailers. In 2005, the U.S. Supreme Court decided in Granholm v Heald recent that Michigan's and New York's laws that restricted direct shipment of wine to consumers by out-of-state wineries violated the Commerce Clause. This legislation will require those out-of-state wineries wishing to ship directly to purchase a license for $400 initially and $200 renewal. These wineries previously purchased a permit

for $0 - $400. This legislation requires retailers to report monthly the amount of wine purchased directly from an out-of-state winery.

Fiscal Impact to General Fund:

FY2008	$285
FY2009	$55,489
FY2010	$1,705
FY2011	-$534

Other Fiscal Impact:
The revenue from licenses first flows into the liquor proprietary fund and used to cover expenses. The remainder is transferred to the general fund each fiscal year. Therefore, this will have an impact on the funds flowing into the proprietary fund, but the end balance of the proprietary fund will not change.

Effective Date: October 1, 2007

SB 296 **Revise beer and wine licensing laws**

Sponsor: Dan Weinberg

Description:

This bill increases the number of beer and wine licenses that the Department of Revenue is allowed to issue by 183 licenses. One-half an FTE is required to process the additional licenses; $4,000 is needed to advertise their availability.

Fiscal Impact to General Fund:

FY2007	-$4,000
FY2008	$682,564
FY2009	$4,016
FY2010	$4,016
FY2011	$4,016

Other Fiscal Impact:

The revenue from these licenses first flows into the liquor proprietary fund and used to cover expenses. The remainder is transferred to the general fund each fiscal year. Therefore, this will have an impact on the funds flowing into the proprietary fund, but the end balance of the proprietary fund will not change.

Effective Date: July 1, 2007

SB 524	**Revise brewery regulation and beer distribution laws** *Sponsor:* David Wanzenried *Description:* This bill allows out-of-state breweries to deliver beer direct to retailers, and requires each retailer to make an exact return to the department regarding the amount of beer purchased in the previous month directly from any out-of-state brewery. Administrative impact to the Department is contained within the 2009 budget. *Fiscal Impact to General Fund:* None. *Effective Date:* October 1, 2007

Miscellaneous Taxes

HB 27 **Establish wireless enhanced 9-1-1 system**

Sponsor: Robyn Driscoll

Description:

This legislation increases the 9-1-1 fee from $0.50 per subscriber to $1.00 per subscriber. The funds raised are to be used for enhanced 9-1-1 emergency capacity.

The Department of Administration is responsible for updating the rules to reimburse providers, although DOR rules likely will need to be updates as well.

Fiscal Impact to General Fund:

FY2008	$191,827
FY2009	$213,155
FY2010	$231,614
FY2011	$251,385

Other Fiscal Impact:

The 9-1-1 enhanced special revenue account will receive an estimated $7,057,229 in FY2008, $7,534,749 in FY2009, $8,044,597 in FY2010, and $8,588,961 in FY2011. The revenue into the special revenue account will be expended for upgrades in 9-1-1 service.

Effective Date: July 1, 2007

HB611 **Revise laws related to telecommunications access services**

Sponsor: Hal Jacobson

Description:

HB 611 clarifies that all telecommunications service providers are required to assess and collect 10 cents per line per month from subscribers and remit collections to the Department of Revenue. This includes providers of telecommunications services using newer technologies such as prepaid wireless and voice over internet protocol (VOIP). All TDD fee revenue is distributed into the state special revenue account established in 53-19-310, MCA.

This law will not change existing practice in the Department and will have no fiscal impact.

Fiscal Impact to General Fund: None.

Other Fiscal Impact: None.

Effective Date: April 30, 2007

SB 88 **Extend indefinitely funding to heritage preservation and development account**

Sponsor: Bob Hawks

Description:

This legislation extended the sunset from July 30, 2007 to June 30, 2011 for $400,000 statutory annual lodging facility use tax funding to the Montana Heritage Preservation Commission. The funding would otherwise go to other special revenue funds.

Fiscal Impact to General Fund: None.

Other Fiscal Impact:
This legislation will reduce funding by $400,000 annually to the Montana Promotion Division, the Historical Society, the University of Montana, the Department of Fish, Wildlife, and Parks, and the Tourism Regions.

Effective Date: Passage and approval.

SB 118 **Eliminate sunset for hospital bed tax**

Sponsor: John Cobb

Description:

This legislation extended the hospital utilization fee through 2009. The language requiring the Department to adjust the rate was replaced with specific rates. The rate per bed day was set at:

- $27.70 between 1/1/2006 through 6/30/2007;
- $47 between 7/1/2007 through 12/31/2007;
- $43 between 1/1/2008 through 12/31/2008; and
- $48 after 1/1/2009.

This legislation also removed the requirement that the hospital utilization fee could not be placed on a patient's bill.

Fiscal Impact to General Fund: None.

