

MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

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

Friday, October 3 – [Legislative Consumer Committee](#)

Wednesday, October 8 – [LFC State Fund Workers Compensation Work Group](#)

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

Tuesday, October 14 – [Children, Families, Health & Human Services](#)

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 – [87th Meeting of the Montana Taxpayers Assoc.](#)

Monday, December 15 - [Rules Committee meetings and Presiding Officer Training](#)

Monday, January 5 -2009 Legislative Session

[Montana Legislature Live Audio Broadcasts](#)

Final Interim Committees

Most of the Interim Committees met for the last time in September to finalize reports and submit any committee or agency legislative bill draft requests. Two of the committees who will meet again are the Revenue and Transportation Interim Committee (RATIC) (November/adopt revenue estimates and December – address reappraisal) and the Legislative Finance Committee (November – final legislative issues under the purview of the committee).

Revenue and Transportation Interim Committee

The committee had three study groups assigned to them this interim: HB488 – Study of property taxes; SJR31 – Study of taxation and schools and HJR61 – Study the linkage of state and federal income taxes. Since RATIC has the statutory responsibility of adopting the revenue estimates for the 2009 Legislative Session, they also received periodic updates on the status of the general fund. Other issues were brought forward by the department.

[HB488 – Study on Property Reappraisal](#)

This bill requested RATIC to conduct a study on the revaluation of class three agricultural land, class four residential and commercial property and class ten forest

lands. A subcommittee was appointed to address the requirements of the study:

- (1) evaluate, using the best data available for the revaluation of property that goes into effect January 1, 2009:
 - (a) changes in the productivity value of class three agricultural land and nonqualifying agricultural land by county, changes in market value of class four residential and commercial property by county; and
 - (b) changes in the productivity value of class ten forest lands by county
- (2) consider strategies to mitigate the effects of changes in revaluation, including strategies to maintain:
 - (a) equity among property taxpayers; and
 - (b) the financial integrity of local governments and school districts
- (3) review the department of revenue's methods for revaluing class three, class four, and class ten property and consider procedures that would improve the periodic revaluation process;
- (4) review other matters that the committee considers relevant in the conduct of the study; and
- (5) make recommendations to the 61st legislature.

Data issues

From the beginning, there were concerns about the date preliminary appraisal information would be available. The second fiscal note for HB488 included a technical note stating that although the reappraisal would not be complete until January 1, 2009 the department would be able to provide an initial report by September 15 (the due date for the study report) with a finalized version at a later date.

At the first meeting in June 2007, the department said the “initial basic values” would be available in October 2008. The committee asked when sufficient information would be available to determine if trend increases would cause problems, the department stated they would know more after the income and market modeling process began in July, 2008. During the discussion the director indicated they could provide sales assessment study information in late spring or early summer of the following year.

Montana Taxpayer

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The discussion on data availability continued throughout the interim. At the September 9th meeting of the subcommittee, members again expressed their frustration of not having preliminary numbers they could review. While the committee members recognized the complexity of the reappraisal task before DOR, they were concerned that the timing of the data release makes it very difficult to come up with anything concrete during the interim.

The director stated the committee would have information by their November meeting. He pointed out that during the last cycle the department did not provide initial numbers on December 20.

Options on Reappraisal Cycles

The Department presented pros and cons on alternatives to the current reappraisal cycle. The alternatives were requested by the subcommittee at an earlier meeting to allow more time to develop legislative strategies on mitigation factors. The alternatives were:

1. Extend reappraisal cycles from 3 to 5 years;
2. Extend the current reappraisal cycle by two years due to uncertain housing prices; and
3. Postpone implementation of new values by one year.

The department's summary of the pros and cons are listed on our website under [07-08 Interim Committees](#).

Comprehensive Overview by the HB488 Subcommittee
Despite the data limitations, a thorough examination of the reappraisal process was conducted by the

subcommittee over the interim. Legislative staff and the department provided comprehensive overviews of earlier studies on the effects of reappraisals and mitigation strategies. Legislators serving on the committee who had not been through a previous reappraisal commented on more than one occasion that the magnitude of the process was daunting. Implementing a new computer system and changing the date of establishing the market values from January 1st to July 1st added to the magnitude of the project.

