



## UPDATED NEWS

**Buck McVeigh, WTA Executive Director, provides an update on meetings held by the Task Force on Mineral Taxes, Task Force on Special Districts, and the Joint Revenue Interim Committee.**

### UPDATE ON THE TASK FORCE ON MINERAL TAXES

During its September 1 meeting in Cheyenne, the [Task Force on Mineral Taxes](#) recommended that the following three bills be considered at its November meeting.

- Bill to change the reporting to operator reporting for oil and gas taxation
- Bill to change the threshold notice of valuation changes (NOVC) reporting
- Bill to extend the life of task force beyond this year to work on developing a DCF methodology for Wyoming oil and gas industry

#### **Discussion on ways to simplify the tax code**

Department of Revenue Director Dan Noble and the Mineral Tax Division Administrator Craig Grenvik kicked off the meeting with the presentation on efforts to simplify the Wyoming tax code. The problem at hand, particularly for the oil and gas industry, is the notice of valuation changes (NOVCs) and the horrible burden these are for all parties. With the current ad valorem method, taxpayers can correct property values for a window of three years from initial reporting deadline. Noble pointed out that a lot can happen during that timeframe.

Noble presented a potential new method to value minerals in Wyoming, known as the discounted cash flow method which is currently used by the State of Wyoming for industrial property valuation. Noble said the primary problem with the current methodology is determining what the mineral is worth (fair market value). He noted that Wyoming's method of determining "fair market value" is really an attempt to achieve "exact market value." He said this requires both retrospective and retroactive analysis. Noble said Wyoming's tax system is a self-reporting system, and the Department of Revenue doesn't know the details of valuation for an individual property. He said using the discounted cash flow process, instead of the current ad valorem tax law, would significantly reduce or eliminate the problem of NOVCs.

## UPDATE ON THE TASK FORCE ON SPECIAL DISTRICTS

The [Task Force on Special Districts](#) submitted its final report to the Joint Corporations, Elections and Political Subdivisions Interim Committee at a September 15 meeting in Saratoga. Along with its report, the Task Force recommended four bill drafts for the committee's consideration.

- [17LSO-0110 - Special District Budget Requirements](#), creates new requirements to help standardize the special district budgeting process.
- [17LSO- 0130 - Special Districts - Dissolution by Commissioners](#), allows county commissioners to initiate the dissolution process of the Special District Elections Act for districts that fail to comply with statutory requirements specified in the Act. The process would require voter approval prior to the district being resolved.
- [17LSO-0134 - Special District Elections](#), amends current election laws for special districts, creating more uniformity between different types of district elections and allows fire protection districts to be initially formed with five-member boards if the district meets certain size requirements.
- [17LSO- 0159 - Special District Applicability](#) - BOCES, which removes Boards of Cooperative Educational Services from the list of special districts in W. S. 16-12-103 (a). Boards of Cooperative Educational Services would no longer be required to comply with certain special district reporting requirements.

Lastly, the Task Force is also working to develop a training manual for special districts. However, due to time constraints, the training manual will not be completed by the conclusion of the Task Force's interim study, which ends December 31, 2016.

### About the Task Force

In the 2016 session, the Legislature charged the Task Force on Special Districts with identifying, studying and making recommendations concerning the formation, functionality, efficiency, accountability and continued operation of special districts by December 31. The committee has pursued an aggressive schedule, holding subsequent meetings on July 8, August 5, September 9 and October 14.

The Task Force is comprised of two Wyoming State Senators and two Representatives appointed by legislative leadership and eight gubernatorial appointees representing various sectors. The legislative members are Senators Cale Case and Chris Rothfuss, and Representatives Dan Kirkbride and Jerry Paxton. The other members appointed by Governor Mead are Jeffrey O'Holleran, Secretary of State's Office; County Commissioner Paul Vogelheim, Teton County; County Clerk Julie Freese, Fremont County; Shaun Sims, Wyoming Association of Conservation Districts; Josh Shorb, Park County Weed and Pest; Mark Pepper, Wyoming Association of Rural Water Systems; Bobby Rolston, Anadarko Petroleum; and Buck McVeigh, Wyoming Taxpayers Association. The Task Force elected Senator Cale Case as chairman and Buck McVeigh as vice chairman.

### **Presentations and Information Provided**

The Legislative Service Office provided background materials on previous legislative efforts by special district subcommittees and legislative committees. In addition, the Task Force received extensive information from the Department of Audit on reporting and budget oversight, and standardization of budgeting requirements. It also received presentations from the district court on oversight of special districts (irrigation districts), election issues from county clerks, and the development of a special district training manual from the Wyoming Association of Conservation Districts.