Other Fiscal Impact:

The bed tax is deposited into a special revenue account to pay for Medicaid services, along with federal matching funds. The estimates revenues collected, along with the federal match, to be distributed to hospitals are $55.665 million in FY2008, $64.447 million in FY2009, $72.572 million in FY2010, and $76.252 million in FY2011.

Effective Date: Passage and approval.

DOR-Sponsored Legislation

Passed Legislation:

Bill Number	Title	Description
HB 74	Withholding for natural resources royalty payment	Legislation failed, but was reintroduced as SB 439. See SB 439 in Individual and Corporate Income Tax Section, page 11.
HB 84	Clarify court jurisdiction for sales of alcohol to minors	See HB 84 in Liquor and Tobacco Taxes Section, page 17.
HB 113	Revise residency requirements for liquor licenses	See HB 113 in Liquor and Tobacco Taxes Section, page 17.
SB 112	Prohibit sale of tax information	See SB 121 in the Revenue Administration and County Collections Section, page 36.
SB 150	Exclude property contributions from qualified endowment credit and extend credit	See SB 150 in Individual and Corporate Income Tax Section, page 9.
SB 127	Revise brewery regulation and beer distribution laws	See SB 127 in the Liquor and Tobacco Taxes Section, page 19.

Other Department Legislation

HB 69 **Provide for refund of certain taxes and fees to customer from whom collected**

Sponsor: Dave McAlpin

Outcome: Died in House Tax Committee.

Description:

This bill would have changed the retail excise taxes so excess payments are refunded to the customer instead of the company. If a customer could not be located, the refund becomes abandoned property. There is no fiscal impact because the change in procedure does not affect expenditures and it is unknown if it will generate revenue through abandoned property. This legislation died in process in the House Tax Committee

Effective Date: Passage and approval

Applicability Date: Refunds paid by the Department after passage and approval.

HB 100 **Improve management of DOR collection responsibilities**

Sponsor: Bob Bergren

Outcome: Died in House Tax Committee.

Description:

This legislation would have allowed the Department of Revenue to contract with out-of-state debt collectors and be more efficient by switching to electronic filing. The fiscal impact includes improved collection of taxes due minus the costs of three new FTE. This legislation was tabled in House Tax Committee, and the motion to take the bill from the committee table failed on the House floor on a 49-51 vote. The heart of this legislation was included in HB680, which passed.

Fiscal Impact to General Fund:

FY2008	$619,500
FY2009	$630,973
FY2010	$631,671
FY2011	$630,366

Effective Date: The definitions were effective on passage and approval while the contract ability was effective at the start of the FY2008 fiscal year.

Applicability Date: Tax statements due, remittance of trust taxes collected, and the penalties and interest that accrued on and after passage and approval.

HB 108 **State withholding for pensions, annuities, and other deferred income**

Sponsor: Ron Erickson

Outcome: Died in House Tax Committee.

Description:

This legislation would have required state withholding for income tax purposes on withdrawals of retirement savings when federal withholding was required. The tax liability of these taxpayers would not change; this was customer-service legislation that was intended to prevent taxpayers from paying penalties and interest because they did not reserve sufficient funds to pay taxes on their retirement withdrawals. No state withholding was required if the taxpayer elected to have no federal withholding. The amount withheld would have been equal to 30% of the amount withheld for federal tax purposes. Because federal withholding is 20% of the distribution, this would have resulted in withholding at a rate of 6% (.3 * .2).

Opponents to this legislation requested that the language be cleaned up to make the withholding requirements more clear. There was also confusion as to why the withholding was 30% of the amount held for federal purposes because it was not well-understood that 30% of 20% was 6%. Other arguments were more generic, such as that it would impose a burden on both taxpayers and finance institutions, even though withholding is already done for federal purposes and the taxpayer could opt out.

This legislation was tabled in House Tax Committee, but was included in SB220, HB833 (as amended), and in HB5 (Special Session), all of which failed to pass.

Fiscal Impact to General Fund:

FY2008	$148,575
FY2009	$148,575
FY2010	-$1,425
FY2011	-$1,425

Effective Date: Passage and approval.
Applicability Date: Payments made after Dec. 31, 2007.

HB 109 **Make grantor trusts pass-through entities for tax withholding and reporting**

Sponsor: Ron Erickson
Outcome: Died in House Tax Committee.
Description:

This bill would have provided the Department of Revenue with a clear definition of how Grantor Trusts should be treated for income tax purposes. Under current law, there is no specific definition of how Grantor Trusts should be treated for tax purposes, so the Department of Revenue and tax practitioners are unsure of how to treat Grantor Trusts. This bill is likely to correct for underreporting of taxable income, thus creating a positive revenue impact, although this impact is unquantifiable.

This legislation died in the House Tax Committee. However, this language was included in SB220, HB833 (as amended), and HB5 (special session), all of which failed to pass.

