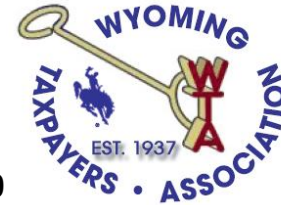


WYOMING TAXPAYERS ASSOCIATION

ACTION ALERT



SUMMARY OF JOINT REVENUE COMMITTEE – NOVEMBER 2009

Of the 13 bills that were presented to the Joint Revenue Committee this week, only four gained the honor of heading to the budget session as a Committee sponsored bill. In order for a bill to be sponsored by the Committee, the bill would need to get an affirmative vote by the majority of both the House and Senate members on the Committee. Some of the bills that died may have had a favorable outcome in overall affirmative votes, however didn't receive the majority. Many of those bills will more than likely be brought back as individually sponsored bills.

The meeting began with a quick update from the recent Consensus Revenue Estimating Group (CREG) forecast. *The summary below is taken from WTA's detailed summary of the CREG presentation to the Joint Appropriations Committee earlier in the month, as the information was not any different.*

REVENUE UPDATE:

The May forecast reported \$91.1M in funds available for transfer to the Legislative Stabilization Reserve Account (LSRA, or the State's rainy day account). The October forecast, however, identified \$248.6M in additional funds (\$48.2M from increased revenue to the General Fund/Budget Reserve Account (BF/BRA), \$198.1M in reversions from the Governor's budget reductions, and \$2.3M in additional reversions identified by the Auditor's Office), for a total of funds available for transfer to the LSRA of \$339.7M.

For the FY2011-12 biennium however, the GF/BRA will be down \$382.8M (projected revenue only, not including reversions or carryovers from 09/10). If these estimates are compared to one year ago, revenues are down \$1.22B from last October's CREG for FY 2011/12, and \$663M down for FY 2009/10. In total, revenues are \$1.9B less for the two biennia together.

The good news is that there is enough money to fund the standard budget with these projections, and still build Hathaway and other trust funds if legislators decide to do so. The LSO approximated \$2.7B for a standard budget to formulate these estimates (in the same manner, a \$2.903B standard budget was estimated for the 2011/12 biennium).

The School Foundation Program's (SFP) bottom line through the 2011/12 biennium is that the account will be \$37.3M in the red at the end of FY2012 (this considers current law with regard to the sweeps from capital construction and the common school land fund, and does not factor external cost adjustments or capital construction). The Co-Chairs requested a list of scenarios as to different outcomes for this account over the next few years. The scenario only gets worse, for the 2013/14 biennium, the SFP could be as much as \$63.5M in the hole.

IMPACT TO THE GENERAL FUND

General fund revenues were reduced by \$25.5M from the May forecast. See the following chart from the CREG report:

REVENUE SOURCE	MAY FORECAST FY 2009/10 BIENNIUM	OCTOBER FORECAST FY 2009/10 BIENNIUM	DIFFERENCE
SALES AND USE TAX	\$995.8M	\$931.9M	-\$63.9M
SEVERANCE TAX	\$390.9M	\$398.5M	\$7.6M
INVESTMENT INCOME	372.4M	\$409.4M	\$37.0M
ALL OTHER	253.4M	\$247.2M	-\$6.2M
TOTAL GENERAL FUND	\$2,012.5M	\$1,987.0M	-\$25.5M

FISCAL PROFILE

The most recent fiscal profile can be found on the LSO's website at <http://legisweb.state.wy.us/budget/fiscal/profile.pdf>.

The fiscal profile illustrates the \$248.6M in additional funds available in excess over the required reserve to the LSRA. The total balance for the LSRA at the end of the 2009/10 biennium is projected to be \$692,723,730, and the SFP remains unchained at \$100,000,000 because of automatic reversions. The School Capital Construction Account (SCCA), overall, is down \$8.9M from the May forecast due to a combination of transfers from the SFP and to the Common School Land Account, and budget reductions.

The Permanent Wyoming Mineral Trust Fund (PMWTF) Spending Policy Reserve Account is down from the May status because of automatic appropriations to the corpus of the account. Of note, the 2009 budget bill requires 50% of 1% PMWTF severance taxes to be diverted until the end of the biennium. Legislators will need to make a decision this next session as to whether to capture that additional money. Finally, the Common School Land Fund is unchanged, and the Water accounts are changed only slightly from actual statutory actions.