### **What Was Considered**

The Task Force identified and took action on the standardization of special district budget requirements; county commissioner oversight of special districts; increasing the uniformity in special district election laws; development of a special district training manual; and a repository for special district information on the department of audit website. In addition, the Task Force considered, but rejected two other proposals due to division among the members. Those two proposals were moving oversight of irrigation districts from the district courts, and applying uniform bidding requirements to special districts.

## **UPDATE ON THE JOINT REVENUE INTERIM COMMITTEE**

Members of the Joint Revenue Interim Committee met in Buffalo on September 22-23 to discuss tobacco taxes, local general option sales tax, streamlined sales taxation, revenue opportunities for school facilities funding including generation tax on wind production, eliminating sales tax exemptions specifically created for economic incentives and most services.

### **Failed Proposal to Raise Tobacco Taxes**

The committee heard presentations on a proposal to raise tobacco taxes. Following discussion by the committee, Co-Chairman Madden motioned to raise the excise tax to \$0.90 per pack. Rep. Mark Kinner seconded the motion, but the proposal failed with only four voting in favor.

Dean Temte, from the Legislative Service Office (LSO), informed the committee that based on current consumption levels, an increase of \$0.02 per pack would generate approximately \$600,000. Temte pointed out that the cigarette tax does not fund health programs, rather programs are funded out of the Tobacco Settlement Account. While concerns have been raised by the Department of Health regarding the insufficiency of income in this fund versus program costs, the LSO's findings indicate that the income appears to be sufficient to cover the FY2017-18 expenditures. Temte said the account currently has a corpus of approximately \$84 million.

### **Local Government Revenue**

The committee discussed the bill draft [17LSO-0105 - Local optional sales and use tax](#). This bill provides clarification of the current statutes with regards to rate proposition, allowing for an entity to segregate a local tax option proposition. Director Noble clarified that the total local option cannot exceed 3 percent. Following discussion by the committee, Co-Chairman Madden motioned for approval, and Representative Jim Blackburn seconded the motion. The bill passed with unanimous approval and will be offered as a committee bill for the 2017 General Session.

### **Streamlined sales tax initiative and current national activities**

Revenue Director Director Dan Noble testified that that online sale have been eroding sales tax levels for years, and while the issues of fairness and even playing field are important, and the revenue implications are significant. Nobel advised the committee of the numerous attempts by U.S. Senator Mike Enzi on getting a bill, the Marketplace Fairness Tax, passed through Congress. He said Wyoming has been an active participant for years in the multi-state coalition. Noble pointed out that a South Dakota bill might be a good starting place for draft legislation, but that Section 8 of the bill may not belong. Following discussion by the Committee, Rep. Mark Kinner moved that the LSO draft a bill similar to the South Dakota uniform sales tax bill. Rep. Jim Blackburn seconded, and the motion passed.

### **Revenue opportunities for school facilities funding**

Rep. Mark Kinner informed the committee that he had nothing to report from the Joint Education Committee regarding increasing class size from the existing class size. School Facilities Director Del McOmie updated the committee on the \$1.2 billion of construction currently underway in the state and provided a general overview of the School Facilities Commission.

### **Generation tax from wind energy production**

Following a lengthy discussion, both draft bills, that purportedly would generate additional revenue above and beyond the current \$1.00 per MWh excise tax, failed by a vote of the committee.

- The first bill, [17LSO-0042 - Wind energy production tax](#), would increase the generation tax on wind production from \$1.00 per megawatt to a level to be determined by the Revenue Committee.
- The second bill, [17LSO-0043 - Supplemental tax on production of energy from wind](#), proposed to create an additional generation tax based on production tax

credits received by the industry.

Wyoming Business Council Executive Director Shawn Reese advised the committee of the significant negative ramifications both proposals posed for economic development in the state. Reese also reminded the Committee that Wyoming is currently the only state that taxes wind energy production. He said the state is already at an unfair disadvantage with the other Western states and a further tax would definitely make Wyoming wind energy non-competitive.