Effective Date: Passage and approval.
Applicability Date: Tax years beginning after Dec. 31, 2006

HB 147 **Revise and clarify application of bed tax and sales and use tax**

Sponsor: Mike Jopek
Outcome: Died in House Tax Committee.
Description:
This legislation included the reservation fees in the tax base for the lodging facility and use tax, the rental car tax, and the accommodations tax. This legislation was intended to ensure that online hotel and rental car intermediaries are paying the full amount of the tax due on the reservation. Online intermediaries negotiate with hotels to offer discounted rates in exchange for increased reservations at the hotel. The

intermediaries were suspected of collecting the tax on the full price of the room, but only remitting taxes on the discounted room price.

Opposition to this legislation primarily arose from the online intermediary industries that argued that HB147 would unfairly include their reservation fees in the tax base without imposing the same requirements on brick and mortar travel agents. Further, it was argued that the tax base should only include the rental charges, not the reservation and processing fees.

This legislation was also included in HB833 (as amended), which failed in process.

Fiscal Impact to General Fund:

FY2008	$315,919
FY2009	$320,186
FY2010	$324,545
FY2011	$328,997

Other Fiscal Impact:

Various state special revenue funds receive a portion of the lodging facility use tax after expenses are paid. The additional amount distributed to the various funds after the additional administrative expenses were paid would have been $76,244 in FY2008, $193,290 in FY2009, $198,305 in FY2010, and $203,402 in FY2011.

Effective Date: July 1, 2007
Applicability Date: Rental charges after June 30, 2007

SB 99 **Five-year statute of limitations for corporation license tax**

Sponsor: Dan Harrington
Outcome: Died in House Tax Committee.
Description:

This legislation would have extended the corporation license tax from three years to five years, which would allow the Department of Revenue to collect additional revenues from its audits when a corporation was found to be paying less taxes that what it should be paying. Opponents to this legislation argued that this would place Montana's statute of limitations longer than in most other states and that it placed undue burden on the industry that it had to keep tax paperwork for an extended time period. Information on other states indicate that the statute of limitations ranges from 1.5 years to four years for other states, but 22 states and the federal government may extend the statute of limitations to six years if income is underreported.

This legislation died in House Tax Committee, but was included in SB220, HB833 (as amended), and HB5 (special session), all of which failed to pass.

Fiscal Impact to General Fund:

FY2008	$964,850
FY2009	$1,929,700
FY2010	$1,929,700
FY2011	$1,929,700

Effective Date: Passage and approval.

Applicability Date: Tax years beginning after Dec. 31, 2002.

SB 120 **Revise tax treatment of income and dividends of real estate investment trusts**

Sponsor: Jim Elliott

Outcome: Died in Senate Tax Committee.

Description:

SB 120 proposed to eliminate the dividends-paid deduction for real estate investment trusts (REIT's). Under federal and Montana statute, a REIT is allowed to deduct capital gains and ordinary income dividends paid to shareholders from its gross income. Through this measure, a REIT effectively escapes taxation at the corporate level on all of its ordinary and capital gains income. Proponents of this tax privilege claimed that this policy is both fair and beneficial to Montana because:

- The REIT corporate structure and preferential tax policy was established and confirmed by Congress to provide professionally managed, low-risk real estate investment opportunities with single-level taxation for small investors.
- REIT's invest large sums of money in Montana.
- REIT's pay property taxes and other taxes in Montana.
- REIT's are required to pay out 90% of ordinary income in dividends and meet numerous other asset and income tests not required of a typical C-corporation. REIT's are also "expected" by shareholders to pay out capital gains income as dividends.*
- REIT dividends are taxed at the shareholder level. True, out-of-state shareholders do not pay Montana tax on Montana-source REIT income, but in return, Montana shareholders pay tax on dividends that represent REIT income sourced out-of-state.

The Department countered that this tax privilege is not fair and not beneficial to Montana because:

- Other businesses that provide low-risk investment opportunities for small investors or invest large sums of money in Montana are required to pay entity level tax on dividends paid to investors, property taxes and other taxes.
- A large proportion of dividends paid out from Montana based REIT's are paid to investors living outside Montana. Unlike dividends paid to out-of-state shareholders of Montana-based pass-through entities, these dividends are not taxable in Montana. These dividends represent REIT income that escapes Montana taxation at both the corporate and individual income tax levels.
- The preferential tax treatment is a result of federal policy, not Montana policy.

The state must evaluate tax policy on its merit to Montanans as well as its conformity to federal policy and the policies of other states.

SB 120 allowed individuals and corporations who received REIT dividends that were taxed at the corporate level to exclude these dividends from taxable income. This would only benefit shareholders with Montana source income. The intent was to provide single-level tax on some REIT income. However, opponents argued that this feature was not fair to nonresident shareholders, and that providing shareholder notification of taxable dividends would be difficult.