REVENUE COMMITTEE SPONSORED BILLS

Here is a quick summary of the discussion surrounding the bills that will move forward:

TAX INCREMENT FINANCING – REPRESENTATIVE PETE ANDERSON

Defines tax increment financing options for municipal public improvements in accordance with local economic development plans to encourage investment in job producing private development and expansion of the public tax base. Similar to HB290 from the 2009 Legislative Session. By definition in the bill “public improvements” include: street and road construction and maintenance, water and sewer system construction and improvements, sidewalks and streetlights, parking facilities, facilities of a regional transportation authority, park facilities and recreational areas, surface water drainage systems, business parks and publically owned buildings.

The language in the bill was presented by representatives of Wyoming Association of Municipalities as something similar to the statues relating to the urban renewal act and the downtown development authority act. The Department of Revenue (DOR) is familiar with these financing mechanisms because of the already existing downtown development authorities in the state. Currently at least 48 other states allow some form of tax increment financing. The Wyoming County Commissioners Association offered some concern with the fact that some of their sales use tax dollars would be held up for municipal economic development financing. The Committee discussed the idea of moving the bill forward and vowed to work on it to make it more palatable for all parties involved and was favorable to the legislation by a vote of 8-4. For additional information on the matter, here is a link to an article published by the Lincoln Institute of Land Policy [http://www.lincolninst.edu/pubs/1078 Tax-Increment-Financing](http://www.lincolninst.edu/pubs/1078_Tax-Increment-Financing).

STATEMENTS OF CONSIDERATION – REPRESENTATIVE MADDEN

Provides that a statement of consideration for residential property is a public document. Mirrors HB66 from the 2009 Legislative Session. This draft cleans up some of the language as a request by the State's County Assessors. A companion bill, 10LSO-0173.W1, Property Tax-Review of Assessment was also presented as a companion bill to clean up some of the language the assessors were having with the HB 173 that passed last session. Both bills passed overwhelmingly. WTA testified in support of these bills.

TAXATION OF SPECIFIED DIGITAL PRODUCTS

The bill imposes a sales and use tax on digital products, including the sales price of every retail sale or rental of specified digital products within the state – only if the purchaser has permanent use, possession and control of the specified digital product or less than permanent use, possession and control if the period of use is greater than the actual play time of the product. Industry testified to having an issue with the ‘less than permanent use’ language that exists in the bill and that it would violate Wyoming's standing with the Streamlined Sales and Use Tax Agreement. The Committee discussed the notion that the bill will need some amendments to address the compliance issues and the concerns with the “less than permanent use” language, and voted to sponsor the bill as a committee.

OF THE BILLS THAT DIED

TAX EXEMPTION-VENTED GAS

Deletes language that says vented or flared natural gas under authority of the Wyoming Oil and Gas Conservation Commission has no value and therefore is exempt from taxation. Therefore, any vented or flared natural gas will be subject to severance and ad valorem tax. **The bill was opposed by industry and it was noted that venting gas is illegal and is only allowed for certain emergency situations as approved by the Oil and Gas Conservation Commission. Vote of 2-10.**

STATEWIDE MILL LEVY

Per Wyoming's Constitution, the state can levy up to 4 mills that go to the General Fund. The statute that is referenced in the bill, W.S. 39-11-102.(c)(ix) simply directs the State Board of Equalization (that currently has the authority to authorize the mills) to certify to the county boards the amount of the statewide levy. Using an assessed valuation of \$29,214,897,935 for 2009 (based on 2008 production), the application of 4 mills yields \$11.7 M. **The bill was unanimously opposed by the Committee.**

FUEL TAX INCREASE – REPRESENTATIVE MADDEN

Increases the gasoline and diesel fuel tax rate \$.05 immediately, and another \$0.05 on July 1, 2011. The base tax (which is listed in 39-17-104(a)(i) as a license tax) of \$0.13 is increased to \$0.18 for both gasoline and diesel except for those fuels that are exempted. Of note, paragraph 39-14-104(a) lists the *total* tax on gasoline, including the base tax of \$0.13 and the \$0.01 additional tax that is directed at environmental clean-up costs for leaking underground storage tanks. Therefore, look to this paragraph for the total tax on gas and diesel. **WTA testified in support of this bill, as we have in the past, but the bill went down by a vote of 3-9.**

