

# MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

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**Upcoming Meetings – NOTE: Visit our [calendar](#) on our website for updates**

Tuesday, July 29 – [HB49](#), Sub-Special Purpose Districts (Bozeman)

Thursday, August 7 - [MAR Notice No. 42-2-795](#) – liquor licensing

Tuesday & Wednesday, August 12 & 13 – [Water Policy](#)

Monday, August 18 – [Joint conf. call of RATIC/LFC Subcomm.](#)

Thursday, August 21 - [State Tribal Relations](#)

Thursday & Friday, August 21 & 22 - [Child, Families, HHS](#)

Thursday, September 4 – Postsecondary Educ Policy and Budget

Thursday, September 4 – [K-12 Subcommittee](#)

Thursday, September 4 - [Energy and Telecommunications](#)

Thursday & Friday, September 4 & 5 – Educ and Local Gov

Monday & Tuesday, September 8 & 9 – [EOC](#)

Tuesday, September 9 – [Revenue and Transportation – HB488](#)

Wednesday, September 10 - [Revenue and Transportation](#)

Friday, September 12 – [Economic Affairs](#)

Monday, September 15 - [SAVA](#) (if necessary)

Monday, September 15 – [Law & Justice](#)

Tuesday, September 16, [Legislative Council](#)

Thursday & Friday, October 9 & 10 - [Legislative Finance](#)

Wednesday, November 12 - Legislative Caucuses, State Capitol

Wednesday, November 12-14 - New & Veteran Legislator

Orientation & Training, State Capitol

Monday & Tuesday, November 17 & 18 - [Revenue and](#)

[Transportation](#)

Tuesday, November 18 - [Legislative Finance](#)

Thursday, December 4, 2008 – *87<sup>th</sup> Meeting of the Montana*

*Taxpayers Assoc.*

[Montana Legislature Live Audio Broadcasts](#)

**Joint LFC/RATIC Subcommittee**

Both the Revenue and Transportation Interim Committee (RATIC) and the Legislative Finance Committee (LFC) have held discussions on potential changes in Montana’s demographics. A report from the ninth district of the Federal Reserve Bank indicated that Montana ranked 14<sup>th</sup> in the nation with populations aged 65 and older. The same report estimated that Montana could rank 3<sup>rd</sup> or 4<sup>th</sup> in the nation with a population 65 and older within the next 13 years. Census figures also show that while Montana currently has a working population of 4.80 per retired person that ratio could drop to around 2.18 by 2030.

The Revenue and Transportation Interim Committee has heard presentations by staff and outside experts outlining the potential impact of these changes in Montana’s economy over the next 20 years. Members of RATIC voted unanimously to move forward on a project proposed by Senator Jim Peterson at their April meeting.

They appointed four members to oversee the project and present the proposal to the LFC. Subsequent to that meeting, there was a concern that private dollars were going to be used in order to move the project forward. Staff of Legislative Fiscal Division had earlier indicated they did not have sufficient resources to devote to the project prior to the session. Although they lack the resources to participate in a study at this time, they continue to believe a project looking forward more than a biennium is critical.

A joint subcommittee of both committees was formed to weigh the benefits of proceeding immediately with a study or to wait and propose legislation with an appropriation for the next session. The subcommittee moved to postpone the study and will be introducing legislation in the next session to obtain funding and outline the requirements of the study. A draft study bill will be presented to the joint subcommittee at their next meeting on September. Recommendations from staff can be found on the [RATIC website](#) under July 9<sup>th</sup> meeting. The next subcommittee meeting is set for August 18.

Meanwhile, the private study, Project 2030 is already underway as some members believed it was important to have information in hand at the beginning of the session. Our association concurs with their conclusion. With an estimated surplus in the \$400 million range, it is now more important than ever for policy makers to understand the long term implications of new and ongoing programs.