SB 120 missed the deadline for revenue bill transmittal and died in Senate Tax Committee. The heart of the bill was amended into HB 833, where it died without executive action in House Tax Committee. In the special session, a modified version of the bill (SB 003) was sponsored again by Elliott. This bill was tabled in Senate Tax Committee. SB 003 proposed a separate tax on capital gains income only, with a corresponding credit on corporate license tax liability.

The department may wish to pursue entity level taxation of real estate investment trusts in a subsequent legislative session. In this case, examination of committee testimony and other evidence suggests that the legislation should not provide preferential treatment of Montana shareholders. No credits should be granted for taxes paid at the entity level, and no exclusions should be allowed for dividends on which taxes have been paid in the calculation of taxable income. A strong argument of SB 120 opponents was that the state would collect taxes on REIT dividends sourced out-of-state, but not on dividends from Montana source REIT income.

If the department wishes to establish a corporate level tax on capital gains income only, then legislation that disallows the dividends paid deduction on capital gains distributions might be preferred to a separate tax on capital gain as in SB 003.

* Undistributed capital gains are taxed at the appropriate corporate tax rate. Shareholders count the undistributed gains as long-term capital gains and are granted a refundable credit for taxes paid at the corporate level. In addition, shareholders must increase the basis of their investment by the difference in undistributed gains and taxes paid on those gains.

Fiscal Impact to General Fund:

FY2008	$5,970,785
FY2009	$7,262,338
FY2010	$8,833,269
FY2011	$10,744,011

Effective Date: Passage and approval.

Applicability Date: Retroactive to tax year 2007.

SB 135 **Equity in gift certificates**

Sponsor: Mitch Tropila

Outcome: Tabled in Senate Business, Labor, and Economic Affairs Committee

Description:

This bill would have revised language in the Montana Code Annotated Title 70, Chapter 9, and Section 8, requiring issuers of gift certificates and stored value cards to remit unused balances after three years to the State of Montana. The bill covers only those gift certificates and stored valued cards sold in the State of Montana.

The Uniform Unclaimed Property Act and court case history has established the distribution of funds from unclaimed gift certificates and stored value cards. Priority goes to the state of the last-known address of the issuer. If the address is not known or if the state in which the last known address exempts the property from unclaimed property code, then the issuer's state of domicile will be entitled to the unclaimed values. Gift certificates and stored value cards sold in Montana that meet the conditions of the Unclaimed Property Act are remitted to the state in which the retailer is domiciled. Most large national retailers are domiciled in the state of Delaware.

In February of 1995, Montana and other states negotiated an agreement with Delaware not to contest the forwarding of unclaimed property to the state of domicile (Delaware in a majority of the cases) if the last known address of the unclaimed property owner was unknown. This negotiation specifically covered gift certificates and stored value cards. As a result of the negotiation, Montana received $100,000 a year for 10 years from the State of Delaware. This agreement ended in 2005. With the expiration of this agreement, Montana is no longer obligated to allow national retailers to remit 60% of the value of store value cards that were sold in Montana but determined to be unclaimed property in the State of Delaware. This bill amends the law so the state can collect 60% of unused balances of store value cards sold in Montana.

This legislation died in the Senate Business, Labor, and Economic Affairs committee. A separate bill for including gift cards as unclaimed property (HB755).

Fiscal Impact to General Fund:

FY2011 $5,563,596

Effective Date: July 1, 2007.

Applicability Date: Gift cards sold after June 30, 2007

SB 138 **Prevent corporations from channeling income to insurance subsidiary**

Sponsor: David Wanzenried

Outcome: Died in House Tax Committee.

Description:

This legislation would have prevented non-insurance companies with an affiliate or subsidiary insurance company from transferring gains, assets, or income to the insurance company in order avoid taxation under the preferential tax treatment available to insurance companies. Federal lawmakers recently enacted legislation to address this loophole at the federal level; this bill would have closed the loophole at the state level.

Under current law, insurance companies are taxed under the state's premiums tax instead of the state's franchise or income tax. Under the premiums tax rules, certain gains on assets held by insurance companies and dividend payments from fully-owned insurance subsidiaries are not subject to tax. This preferential tax treatment is intended to provide stability to the insurance industry and ensure that insurance companies have sufficient asset growth to cover claims. The preferential tax treatment is unique to insurance companies and is not intended for use by non-insurance corporations. Other types of corporations are subject to the corporate income tax.