PROPERTY TAX EXEMPTIONS-REPEAL – REPRESENTATIVE MADDEN

The bill repeals the exemption for underground mining equipment, pollution control equipment, and fire protection equipment. **The bill was largely opposed by industry and was rejected by a vote of 3-9.**

PROPERTY TAX EXEMPTIONS-REPORTING – SENATOR CASE

Requires property owners of:

- religious worship, church schools and church parsonages,
- charitable trusts,
- schools, orphan asylums or hospitals (to the extent they are not used for private profit),
- benevolent and charitable societies or associations, including fraternal organizations officially recognized by the University of Wyoming, community college, and senior citizens centers

To file a report to the Department of Revenue no later than December 1 of each year, to help aid the Department in determining whether the property is eligible for exemption. **The Assessors' testified to the notion that this bill may not achieve anything more than what is currently reported. The bill received a 6-6 vote.**

STATE BUDGET TASK FORCE – REPRESENTATIVE WALLIS

Creates a zero-based budget task force to review and evaluate the implications of the state using a zero-based budget process and recommend any legislative changes required for the state to use a zero-based budget process. **The bill was changed to create just a budget task force, and not necessarily a zero-based budget task force. The bill will be re-drafted by LSO and voted on by mail ballot.**

ELECTRICITY PRODUCTION – TAXATION – REPRESENTATIVE MILLER

Imposes an excise tax upon the production and sale of electricity at a rate of \$0.0010/kWh. Exemptions include electricity that is produced for personal consumption that does not exceed 500 kWh in any 24 hour period. There is a credit extended to any person producing and selling electricity in which any mineral which has already been imposed a severance tax. Revenues from the tax will go to the General Fund. **See note at the end of the Schiffer bill summary.**

ELECTRICAL GENERATION TAX – SENATOR SCHIFFER

Imposes an excise tax upon the production and sale of electricity and shall be imposed on each kilowatt as it leaves the generation facility and prior to entering the interstate transmission system. The rate is \$0.0025/kWh.

Exemptions for the tax would include hydro facilities owned or operated by any government entity (which is standard for such facilities) and any electricity that is produced for personal production (500 kWh in any 24 hour period).

Remedies/credits would go to generators using any of Wyoming's natural resources that are already taxed via severance taxes, as it is not the intent to provide for double taxation.

The tax revenue would be distributed as follows:

- 10% to the Wyoming Wildlife and Natural Resources Trust Account for conservation finance and to mitigate endangered species concerns such as sage grouse;
- 10% to counties for impacts, as they are always behind the eight ball because of the lag time associated with distribution of property taxes – as a severance tax, they would get it up front; the idea would be to make it proportionate to number of wind turbines in that county as compared to the rest of the state;
- the balance of the tax would go 40% to General Fund and
- 40% to Budget Reserve Account.

Representatives of the utility industry testified to the ramifications of this (and the Miller bill) to increase rates born by utility consumers, among other issues. Both this bill and the Miller bill received a vote of 6-6, and therefore did not gain endorsement by the Committee.

SALES AND USE TAX REVISIONS – REPRESENTATIVE WALLIS

The intent of the bill is to:

- 1) Remove all exemptions that are not constitutionally or federally protected
- 2) Impose a tax on services that are not currently taxed
- 3) Tie it all to an automatic rate reduction where the rate is set by a formula that takes consideration the rate of inflation over the preceding 3 years but will produce the exact amount of actual dollars of revenue to run government with as the previous year.
- 4) If the projected revenue for the coming year is lower than the previous year then, for the state tax requires DOR to recommend a rate to the Legislature and would require a bill to actually raise the rate; for other taxing authorities would require a public hearing before raising the rate.

However some major problems with the language were discovered and the bill will be re-worked with the sponsor in preparation for the session.

OTHER ISSUES

In public testimony, the matter of the manufacturing exemption expiring in 2010 was brought before the Committee. There will be an effort to extend the exemption with an individual bill.

Mr. Ed Schmidt, Director of the Department of Revenue presented the Committee with a summary of the applications that have been granted out of the Property Tax Refund Program. Moving from tax year 2006 to 2009, the percent of applications approved has increased from 86% to 91%. In terms of dollars, the total dollars refunded in 2006 was \$144,925 and in 2009, \$896,460. Mr. Schmidt hailed the program as of the State's best tools to grant property tax relief.