

# MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

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## Upcoming Meetings – These dates are tentative

May 31 – [Legislative Consumer Committee  
& Consumer Counsel](#)

June ? – [Education and Local Government](#)

June 15 – [Economic Affairs](#)

June 15 – [State Tribal Relations](#)

June 18 – [Legislative Finance](#)

June 21 – [Revenue and Transportation](#)

June 26 – [Children, Families, Health and Human Services](#)

June 28, 29 – [Environmental Quality Council](#)

July 10 – [Energy and Telecommunications](#)

July 10, 11 – [Water Policy](#)

July 13 – [Law and Justice](#)

Planning meetings of many of the Interim Committees will begin in June and July. At the first meeting, chairs will be elected and a work plan developed. (Committee Assignments included with this mailing).

## Legislative Session Recap

The Senate went Sine Die Friday morning, April 27 during the Regular Session, just as the House Appropriations Committee was considering a motion to pass an amended HB 2 (the original budget bill) to the House Floor for debate. The Free Conference Committee on HB678, the new school funding vehicle had been meeting that morning and was in recess after failing to come to any consensus. The administration continued to insist the education funding bill incorporate revenue enhancements (the DOR tax bills amended into HB833) to pay for any increase in funding. Senator Story stated the legislature set the priority on funding when they increased the budget by over \$170 million and it was inappropriate to be looking at revenue enhancements on the 90<sup>th</sup> day of the session.

The amendments to HB833 incorporated all the Department of Revenue bills we continue to oppose. An offer, made by the administration the night before, was rejected and it didn't appear another compromise could be reached. There was one additional offer to remove REITs from the list of revenue enhancers, but to leave the rest of the Department of Revenue proposals.

After the Senate adjourned, the full House met and debated whether to place the budget bills on the board to be passed to avoid a Special Session – the motions failed

on party line votes. Without a budget, any tax relief or a school funding vehicle, a Special Session was imminent.

Senator Cooney, President of the Senate, called a meeting of the leadership for May 7 in Billings. The Legislative leadership appeared to make progress on how the process would work for a special session and concluded the meeting after about one hour. Within one-half hour of the legislative leadership meeting, the Governor placed a call for a Special Session to begin that Thursday, May 10.

During the entire Legislative Session, the taxpayers of Montana once again were able to hold off on aggressive attempts by the Department of Revenue to radically change Montana tax code. While we support giving the Department additional tools to review their compliance efforts, these bills were not necessary to enforce Montana tax code.

Perhaps the most troubling part of this continued barrage of bills by the department over the past two years is that most of them emanate from an out-of-state organization based in Washington, DC; the Multi State Tax Commission (MTC).

The voters in Montana *did not* elect the members of this Commission to represent the views of Montanans. Our association believes tax policy should be the responsibility of our own elected officials - not some out-of-state bureaucrats in DC. In fact, no other state has adopted all the proposals contained in the omnibus legislation brought forward by the department.

## State Budget

(By Curt Nichols, consultant for the Montana Taxpayers Association)

What should we do with a revenue boom and state general fund surplus of historic proportions? This question was resolved in special legislative session after an often contentious regular 90 day legislative session failed to come to agreement on the budget and spending priorities. A major point of disagreement was if there should be permanent tax relief and how much.

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A look at the final results indicates most of the permanent revenue will be spent while approximately \$123 million of the one-time surplus will be used for rebates/tax credits. Some permanent tax relief was enacted by reducing school GTB (Guaranteed Tax Base) and county retirement levies but it was offset by mandatory permanent tax increases in the same levies. There may be some property tax relief in the school over-BASE levies in some districts for a few years as a result of large increases for schools.

Focusing on the state general fund, the budget can be broken into ongoing and one-time items as shown in the table below. Ongoing revenues are those that are expected to be received in the next two years while one-time revenues represent the accumulated surplus from prior years.