Dr. Rob Godby, Director of the University of Wyoming's Center for Energy and Public Policy, presented to the Committee next. Godby informed the members that Montana and New Mexico are Wyoming's main competitors for wind energy. He said Wyoming's low property taxes and no corporate tax provide the largest benefit to producers. Yet, he said there are no empirical data to model sensitivities, thus the reason he has not estimated a per MW tax burden. Godby said of the taxes most important to wind developers, sales tax was identified as most significant. Godby said the generation tax makes for an uneven playing field for Wyoming compared to the rest of the country. He cautioned that we really don't know how generation costs factor into the overall situation. He said the question of how can we deliver power competitively is one the industry is struggling to answer. Godby said, however, tax on uncertainty is always a concern.

Following Dr. Godby's presentation, Matt Sackett from the Legislative Service Office, provided a presentation on taxation of wind, coal, and natural gas. In his presentation, Sackett provided a history of wind energy taxes and the current MWH generation tax, estimated coal taxes per ton and per MWH, and estimated natural gas taxes per MCF and per MWH. Sackett's findings concluded that wind pays \$1 per MWH of electricity produced. The MWH cost is more difficult to determine for coal because estimated tax receipts are price dependent and based on BTU quality. He provided two examples that estimated the cost for coal between \$1.77 and \$2.69 per MWH. Natural gas, like coal, is also price dependent. Sackett provided two examples which showed the cost for natural gas between \$3.49 and \$4.89 per MWH.

The committee heard lengthy testimony from industry and the public. Presenters included Rocky Mountain Power, Power Company of Wyoming, TransAlta, Viridis Eola, S Power, Rocky Mountain Wind, and Exterra Wind Resources. A strong showing from businesses and residents of Carbon County, along with the Wyoming Association of Municipalities, Wyoming County Commissioners' Association, and other trade associations spoke in opposition to both bills.

### **Repeal of Tax Exemptions**

The committee passed the draft bill [17LSO-0044 - Tax exemption repeals](#), removing the exemption for outfitter lodging services, one-way paging services, commercial aircraft lease/sales, and coal gasification/coal liquefaction equipment.

The bill initially proposed to repeal the sales and use tax exemptions on a wide array of products and services including machinery, computer equipment, software, data processing service centers, outfitter lodging services, farm implements, aircraft repair,

one-way paging services, manufacturing equipment, railroad rolling stock, and coal gasification/coal liquefaction equipment.

Two economic models, housed at the Economic Analysis Division and the Wyoming Business Council, can help address the quantitative gaps in the reporting of exemptions. Noble said both models have been utilized; however, both are awaiting data updates. He said preliminary reports will be available at the November meeting. Senator Case maintained that the analyses need to show the effects of sales and use taxes both with and without exemptions. He added, otherwise, the model interpretations do not tell the story we need to hear - what the business would have done with and without the exemption. After lengthy testimony from businesses and industry, the committee amended the bill numerous times, leaving most of the exemptions in place. Those left in place were the exemptions on railroad rolling stock, farm implements, manufacturing equipment, data processing centers, and aircraft repair.

### **Broadening the state sales tax code to tax services currently exempted**

Draft bill [17LSO-0106 - Sales tax extension](#) failed to receive a motion and failed. The bill proposed broadening the state sales tax code to tax services currently exempted. Noble on the services industry and how other states treat this industry regarding excise taxes. He distributed a handout that showed the state could gain an additional \$236 million by removing the exemption on services not currently taxed. As it was with the previous bill on tax exemptions, businesses, and individuals affected by this proposal spoke against the bill. As pointed out, many of the exemptions on services have been in statute for many years, and to repeal them now would impose an additional tax burden on these businesses at a time when so many are struggling economically.

### **Next Meeting**

The [next meeting](#) of the Joint Revenue Committee is scheduled for November 17-18 at the Jonah Business Center in Cheyenne.

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## **2017 State Business Tax Climate Index**

The Tax Foundation's State Business Tax Climate Index enables business leaders, government policymakers, and taxpayers to gauge how their states' tax systems compare. While there are many ways to show how much is collected in taxes by state governments, the Index is designed to show how well states structure their tax systems, and provides a roadmap for improvement.