We testified on two occasions before the subcommittee. The basis of our testimony was the legislature should look at other options rather than a blanket approach to mitigating the effects of cyclical reappraisals. Most mitigation factors used in the past reduced the increase in market values by lowering tax rates, implementing homestead and comstead exemptions, and phasing in values. Other mitigation factors included circuit breakers based on income and age.

We pointed out recent studies have concluded circuit breakers are the preferred methods rather than statewide approaches. Dealing directly with those most affected by increased property taxes resulting from a reappraisal are typically elderly homeowners and lower income property owners. A combination of both factors would facilitate the concerns most often heard during reappraisal cycles.

Statewide solutions to mitigate the effects of reappraisal do little but to add to the complexity and different treatment of taxpayers in Montana. There are currently *fourteen* different classes of property (there are actually sixteen statutory classes, but two have been repealed). Some of the classes of property are re-assessed annually, others like real property are on a cyclical reappraisal.

Tax rates between the classes vary from 3.01 percent of market value to 12 percent of market value. Most of the property taxed at higher rates are still regulated today or were previously regulated. Like other businesses, property taxes are passed through to the consumers in higher prices. In Montana's classification scheme this translates into higher prices for our gas, electric and telecommunication services. In the past these higher tax rates provided an efficient and transparent tax collection for state and local revenues.

Montana's current property tax system does not reflect today's economy, changes in technology nor competition in a global environment. We look forward to working with the subcommittee during the short time left in the interim and through the legislative session.

[SJR31 – Study of Taxation and School Funding](#) (Source: [SJR31 draft report](#), by Lee Heiman)

The study bill requested an interim legislative committee “to examine the future viability of the use of property taxes to fund education, examine equalization through a

statewide equalization district that could levy against specific classes of property, and inquire into the use of a statewide sales tax and use tax to provide education funding that would include property tax relief in a permanent manner.”

The [draft of the final report](#) on SJR31 was presented to the full committee at the September meeting. See the [Montana Taxpayer](#) July issue for additional information on this subcommittee.

The subcommittee heard additional presentations on the changing demographic trends in the state. Certain conceptions, such as the elderly as a class living in poverty and requiring an inordinate amount of support, seem to be contradicted by trends showing that a considerable number of the elderly are better off than young working families and contribute, both financially and as volunteers, a great deal to their communities. The committee concluded that trends involving urban and rural populations, east and west, and in-and-out migration based upon age required more examination.

The subcommittee also looked at new revenue sources from a sales tax. The department provided revenue estimates that could be expected from a sales tax utilizing various taxable bases. Montana could expect revenues ranging from \$636 million with a sales tax that exempts unprepared food; medicines and health care services; motor vehicle fuel; specially exempted other goods and services to \$426 million by exempting most business to business transactions.

Shortcomings of a sales tax were also discussed; such as volatility, difficulty to collect sales made to state residents from out of the state by Internet or mail order, the change in the economy from a sale-of-goods economy to a service economy, and compliance problems.

The committee also considered utilizing a statewide uniform school district levy and whether the levy could apply only to certain types of property (such as industrial and centrally assessed). A legal opinion by the Legislative Division concluded this was most likely unconstitutional.

Other changes to the current funding system included changes to the level of guaranteed tax base (GTB), changes in distribution of oil and gas non-levy revenues, and HB124 entitlement payments.

[HJR61 - Study the linkage of state and federal income taxes](#)

The July issue of the [Montana Taxpayer](#) also summarizes information provided to the committee on this study bill and our testimony to date. Two draft pieces of legislation had been presented to the committee to address a legal opinion by the legislative division stating Montana’s current practice of “rolling conformity” to federal law was unconstitutional. Mike

Green’s (Crowley Law Firm in Helena) testimony is summarized in that issue. The committee asked us to work with other stakeholders on a potential solution.