### General Fund Summary<sup>1</sup>

	(\$millions)
<b>Ongoing</b>	
Revenues (HJR2 + ongoing revenue legislation)	3,676.2
Expenditures	(3,534.3)
Ongoing Surplus(deficit)	141.9
<b>One Time</b>	
Revenues	681.0
HB9 income tax credit on 95 mills <sup>2</sup>	(23.3)
Expenditures	
HB4 Capital projects and information technology	(193.6)
HB63 Teachers retirement bailout	(50.0)
HB473 eliminate water adjudication fee	(25.0)
HB829 Blackfeet water compact	(15.0)
HB3 & HB10 Supplemental appropriations	(83.3)
HB9 \$400 rebate	(99.8)
HB2 One time only appropriations	(91.2)
HB2 School capital investment & deferred maintenance <sup>2</sup>	(30.0)
Other one time expenditure bills	(17.0)
One-Time Surplus(deficit)	52.8
<b>Net Surplus (deficit)</b>	<b>194.8</b>

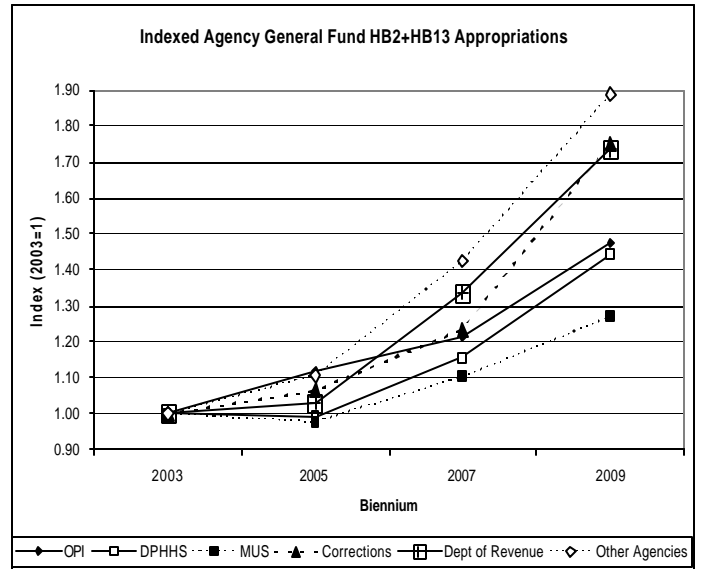
<sup>1</sup> Preliminary. Assumes: Governor will approve all special session bills passed by the legislature; no VETO overrides; no line-item vetoes of appropriation items.

<sup>2</sup> Assumes FY07 general fund revenue of \$1.825 billion or \$63 million higher than HJR2 estimate and therefore triggers of \$30 million deferred maintenance for schools and \$23 million for income tax credit on 95 mills.

Agency budgets and the state pay plan (HB2+HB13) grew 24.9% from the amounts approved in the 2005 regular session. Spending increases exceeding inflationary levels were granted to most agencies with OPI (schools), Corrections and Human services getting the largest dollar increases. Controversies about spending levels in Corrections where there was disagreement about the expected numbers of inmates, Revenue where there was disagreement about the proposed aggressive enforcement policies, and schools where there were disagreements about the amount and manner in which aid should be given raged throughout the session.

The accelerating growth of agency general fund budgets is illustrated in the following chart which shows budgets appropriated by each session indexed to their 2003 biennium levels. Growth in other agencies, those state agencies not separately listed in the chart, reflects one-time appropriations in the 2009 biennium budget of 11% of budgets. State assumption of district courts and expansion of public defender services account for much of the earlier rises in other agency appropriations.

It has been questioned whether this growth is sustainable, a major focus of the administration budget, and whether it is wise, a major focus of the legislators.



### Public Schools

Public school funding was increased \$214 million in HB2 and SB2 with \$30 million of that contingent on FY2007 general fund revenues exceeding \$1.762 billion. The \$40.8 million set aside in the new facility account will not be available for district spending until the school facility inventory is complete and appropriations from this account are made in the next legislative session. The amounts listed in the table below do not include a \$77 million increase in HB63 to bail out the teachers' retirement system.