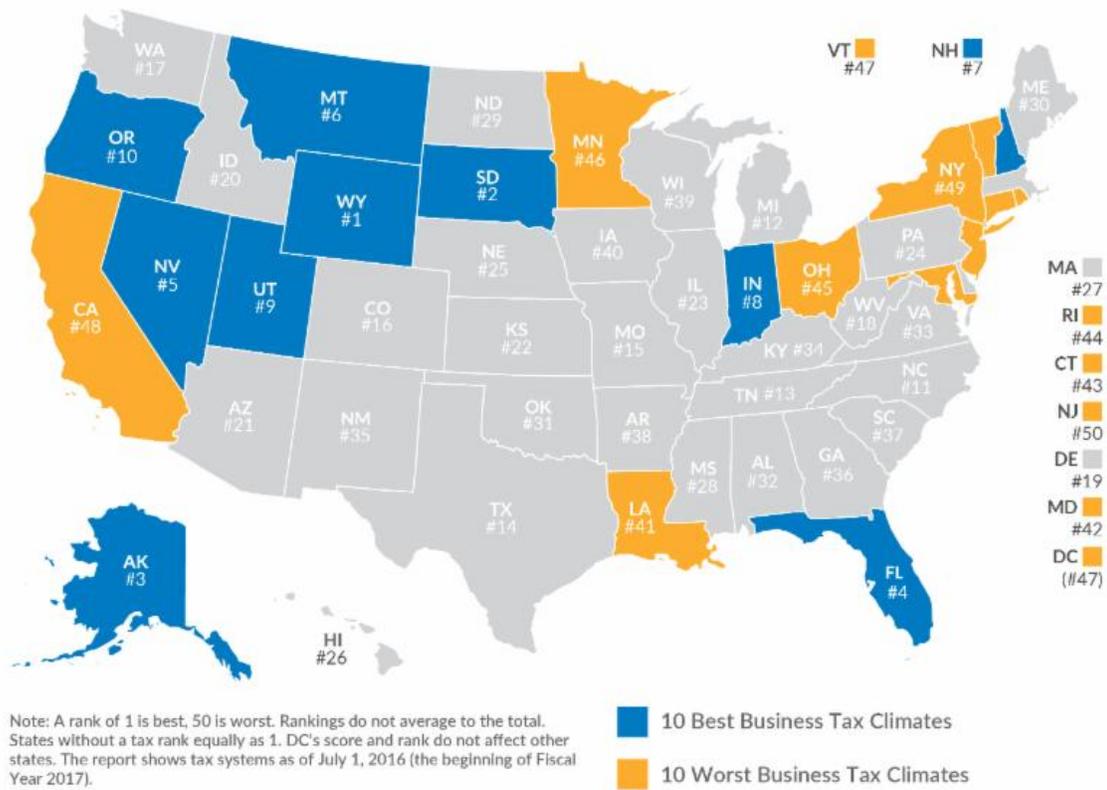
The 10 best states in this year's Index are: 1. Wyoming; 2. South Dakota; 3. Alaska; 4. Florida; 5. Nevada; 6. Montana; 7. New Hampshire; 8. Indiana; 9. Utah; and 10. Oregon.

The absence of a major tax is a common factor among many of the top ten states. Property taxes and unemployment insurance taxes are levied in every state, but there are several states that do without one or more of the major taxes: the corporate income tax, the individual income tax, or the sales tax. Wyoming, Nevada, and South Dakota

have no corporate or individual income tax (though Nevada imposes gross receipts taxes); Alaska has no individual income or state-level sales tax; Florida has no individual income tax; and New Hampshire, Montana, and Oregon have no sales tax. This does not mean, however, that a state cannot rank in the top ten while still levying all the major taxes. Indiana and Utah, for example, levy all of the major tax types, but do so with low rates on broad bases.

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## 2017 State Business Tax Climate Index



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## Fiscal Policy Report Card on America's Governors 2016

State governments have been in an expansionary phase in recent years. Even though U.S. economic growth since the last recession has been sluggish, general fund revenues of state governments have grown 33 percent since 2010. Some of the nation's governors have used the growing revenues to expand spending programs, while others have pursued tax cuts and tax reforms. [Read the report card.](#)