This legislation would not have changed the preferential tax treatment given to insurance companies. Instead, this legislation prorates the dividends deduction that can be claimed by non-insurance parent companies on assets transferred to the insurance affiliate. The dividend deduction would have been prorated by the capitalization percentage, which was based on the ratio of the premium income to total income of all insurance companies in the commonly-controlled group. A high ratio of premium income to total income would indicate the insurance company is predominately involved in the insurance business, and was not serving as a tax shelter. This legislation also would have restricted the dividends-received deduction for any dividends attributable to premiums received by the insurance company from a member of the insurance company's commonly-controlled group. This provision would have ensured affiliated corporations are not paying excessive premiums to the insurance company in order to increase the capitalization percentage, thus increasing the deduction allowed. The proposed legislation would have limited interest or expense deductions on property transferred to the insurance company by the non-insurance parent corporation for the purpose of tax-free accumulation of investment income. Further, transfers of appreciated property to an insurance company affiliate would have been recognizable and taxable gains in certain circumstances. Finally, the proposed legislation would have restricted excessively-overcapitalized insurance companies and captive insurance companies from receiving preferential tax treatment by including the insurance affiliate's share of investment income, minus premiums-received income, in the non-insurance company parent's gross income if the insurance affiliate has less than 10% of its income from premiums (this percentage is 40% for predominately-captive insurance companies).

This legislation was amended in the Senate Tax Committee to remove the language regarding captive insurance companies. This change did not alter the fiscal impact. After passing the Senate, the bill was tabled in the House Tax Committee. The language from SB 138 was included in HB 833 (as amended), which failed in House process. During the special session, this legislation was not included in the compromise package, but was included in SB5, which failed in Senate process on the last legislative day in the special session.

Fiscal Impact to General Fund:

FY2008	$1,500,000
FY2009	$3,000,000
FY2010	$2,250,000
FY2011	$2,250,000

Effective Date: Passage and approval.

Applicability Date: Tax years beginning after Dec. 31, 2006.

SB 174 **Revise laws on revenue administration**

Sponsor: Jim Elliott

Outcome: Died in House Tax Committee.

Description:

This legislation would have made a number of changes to the administration of tax laws. These changes include:

- added "disregarded entity" to the definition of a person;
- reduced unnecessary reporting by municipal corporations by allowing the DOR to collect information only if needed, rather than always;
- required other agencies to provide information to the Department of Revenue and vice-versa;
- reduced the late payment penalty;
- add an understatement of income penalty;
- made it a felony for an individual to knowingly file a false or fraudulent return;
- made the definition of "qualifying child" consistent with IRS code;
- limit the deduction for federal income taxes paid for estates and trusts to $5,000;
- allowed an automatic extension of six months, rather than an extension of four months followed by an additional extension of two months;
- clarified the treatment of credits and refunds resulting from overpayment of individual income taxes;
- add "proceeds from real estate transactions that are required to be reported under rules or regulations of the U.S Department of the Treasury" to the list of items that an information agent must report to the DOR;
- make it unlawful to knowingly disclose confidential tax information;
- eliminate the requirement that a coal mine operator must report the tons of coal sold to each purchaser each quarter;

- move cigarette tax appeals from the State Tax Appeal Board to the Department of Revenue, with appeals heard at the STAB; and
- establish a tax fraud unit at the Department of Revenue.

This legislation was included in HB833 (as amended) after being tabled in House Tax Committee; it was also included in HB5 (special session). Both of these bills failed to pass.

Fiscal Impact to General Fund:

FY2008	$735,692
FY2009	-$3,095,516
FY2010	-$3,185,950
FY2011	-$3,280,028

Effective Date: Passage and approval.

Applicability Date: Varies.

SB 220 **Revising tax laws relating to income taxes, certain property, and energy**

Sponsor: Jim Elliott

Outcome: Died in House Tax Committee.

Description:

Although SB220 was not official Department of Revenue legislation, the bill included numerous proposals authored and supported by the DOR. The legislation in SB220 (as drafted) included:

- reporting of abusive tax shelters and penalties for noncompliance;
- voluntary compliance initiative to allow taxpayers to file amended returns with no penalties;
- withholding on nonresident real estate sales at a rate of 2.5% of the sales price or the capital gain times the highest rate of tax (6.9%). Residents were exempt from this requirement; and
- increase the class 8 threshold, under which no tax is due, from $20,000 to $150,000 of market value.

This bill was amended in Senate Tax Committee and on the Senate floor before being sent to the House Tax Committee. In response to the Senate Tax Committee amending HB833, the House Tax Committee amended SB220 in its entirety to include: energy development tax incentives; tax exemption for transmission line impact to adjacent property; income tax credit for residential property owners; exclude personal property with market value of less than $100 from property taxation; increase in the income tax exemption amount; inflation adjustment on the limit for the federal income taxes paid deduction; and 20-year partial tax abatement for coal produced in certain new technology facilities. SB220 (as amended) failed in process on a 49-50 vote to place the bill on 2nd reading.