School Funding (\$millions)		
	FY08	FY09
Inflation on Basic & Per ANB entitlements	13.4	28.0
Inflation on special education	1.3	2.6
School facilities reimbursement increase	1.1	1.1
Increase Per Educator Payment	13.0	13.1
New Middle School Entitlement	0.5	0.5
Full Day Kindergarten	13.5	15.7
Increase state GTB share - reduce district levy	10.6	10.7
Retirement costs not included in above	0.5	1.0
Educator loan assistance	0.3	0.6
On going costs	54.2	73.5
Full Day Kindergarten startup (OTO)	10.0	
Indian education for all (OTO)	1.5	1.5
Gifted and Talented (OTO)	1.0	1.0
School mineral royalties to new facility account	17.6	23.2
Capital investment and deferred maintenance (OTO)	30.0	-
One time costs	60.1	25.7
<b>Total</b>	<b>114.3</b>	<b>99.2</b>

<sup>1</sup> Contingent of FY2007 revenues exceeding \$1.762 billion

There were disagreements about the amount and the manner in which school funding would be increased. House republicans favored a larger increase than proposed by the governor and the addition of new elements to the funding mechanism that would help smaller districts. They also proposed increasing the state funding share to reduce local property taxes for schools. The governor and democrats favored the establishment of full day kindergarten and increased payments based on the number of teachers employed – the “quality educator payment”. The final actions contained in SB2 represent some compromise as it provides for full day kindergarten, increased state funding to offset local property taxes and increased “quality educator” payments.

A proposal by the governor to allow retirement costs of district federal employees to be paid from mandatory county retirement levies and state GTB was rejected. House republican proposals to provide 100% state funding for per-district entitlements and expand the number of such entitlements were rejected as were their proposals to eliminate the per-educator payment and add payments based on the number of classrooms required by accreditation standards and payments based on at-risk, gifted and talented and dropout prevention.

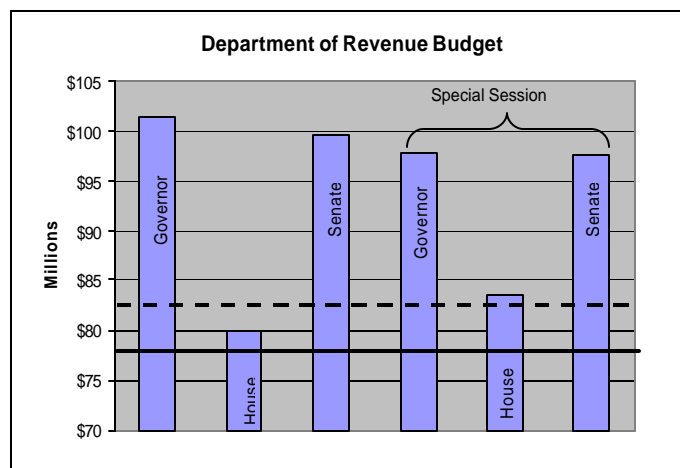
Two actions were taken to reduce property taxes. HB63 provides state funding of \$13 million per year to offset the increased county retirement levies that would have resulted from the higher employer contribution rate established in that bill. SB2 increases the state share of GTB and reduces the district GTB levy by \$11 million per year. However the expansions in teacher retirement obligations resulting from full day kindergarten and higher per-educator payments are not offset by HB63 nor are the increases in district GTB levies for inflation adjustments and full day kindergarten fully offset by the increased state share in SB2. The net effect will be neutral in FY08 and an increase in levies of approximately \$7 million in FY09.

The over-BASE levy authority (district discretionary spending) of districts has been increased with the addition of full day kindergarten and inflation adjustments. The large amount of new state funding may encourage some districts to replace current over-BASE levies with state aid, at least for the next year or two. Some districts will likely use the additional over-BASE authority to increase levies as well as spending the additional state funding. Increases in over-BASE levies must be approved by the voters.

### Department of Revenue

The governor proposed one of his largest increases for the department of revenue, raising the general fund budget from \$77.8 million to \$101.1 million or 30%. This expansion of the department was hotly debated by the legislature, first being trimmed significantly by the House before being increased back to near the governor’s requested level by the Senate. The chart below illustrates the actions which were repeated in both regular and special session. The regular session ended without compromise while the House accepted the Senate revisions in the special session. In contrast the department’s legislative package, though experiencing similar ups and downs between House and Senate, was in the end killed by the House.

In the chart the dashed line is the “present law” budget needed to continue operation of the department in the 2009 biennium as it presently operates and the solid line is the current \$77.8 million 2007 biennium appropriation.