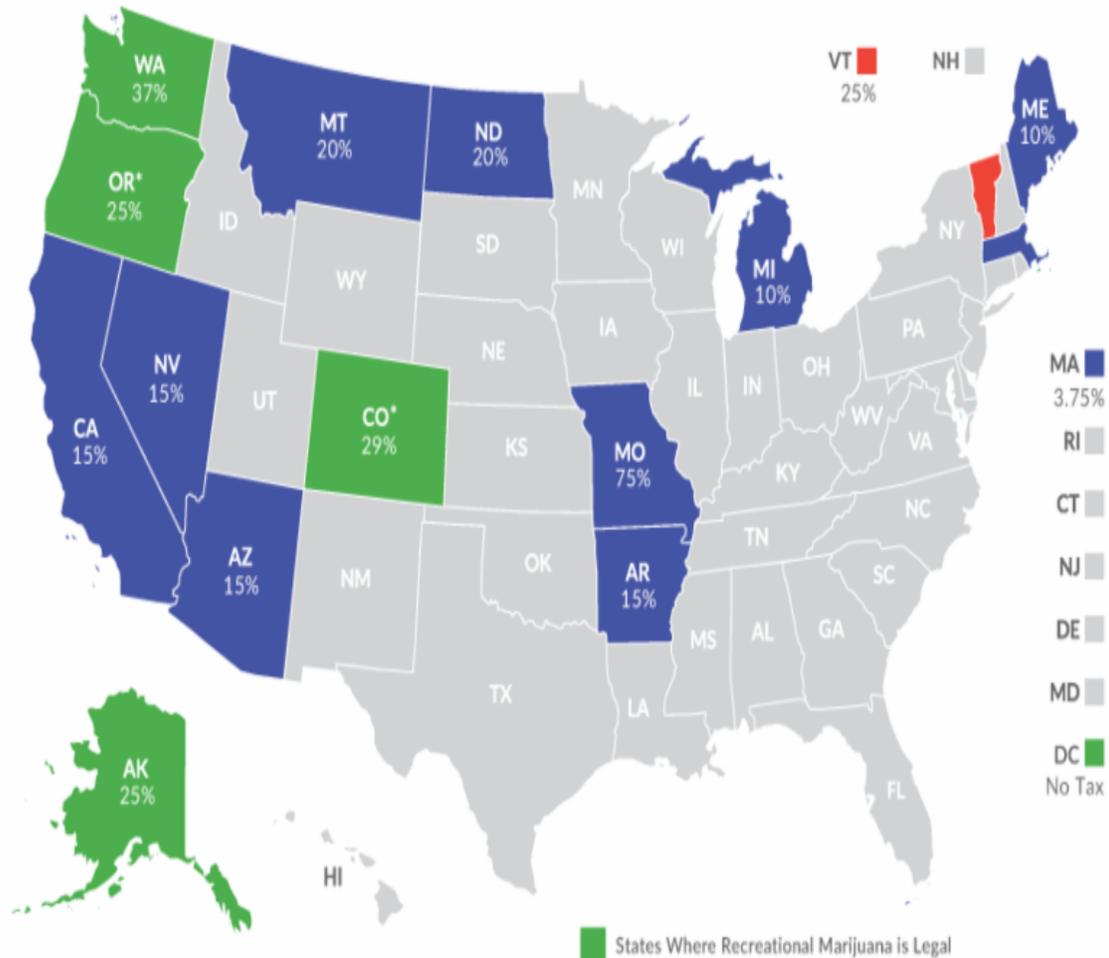
- Five governors were awarded an "A" on this report: Paul LePage of Maine, Pat McCrory of North Carolina, Rick Scott of Florida, Doug Ducey of Arizona, and Mike Pence of Indiana.
- Fourteen governors were awarded a "B." Among them was Wyoming Governor Matt Mead, who was rated seventh.
- Ten governors were awarded an "F": Robert Bentley of Alabama, Peter Shumlin of Vermont, Jerry Brown of California, David Ige of Hawaii, Dan Malloy of Connecticut, Dennis Daugaard of South Dakota, Brian Sandoval of Nevada, Kate Brown of Oregon, Jay Inslee of Washington, and Tom Wolf of Pennsylvania.

### **Marijuana Legalization and Taxes: Lessons for Other States from Colorado and Washington**

Marijuana tax collections in Colorado and Washington have exceeded initial estimates, and a nationwide legalization-and-tax regime could see states raise billions of dollars per year in marijuana tax revenue. While the revenue can be in the tens or even hundreds of millions of dollars, it takes a lead time to develop. Revenues started out slowly in Colorado and Washington, as consumers became familiar with the new system and after state and local authorities spent time and money setting up new frameworks and regulatory infrastructure. Significant attention must be given to health, agricultural, zoning, local enforcement, and criminal penalty issues. These important issues have generally been unaddressed in ballot initiatives and left for resolution in the implementation process. [Read more](#)

# How High Is the Tax on Recreational Marijuana in Your State?

State Excise Tax Rates on Recreational Marijuana, 2016



Notes: (\*) Oregon's state tax rate on recreational marijuana will drop to 17 percent in late 2016 and Colorado's rate will drop to 27 percent in July of 2017.

Source: Tax Foundation; compilation of state laws and proposals.

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