After discussion of the pros and cons of the options we presented to the committee, our members and the Montana Society of CPAs, decided to take the following position:

First option: Take no action/make no change to our current law. We do not believe the assertion that our current law is unconstitutional. We are required to assume our law is constitutional unless the courts determine otherwise. Since this statute has never been challenged, it is assumed to be constitutional. We disagree with the legal position take by the legislative attorney.

Second option: constitutional amendment. Although we would have supported a change in the Constitution, the committee did not appear to prefer this option.

Third option: if the committee decided to proceed with legislation, our preference would be to not decouple with the federal tax code during the interim period.

- Montana’s tax system should be consistent and predictable to allow for the opportunity of long-range planning for taxpayers;
- Why fix what isn’t broken – there has never been a challenge to our law;
- Goes against simplicity;
- Present system of rolling conformity is simple and better for the taxpayer;
- It would be more costly because more taxpayers may need to use tax preparers;
- We have the authority to decouple already. Two examples: tips and unemployment compensation;
- Tax software vendors would have problems keeping up with Montana’s changes.

The committee tabled the proposed legislation at the September meeting.

[General Fund Status](#)

Terry Johnson, Principal Fiscal Analyst, presented a report on the preliminary estimates for the ending fund balance for the 2009 biennium. He began with a comparison of the estimates for FY08 (fiscal year ending June 30, 2008) adopted by the 2007 Legislature and the actual year end balance. Revenues were \$183 million higher than anticipated. Most of the increase was from income taxes (\$100 million), higher commodity prices for oil and gas (\$48.8 million), and TCA interest earnings (\$9.2 million). Mr. Johnson stated “that it is not totally clear what is causing the continued strength in income tax revenue.” Nearly two-thirds of total income reported on state tax returns is from wage and salary income. The growth rate was assumed to be 4.9 percent, but total collections from withholding increased by 9.4 percent. Estimated payments and current year payments were 7.3 higher than FY07. Some examples of these

would be interest earnings, dividends, capital gains/losses, royalties and net business income.

Mr. Johnson concluded his presentation with a projection of the ending fund balance for the 2009 Biennium (June 30, 2009). The estimate includes the revenue estimates adopted by the 2007 Legislature, legislative impacts from the regular and special sessions, statutory appropriations, budgeted transfers and reversions. He concluded that the fund balance could be as high as \$334 million or \$250 million higher than anticipated by the Legislature.

Updated information will be presented to the [Legislative Finance Committee](#) on October 9th in the “Big Picture Report.” We will include this information in our next newsletter.

Administrative Rule – Market Value Date Change

The department held an administrative rules hearing on August 21. They proposed to change the base year date for the 2009 Reappraisal from January 1, 2008, to July 1, 2008. The department stated their preliminary analysis shows that during that six month period, prices for houses in Western Montana declined while prices in Eastern Montana increased. *Historically, the department has used sales information that has occurred from the beginning of the reappraisal cycle until the base year date. Without this change, that would mean sales from January 1, 2003, through December 31, 2007. With the ongoing changes in the national housing market due to the subprime mortgage situation, the department is undertaking several extraordinary measures to help ensure that the 2009 reappraisal values reflect market value. One of those measures under consideration has been extending the base year date from January 1, 2008, to July 1, 2008.*

The amendments to the rules will reflect the department adopting that proposal and approach. The additional sales that will be collected during that time period and that will become a part of the department's market modeling/sales comparison valuation approach will result in the department more accurately determining the market value of residential, commercial, and agricultural properties for the 2009 reappraisal. The proposal to change the base year date, as identified in the proposed rules, has been discussed with the Revenue and Transportation Interim Committee. (see [ARM Notice 42-2-796](#)).

The department proposed an additional change to the rules at the hearing that would have allowed the department to use any date for the base year up to the end of the year. Although we did not testify at the hearing, we commented that the suggested change was substantial and would create additional confusion for property owners. The department agreed the change was premature and did not adopt the language.

Check our website for the updates on [Education and Local Government](#) including recent information on the School Funding Litigation.