An additional \$1 million was appropriated in HB9 for the cost of administering the \$400 rebate which is not included in the above amounts.

The department’s budget includes the following major initiatives proposed in the initial Governor’s budget. The table shows the final action by the legislature. The legislature approved 36.75 additional FTE as compared with the 99.50 FTE originally requested by the DOR. *We are still in the process of identifying the specifics of the actions completed by the Senate and incorporated into the appropriations.*

Description	Governor's Budget		Special Session
	FTE	Amount	
Compliance - legal	7.00	\$ 1,888,208	\$ 800,000
Fulfill statutory responsibilities	8.00	\$ 2,470,711	\$ 1,023,528
Ongoing system costs	2.00	\$ 7,577,036	\$ 7,348,812
Processing returns and refunds	-	\$ 554,481	\$ 354,481
Free electronic filing	6.00	\$ 6,821,404	\$ 691,115
Tax Administration			\$ 4,000,000
Citizens services	1.00	\$ 347,252	\$ 242,760
Tax gap analysis	6.00	\$ 774,049	\$ 393,355
Compliance - audit and collections	33.00	\$ 4,464,260	\$ 5,178,506
Maintain parcel count caseload	32.00	\$ 2,612,956	\$ 2,607,874
PAD field office rent	-	\$ 660,816	\$ 660,816
Reappraisal - GIS staff	4.50	\$ 804,094	\$ 629,060
SB439, HB680 costs			\$ 935,181
General unspecified reductions			\$ (200,000)
	99.50	\$ 28,975,267	\$ 24,665,488

### **Jobs & Energy Development Incentives Bill**

Movement of the new energy tax incentives through the 2007 Legislature was like an unpredictable rollercoaster ride.

It started with the Governor's "clean and green" proposal announced in January and introduced in March and ended with the House agreeing to Senate amendments to HB 3 in their last action before adjourning the May Special Session. During that time, energy incentives were considered for inclusion in 6 different bills.

Most would agree, the original proposal was improved on the way to becoming law. The Governor's Office of Economic Development worked with business and economic development interests to fine tune the original draft which was very late in coming and probably was the principal reason the bill was tabled in the Senate Taxation Committee and not considered by the full Senate in the regular session.

After the energy incentives bill failed to pass in the Regular Session, the Governor included it in the Special Session call. There were 2 bills introduced that provided energy tax incentives--SB 1 by Senator Jeff Essmann and HB 3 by Representative Llew Jones (Governor's request). They both removed tax disincentives to

developing energy facilities in Montana by providing permanent lower property taxable value rates and in some cases abatements for new technology facilities and equipment. The facilities and equipment included:

- Coal gasification only with carbon sequestration;
- Coal-to-liquid only with carbon sequestration;
- Integrated gasification combined cycle power;
- Natural gas combined cycle power;
- Cellulosic ethanol, biodiesel, and biomass plants;
- Renewable energy manufacturing;
- CO2 capture equipment added to existing coal plants;
- Research & development equipment;
- Transmission lines providing access to markets for the new facilities; and
- Pipelines carrying carbon for sequestration and clean liquids from the new facilities.

The bills reflected the work done in the regular session, but differed on several incentives.

SB 1, as introduced, included:

- Reduction in coal severance tax on coal provided to new technology facilities;
- A new class and rate for direct-current converters serving 2 power grids;
- Limit on incentives for ethanol facilities to those using nonfoodstuff materials;
- Abatement for qualified pipelines;
- A 20 – 24 year abatement period; and
- Restrictions on central assessment of existing assets.

HB 3, as introduced included:

- An exemption for agricultural land under a new transmission line;
- Ethanol from any source eligible for incentives; and
- A 10 – 14 year abatement period.

An amended HB 3 became the vehicle for the incentives by passing the House and Senate with bipartisan support. It included compromises on the differences between the 2 bills. They were:

- New tax class for converters, but with less rate reduction;
- Limit on incentives for ethanol facilities to those using non-foodstuff materials;
- Abatement for qualified pipelines;
- A 15 – 19 year abatement period; and
- An exemption for agricultural land under a new transmission line.

The new incentives give Montana an opportunity to compete with other states for energy development. The Legislature and Governor's actions send a positive message.