Fiscal Impact to General Fund (as drafted):

FY2007	-$711,371
FY2008	$11,781,436
FY2009	$15,723,024
FY2010	$16,490,159
FY2011	$17,327,614

Other Fiscal Impact:

The university fund impact was -$46,324 in FY2007, -$146,756 in FY2008, -$153,066 in FY2009, -$159,648 in FY2010, and -$166,513 in FY2011.

Revenue Administration and County Collections

HB 39	**Ownership update for water rights** *Sponsor:* Ownership update for water rights *Description:* This bill eliminates the use of a water rights transfer form when transferring water rights as part of a real estate sale, instead automating the information with the Department of Revenue's real estate sales data. Under prior law, a seller transferring water rights is required to file a water rights transfer form with the DNRC; the information is also recorded on the realty transfer certificate. This legislation will eliminate the water rights transfer form. Instead, the water rights transfer information from the realty transfer certificate will be included in the Department of Revenue's ORION system. The DNRC will provide matching information to the Department and will periodically receive an electronic file of real estate sales that involve water rights. *Fiscal Impact to General Fund:* None *Effective Date:* July 1, 2008

HB 62	**Authorize contributions of annual leave to sick leave fund** *Sponsor:* Hal Jacobson *Description:* This bill allows employees to donate annual leave to the sick leave fund for employees who have exhausted all of their own sick and annual leave. In the past, employees have been able to donate sick leave to this fund. This does not create any additional costs for the Department because employees donating leave lose that leave. If employees donate annual leave instead of sick leave, there may be a long run savings to the Department because annual leave is paid out to terminating employees at full value while sick leave is paid out at one-fourth value. *Fiscal Impact to General Fund:* None.

HB 131	**Actuarial funding for MPERA retirement systems** *Sponsor:* Jon C Sesso *Description:* This bill makes several changes to state, local, and school retirement systems to bring them closer to actuarial balance. For state agencies, including the Department of

	Revenue, the employer contribution percentage increases from 6.9% to 7.035% on July 1, 2007 and to 7.17% on July 1, 2009. The bill appropriates funds to OBPP to pay the additional contributions for FY2008 and FY2009. *Fiscal Impact to General Fund:* FY2008 -$485,776 FY2009 -$506,562 FY2010 -$1,058,715 FY2011 -$1,106,356 *Other Fiscal Impact:* Additional state pension fund contributions from funds other than the general fund will be $511,512 in FY2008, $530,538 in FY2009, $1,111,855 in FY2010, and $1,160,263 in FY2011. *Effective Date:* July 1, 2007 *Termination Date:* The employer contribution rate will return to 6.9% if the Public Employee Retirement System is restored to actuarial balance.

HB 257	**Revise the Taxpayer Bill of Rights** *Sponsor:* Bob Lake *Description:* HB257 amends 15-1-222 (Taxpayer Bill of Rights) to require the Department to treat all similarly-situated taxpayers in a similar manner with regard to administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies, unless there is a rational basis for the Department to distinguish them. The amended section also requires the Department to adhere to the same tax appeal deadlines required of the taxpayer unless otherwise provided by the law. HB257 also amends 15-1-223, MCA, to allow DOR to charge a $1 fee to process complaints filed with the Office of Taxpayer Assistance. Because no other fund is specified, the fees collected will be deposited into the general fund. *Fiscal Impact to General Fund:* None. *Effective Date:* May, 3, 2007

HB 427	**Revise universal system benefits law** *Sponsor:* Bob Bergren *Description:* This bill changes how the Public Service Commission determines universal system

benefit charges, but does not affect the Department's procedures in collecting unspent weatherization and low-income energy assistance amounts from utilities and distributing the funds to DEQ and DPHHS to spend on state programs.

Fiscal Impact:	None.
Effective Date:	Passage and approval.
Applicability Date:	Passage and approval.

HB 473 **Eliminate Water Adjudication Fee**

Sponsor: Jack Ross

Description:

This bill eliminates the fee enacted in 2005 to fund the water adjudication process. It replaces it with a one-time transfer of $25 million from the general fund.

The Department of Revenue collected this fee for the Department of Natural Resources and Conservation. With this bill, the Department will not collect fees that would have been due in the future, but is to continue to try to collect unpaid fees that were due in the past.

DNRC reimbursed the Department for its costs of collecting the fee. With no future collections, there will be no future collection costs and no reimbursement.

Fiscal Impact to General Fund:

FY2007	-$25 million (expenditure)

Other Fiscal Impact:

This bill transfers $25 million to the water adjudication fund in FY 2008 and eliminates fees of $6.2 million per biennium going to the fund.

Effective Date:	July 1, 2007
Termination Date:	Several sections amended by this legislation terminate June 30, 2020.

HB680	**Revise tax laws to authorize Department of Revenue to collect out-of-state debt**

Sponsor: Jill Cohenour

Description:

This bill authorizes the Department to enter into contract with out-of-state attorneys, other states' agencies, and others to for out-of-state collections of taxes, fees, and other debt owed the state when the Department determines that the amount collected under a contract will likely exceed the cost of collection. This bill provides for a statutory appropriation to the Department to cover costs. The Department will add three additional FTE, one attorney, one paralegal, and one auditor/collections specialist to pursue out-of-state collections.