**Revenue and Transportation Interim Committee: SJR31 Subcommittee**

Impact of school funding options on property taxes

Jim Standaert of the Legislative Fiscal Division presented a report entitled “School District Revenue Options” which analyzed the impacts on each property type and for each county of the following options:

1. Eliminating HB124 block grants to school district general fund;
2. Raising the direct state aid (DSA) by \$30 million;
3. Raising the guaranteed tax base ratio (GTB) by \$30 million;

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## Texas and Vermont

Jeff Martin of the Legislative Services Division discussed school district revenue recapture provisions used in Texas and Vermont. Both states had their school funding found unconstitutional on equity grounds and were required to develop changes that addressed a more equal distribution of funds to districts.

The new Texas system required all districts to levy a minimum local tax after which the state provided aid to meet the required funding level. High property tax wealth districts were given options to reduce their tax base:

- voluntary consolidation with another district;
- remove property from the district;
- purchase attendance credits from the state;
- contract to educate nonresident students from a partner district;
- consolidate tax bases with another district.

The new Vermont system established a statewide property tax and required “equalized yield” for taxes above the statewide level. The equalized yield guaranteed that the same tax levy raised the same amount per pupil in every community. It is accomplished through capturing the excess amount per pupil generated in high property wealth districts and using it along with other state funds to assist low property wealth districts. The Vermont system was revised by later legislation to create a tax penalty to residential payers if the district spends in excess of 125% of the statewide average and split property into two types, residential homestead and nonresidential, which were taxed at different rates for schools.

## School budgets

A table prepared by the Office of Public Instruction showing school district budgeting relative to statutory minimum and maximum levels was presented to the subcommittee. The table showed the changes for selected years from 1995 to 2008.

District Budget Level	Number of districts at each budget level	
	1995	2008
At or below minimum	176	49
Between minimum and maximum	237	267
Over maximum	58	105

The committee had a brief discussion on what would be included in the final report. Senator Essmann wanted some of the demographic s presented to the committee by Dr. Swanson, UofM, and Drs. Young and Watts from MSU. He also wanted the concepts presented by Jim Standaert on equalization to be included and to show the differences in the mill levies under each proposal. He requested Lee Heiman to prepare language that would create a statewide school district for certain types of properties. Senator Kaufmann requested staff to look at equalization and adequacy together.

4. A combination of eliminating HB124 block grants, state capture of district oil, natural gas and coal gross proceeds and raising direct state aid to 80 percent;
5. Creating a guaranteed tax base for the overBASE area of the district general fund.

The cost to the state equals the reduction in property taxes for each option. The cost and the change in tax liability statewide by property type varied by option as shown in the table below.

Option	Change in tax liability					State Cost (millions)
	Centrally Assessed	Commercial	Residential	Ag and Timberland	Other	
1	2.7%	1.9%	2.0%	2.9%	2.5%	-\$24.0
2	-2.7%	-2.6%	-2.8%	-3.2%	-2.9%	\$30.2
3	-2.4%	-2.8%	-3.0%	-2.6%	-2.7%	\$30.7
4	-9.1%	-10.5%	-11.4%	-11.5%	-10.6%	\$116.5
5	-12.1%	-11.7%	-10.6%	-11.8%	-11.8%	\$69.7

The impact of each option by county on taxes varied considerably. The following table shows the smallest and largest change in amount levied as a percent of school tax levies.

Option	Increase in tax liability					State Cost (millions)
	Smallest	County	Largest	County	Difference	
1	1.8%	Lake	14.9%	Wibaux	13.1%	-\$24.0
2	-13.2%	Wibaux	-0.0%	Fallon	13.2%	\$30.2
3	-5.8%	Lake	-0.0%	Fallon,Wibaux	5.8%	\$30.7
4	-28.5%	Hill	19.6%	Wibaux	48.1%	\$116.5
5	-27.0%	Custer	0.0%	Fallon	27.0%	\$69.7

The effects of these changes by district were not presented however these differences will be greater as HB124, oil, gas, coal and student enrollments relative to taxable value vary widely from district to district.