Fiscal Impact to General Fund:

FY2008	$440,724
FY2009	$450,197
FY2010	$451,895
FY2011	$451,590

Effective Date: July 1, 2007

HB 790	**Revise unemployment insurance contribution rates & admin. assessments**

Sponsor: Llew Jones

Description:

This bill increases unemployment insurance rates for state agencies. This will increase personal services costs for the Department.

SB 47	**Clarify sponsor notification for administrative rules**

Sponsor: John Esp

Description:

This bill makes minor changes to the requirement to notify the sponsor of a bill when an agency makes rules to implement the bill.

Fiscal Impact: None.

Effective Date: Oct. 1, 2007

SB 62	**Increase payment to advisory board members** *Sponsor:* Robert Story *Description:* This bill doubles the allowable per diem for advisory committees from $25 per day o $50 per day, which would increase general fund expenditures. *Fiscal Impact to General Fund: (Department of Revenue only)* FY2008 ($1,200) FY2009 ($600) *Effective Date:* July 1, 2007

SB 89	**Breastfeeding in the workplace** *Sponsor:* Carol Williams *Description:* SB 89 requires agencies to make reasonable accommodation of space, lighting, electricity, and privacy to nursing mothers. Additional expenditures to the Department of Revenue are projected to be insignificant. *Fiscal Impact:* None. *Effective Date:* October 1, 2007

SB115	**Revise allocation of wildlife crime restitution penalties to FWP** *Sponsor:* Larry Jent *Description:* Under prior law, $60,000 of the money collected by courts as restitution for the illegal killing or possession of certain wildlife was deposited into the general fund. This legislation directs the $60,000 into the hunter education programs. *Fiscal Impact to General Fund:* -$60,000 annually *Effective Date:* July 1, 2007

SB 121	**Prohibit sale of tax information** *Sponsor:* Jim Elliott *Description:* This legislation prohibits tax return preparers from selling taxpayers’ tax return information. Further, the taxpayer information may not be disclosed to a tax return preparer out-of-state unless requested by the taxpayer (or is required for an audit) and the out-of-state preparer agrees not to sell the tax return information. This legislation

	also increased the maximum amount of money that can be awarded for damages to a taxpayer whose information has been disclosed. In addition, this legislation prohibits the Department of Revenue from providing individual income tax return services. The Department is allowed to provide for the filing of electronic income tax forms. The Department of Revenue must implement rules for this legislation. *Fiscal Impact to General Fund:* None. *Effective Date:* Passage and approval.

SB 126	**Eliminate termination of future fisheries/bull trout/ cutthroat programs, funding** *Sponsor:* Steve Gallus *Description:* The Department deposits Resource Indemnity Trust interest into special revenue accounts for other agencies' programs. This bill makes the allocation to DFWP's future fisheries program permanent. *Fiscal Impact to General Fund:* None. *Other Fiscal Impact:* This bill continues funding of the future fisheries program at $500,000 per year. It reduces funding to other programs that receive Resource Indemnity Trust interest by the same amount. *Effective Date:* Passage and approval.

SB 168	**Transfer public employee accrued leave into post-retirement health care account** *Sponsor:* Larry Jent *Description:* This bill allows unused vacation leave to be used as an employer contribution to a voluntary employees' beneficiary assocation (VEBA) account along with unused sick leave. This may require changes to department procedures relating to VEBAs. *Fiscal Impact:* None. *Effective Date:* July 1, 2007

SB169	**Adjust local government basic entitlement share for public defender costs**
	Sponsor: Jesse Laslovich
	Description:
	This bill corrects an error in 15-1-121, MCA (entitlement share payments to cities, counties, and combined city-county governments). Under SB146 (2005 Session), the state assumed the costs for public defenders and deducted the amount from the entitlement share payments in FY2006. An audit subsequent to passage of the bill revealed that the adjustments for six towns were incorrect. SB169 corrected these errors.
	This legislation has no fiscal impact because the Department calculated the payments using the correct amounts under the assumption that the 2007 Legislature would correct the error.
	Fiscal Impact to General Fund: None
	Effective Date: Passage and approval
	Applicability Date: Payments for FY2007 and beyond

SB 317	**Restrict land trust merger of title**
	Sponsor: Dave Lewis
	Description:
	SB 317 amends 70-17-111, MCA to specify that conservation easements may not be extinguished through transfer of fee title. The bill also amends 70-17-203, MCA to clarify that conservation easements will run with the land.
	Under prior law, the entity holding the conservation easement was responsible for providing a copy of the easement to the Department of Revenue. SB 317 amends 76-6-207, MCA to shift this responsibility to the county clerk and recorder.
	New section 5 of the bill requires the Department of Revenue to record the legal description of each conservation easement; the approximate acreage; date of agreement; book and page or document number as provided in 7-4-2617, MCA; and the name of the conservation easement grantee.
	Fiscal Impact to General Fund: None.
	Effective Date: October 1, 2007

SB 466	**Small business regulatory flexibility act** *Sponsor:* Vicki Cocchiarella *Description:* This bill would require the Department to consider the impact on small businesses as part of any economic impact statement it prepares on proposed rules. This requirement is rather vague, but probably is not a significant change. *Fiscal Impact:* None. *Effective Date:* Oct. 1, 2007

SB 413	**Timely deposit of funds by state contractors and agents** *Sponsor:* Lynda Moss *Description:* This legislation clarifies the timely deposit requirements for state agencies. Unless the agency receives approval for a different deposit schedule, the agency is required to deposit money each day if the currency (cash) exceeds $200 or the total amount exceeds $750. All other money must be deposited weekly. The Department of Revenue cannot yet meet the deposit requirements, particularly during peak processing periods. Therefore, the Department must receive approval for a modified deposit schedule. This schedule must be reviewed and approved by the Department of Administration to ensure adequate internal controls; the board of investments must review and approve the proposal to ensure that the state's assets and earnings are maximized. *Fiscal Impact to General Fund:* None. *Effective Date:* Passage and approval.

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COUNTY COLLECTIONS REPORT LEGISLATION

HB 470 **Clarify interest and costs on property tax redemption**

Sponsor: Alan Olson

Description:

This bill clarifies that, when a property tax lein is being redeemed, interest and costs continue to accrue until they are paid and are not limited to amounts that may have been previously published by the county. This does not directly affect the department.

Fiscal Impact: None

Effective Date: October 1, 2007.

Applicability Date: Applies to redemptions after October 1, 2007

SB209 **Transfer registered process servers to Board of Private Security Patrol**

Sponsor: Jeff Essmann

Description:

This bill transfers the regulation and oversight of the registering of process servers and levying officers to the Board of Private Security Patrol Officers from the Clerks of District Court. The fiscal impact is due to the elimination of the $100 biennial fees formerly collected by the Clerks of District Court. The entitlement share payments are not adjusted for these reductions.

Fiscal Impact to General Fund:

FY2008	($2,500)
FY2009	($2,800)
FY2010	($2,800)
FY2011	($2,800)

Effective Date: July 1, 2007

Revenue-related Research and Resolutions

HB 49	**Require study of local government special purpose districts** *Sponsor:* Robin Hamilton *Description:* This bill requires the Education and Local Government interim committee to study local special purpose districts. This study may have property tax implications, and the Department should monitor it. *Fiscal Impact to General Fund:* FY2008 -$20,000

HB 488	**Study of property taxes** *Sponsor:* Mike Jopek *Description:* This legislation requires the revenue and transportation committee to conduct an interim study of the revaluation of taxable property. The committee is instructed to evaluate: 1) changes in the productivity value of class 3 ag land by county; 2) changes in the market value of class 4 by county; 3) changes in the productivity value of class 10 forest lands by county. The committee must also consider strategies to maintain equity among taxpayers while maintaining the financial integrity of local governments. The Departments revaluation procedures will be reviewed by the committee. $50,000 is appropriated to the Legislative Services Division for the 2009 biennium. *Fiscal Impact to General Fund:* FY2008- FY2009 -$50,000 *Effective Date:* July 1, 2007 *Termination Date:* September 15, 2008

HJ 39	**Study economic development** *Sponsor:* Ron Erickson *Description:* This study does not impact the DOR directly, but many economic development proposals involve tax incentives. This study committee is to focus on technology in the University system and ways to increase the technology industry in Montana.

HJ 61	**Study linkage of state and federal income taxes** *Sponsor:* Jill Cohenour *Description:* This study will identify inconsistencies between state and federal income tax code, determine the reasons for those inconsistencies and the impacts of making the provisions consistent, and make recommendations to improve the clarity of the tax code and taxpayer compliance. This study also requires reviewing the inconsistencies between federal tax law and other states. The Department of Revenue is specifically listed as a participant of this study committee.

SJ 31	**Interim Study of Taxation and School Funding** *Sponsor:* Jeff Essmann *Description:* This resolution directs a study commission to examine: the future demographics of property taxpayers, school-age children, retirees, and other factors relating to the viability of property taxes to fund education; the distribution of classes of taxable property in counties and school districts; the feasibility of a statewide school equalization district funded through property taxes or other sources of revenues; and the use of a sales tax to replace property taxes. Senator Essmann introduced a comprehensive tax bill that replaced property tax funding with sales tax revenues (SB 554) that likely will be the base of this study commission.

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