Representative Lake agreed the state has a challenge ahead to deal with school funding. He believes the legislature will have to look at both equalization and adequacy. He concurred the changing demographics could affect the ultimate changes to school funding. He asked staff to consider state trust lands capacity and full natural resource recovery. He stressed there could be resistance in some parts of the state on sharing natural resource revenues since historically those areas with the resources received the bulk of the tax dollars for local purposes.

The committee concluded the final report would include the implications of the various alternatives: DSA; GTB; oil and gas revenues above some cap; HB124 grants; and a statewide levy for certain properties. It was not clear whether this change would subject the properties to both local levies and the new statewide mill.

#### **Revenue and Transportation Interim Committee: HB488 Subcommittee**

##### Update on Housing Market Trend Analysis

Dan Bucks, Director of the Department of Revenue presented an overview of recent work sessions held in 18 communities. The purpose of the meetings was to obtain information on Montana's housing market the department could incorporate in the upcoming legislative session. Based on the feedback, the department will be proposing to move the appraisal date for determining the market values for the 2009 reappraisal from January 1, 2008 to July 1, 2008. This means the department would extend their review of sales, market analysis and cost indicators by six months.

They determined that while Montana's housing remains stronger than other parts of the nation, there has been a trend in the last six months that reflects a slightly lower increase in market values in western Montana and slightly higher in eastern Montana. A summary of the work sessions and a map of the locations can be found on our website under Interim Sessions/Revenue and Transportation/[July 10-11 meeting](#).

##### Reappraisal Update

The 2009 Reappraisal also applies to agricultural and timber land. The reappraisal of agricultural land includes a complete review of the classification (land use). There are five classifications of ag land: continuous cropped, summer fallow, irrigated, wild hay, and grazing. The department will be using information from USDA FSA aerial photos and "ground truth" which will include verification and visits with ag land owners.

The next part of the agricultural reappraisal requires updating productivity and yield data. The department will be using NRCS soil surveys to assign the productivity and yield for each type of use for all 50 million acres of agricultural land. The base crops they will be using to determine yields will be spring wheat (continuous cropped and summer fallow), alfalfa (irrigated and wild hay) and range carrying capacity (grazing land). The NRCS productivity data will be tempered by using 12 year countywide production averages from Montana Ag Statistics.

The final valuation model will utilize commodity prices, crop share arrangements and determination of a capitalization rate (for irrigated ag land). These should be completed by

September 2008. By October the department will mail detailed maps and information on how the classification and productivity information was determined. Property owners will be encouraged to visit with their local appraisal offices if they have any questions.

The department is also in the process of reappraising approximately 3.9 million acres of forest land. They will be updating their productivity estimates of the land with improved soil information, climatology data and improved delineations for determining commercial forest land. To qualify for commercial classification there must be 15 contiguous acres under one ownership and be able to produce at least 100 board feet per acre. The final model will utilize four forest valuation zones and five forest productivity grades. Maps and valuation determinations will also be mailed to forest land owners.

##### Alternatives Dealing with Property Reappraisal

Jeff Martin of the Legislative Services Division reported on measures other states have adopted legislatively or by initiative to address increasing property taxes. Some of the measures used in other states include:

##### Property Tax Limitations

- Tax rate limits: property taxes may still increase in areas of rapidly rising values unless tied to assessment limits.
- Assessment limits: restrict how much property values may increase in a year for tax purposes. Often treat similarly situated taxpayers differently and may discourage people from changing residences because doing so may result in a much higher tax bill.
- Revenue rollbacks: require taxing jurisdictions to reduce mill levies when property assessments increase by more than a certain amount. Applies to all taxpayers.
- Limiting growth in local expenditures: may be adjusted for changes in population and inflation.

##### Targeted Property Tax Relief

- Homestead exemptions or credits: generally apply to all homeowners, but may provide additional exemption for older taxpayers. May or may not be tied to income. Revenue losses from exemptions are typically absorbed by local governments or are shifted to other taxpayers. Some states reimburse local governments for revenue losses.
- Circuit breakers: more directly target to low-income taxpayers and may include renters. Tied to income levels of taxpayer and to the amount of property taxes paid. Typically phase out as income rises.
- Property tax deferral programs: allow low-income and elderly taxpayer to defer payments of all or a portion of their property taxes on their principal residence. The deferred taxes are a lien on the property. Some states reimburse local governments.

##### Other Alternatives

- Using valuations other than market value.
- Phasing in values, reducing assessment rates, dealing with extraordinary increases.
- Increasing the exemption amount, but cap it.

Information from the HB488 subcommittee can be found on [RATIC's website](#).

### **Revenue and Transportation Interim Committee: Full Committee**

#### Conformity of Montana's Income Tax Systems with Federal Law

Another study resolution HJR61, requested the committee to assess the conformity of Montana's income tax laws with federal income tax laws, consider reorganizing certain provisions of Montana's income tax laws; and requiring that the final results of the study be reported to the 61st Legislature. At the April meeting staff testified that Montana's legislature could be in violation of Montana's Constitution by using a rolling conformity rather than adopting each change in federal tax law through specific legislation. Montana statute currently contains language that ties our income systems directly to the Federal IRC "as amended" so each federal amendment is automatically adopted.

On Friday morning, Lee Heiman, the committee attorney, presented two bill drafts for the committee's consideration for conforming to federal tax law. The copies of [LC 9997](#) and [LC 9998](#) are on the legislative website.

According to Mr. Heiman, the proposals "would conform Montana individual and corporate income tax provisions that are linked to the Internal Revenue Code to a fixed date. The drafts would provide a fixed date adoption and would be updated each session to cover the previous two years. LC 9998 Stops at this point. This would mean that intervening federal tax changes wouldn't (or couldn't) be used by Montana taxpayers. LC 9997 goes further and allows a taxpayer to use federal enactments for the two years of the interim after the fixed adoption date subject to legislative modification or rejection, retroactive back to the fixed adoption date."

Mike Green of the Crowley Law Firm in Helena, testified on behalf of the Montana Taxpayers Association. He stated that our position remains that no change is necessary, that many other states (18) have rolling conformity and Montana's law has never been challenged. If the committee decides the current method could be unconstitutional, our second preference would be a Constitutional referendum passed by

the legislature authorizing the use of the IRC in the calculation of Montana taxable income. Finally, if the committee decides to pursue conforming legislation, our preference would be to allow any changes during the interim so taxpayers would not be faced with any retroactive tax changes.

The department agreed the legislation should not be retroactive, but the legislature should adopt some form of LC9997. Their position is described in a [memo](#) from Brenda Gilmore to the committee. The memo also points out a case, Baker Bancorp, they believe needs clarification in Montana statute. Mr. Green did not provide any testimony regarding Ms. Gilmore's memo, but responded to questions from the Committee regarding the Baker Bancorp decision. The committee chair asked the stakeholders work together to consider potential changes to the draft legislation.

#### **Recent Montana Supreme Court Order**

The Montana Supreme Court issued an order on July 9, 2008, in Omimex Canada, LTD v. State of Montana, Department of Revenue. The court ordered the cause "classified for submission of briefs to the Court sitting en banc." This means that oral arguments weren't directed, but the briefs will be considered by the full court.

The plaintiffs purchased some gathering lines once owned by The Montana Power Company. It argues that the classification for tax purposes of its property as class nine centrally assessed property is contrary to law. The difference in tax classification alone results in a tax rate four times higher than if the property were locally assessed. You can find this order as well as the other documents on this litigation on our website: [Litigation/Omimex](#)

#### **Montana Taxpayer Association Publications**

Last month, you should have received our publication *Montana's Property Tax Mill Levies 2007 - 2008*. This is the most comprehensive listing of mill levies in Montana. We are currently updating *Montana Taxation 2008* and the *2008 Tax Digest*. Our publications provide taxpayers and policy makers important information on tax, revenues and expenditures in state government. This is one of the many benefits our members receive. Your continued support makes these publications possible.