



Summary of Legislation Affecting the Department of Revenue

62nd Legislative Assembly
2011 Legislative Session



June 2011

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the Department of Revenue
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Table of Contents

Property Tax.....	1
Individual and Corporate Income Taxes	6
Natural Resource Taxes	13
Liquor and Tobacco Taxes.....	15
Miscellaneous Taxes.....	18
General Administration	24

Property Tax

HB 21 Short Title: **Revise adjusted tax rate under extended property tax assistance program**

Primary Sponsor: Dick Barrett

Bill Description: This bill simply corrects the 2014 extended property tax rate for taxpayers that make between \$50,000 and \$75,000 a year. Because the bill is a technical correction and HJR 2 assumed that the program would work as intended there is no fiscal impact.

Because the department is already required to calculate the EPTAP tax rate, this bill will have no effect on the department.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2010

Applicability Date(s): n.a.

HB 123 Short Title: **Revise county and school district budgeting timelines**

Primary Sponsor: Edith (Edie) McClafferty

Bill Description: HB 123 changes timelines related to school and local finance, including the deadlines for governing bodies to fix tax levies and the Clerk and Recorders to report mill levies to the DOR.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): n.a.

HB 132 Short Title: **Improve, clarify, and make property tax administration more effective**

Primary Sponsor: Brian Hoven

Bill Description: This bill would allow the department to calculate and report property taxes for the combined property record rather than specifying a value for both the land and improvements. This would require the department to modify the Orion property tax system and certain reporting tools, which would have a minimal cost in FY 2012.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: n.a.

Applicability Date(s): n.a.

HB 293 Short Title: **Provide tax exempt status for certain land owned by veterans' organizations**

Primary Sponsor: Pat Connell

Bill Description: Under current law, buildings owned by veteran's organizations are exempt from property taxation. The buildings must be used for educational, fraternal, benevolent or other charitable purpose to qualify for the exemption. This bill would extend the exemption to land owned by the same veteran's organizations. The land must have been owned since 1960.

The same tax exempt class code will be used to identify the newly exempt property. There will be little impact on PAD.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
-\$3,712	-\$3,712	-\$3,712	-\$3,712

Effective Date: Effective on passage and approval

Applicability Date(s): January 1, 2011

HB 460 Short Title: **Revise unit ownership act to exclude townhouses**

Primary Sponsor: Ken Peterson

Bill Description: This bill would distinguish townhomes from condominiums and require the Department of Revenue to publish rules for the valuation of townhouses.

This change in law would not require any additional work from DOR PAD.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): Applies to tax years beginning after December 31, 2011.

HB 495 Short Title: **Revise statutory appropriations and local government entitlement share payments**

Primary Sponsor: Rob Cook

Bill Description: HB 495 eliminates the growth factor for the entitlement share pool for FY2012 and FY2013 and reduces distributions to existing tax increment financing districts by 10%.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$4,560,212	\$8,422,893	\$8,642,987	\$8,816,505

Effective Date: July 1, 2011

Applicability Date(s): This act applies to fiscal years beginning after June 30, 2011

HB 618 Short Title: **Exempt certain tribally owned property from taxation**
Primary Sponsor: Carolyn Pease-Lopez

Bill Description: This bill would exempt certain tribal property from property taxation. Land used for essential government services, land that is restricted from future development and trust lands would all be exempt. The amendments to HB 618 specify the property that would be eligible for the exemption, which decreases the number of properties that would be eligible.

The existing tax exempt class code will be used to identify the newly exempt property. There will be little impact on PAD.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	-\$2,556	-\$2,638	-\$2,722

Effective Date: n.a.

Applicability Date(s): Tax years beginning after December 31, 2011.

SB 1

Short Title: **Amend assessment of rural special improvement districts**

Primary Sponsor: Bruce Tutvedt

Bill Description: This bill allows the recalculation of fees for rural special districts when there is a change in the number of benefited parcels. The county board is responsible for making the calculations and notifying the Department of Revenue for billing purposes. Changes in fees are a part of normal business so there should no fiscal impact to the Department.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: January 1, 2012

Applicability Date(s): Applies to bonds issued pursuant to Title 7, chapter 12, parts 21, 41 and 42, MCA, for which the resolution to create the district is adopted after December 31, 2011

SB 172

Short Title: **Classify energy storage equipment and compressed air energy storage for taxation**

Primary Sponsor: Bob Lake

Bill Description: SB 172 provides an opportunity for owners of energy storage facilities currently classified as class seven, class nine, or class thirteen to classify the energy storage facility as class 14 and receive a lower taxable rate of 3%; providing prevailing rate of wages is paid for heavy construction during the construction phase.

Because no property currently exists that fit the definitions provided in SB172 this bill has no current fiscal impact.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: n.a.

Applicability Date(s): Tax years beginning after December 31, 2011

SB 219

Short Title: **Revise laws relating to property tax protest**

Primary Sponsor: Gary Branae

Bill Description: SB 219 clarifies the expansion of the classification of protested property taxes that a taxing jurisdiction can access in the first year of protest, or a school district can waive its right to receive. This expansion includes industrial property that is annually assessed by the Department of Revenue.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: (1) Except as provided in subsection (2), this act is effective on passage and approval. (2) Sections 2 and 3 are effective October 1, 2011

Applicability Date(s): (1) Section 1 applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2010. (2) Sections 2 and 3 apply to tax years beginning after December 31, 2011

SB 265

Short Title: **Reduce property taxes on new construction for use of gray water systems**

Primary Sponsor: Bradley Hamlet

Bill Description: This bill would create a property tax abatement for class 4 residential property with a gray water system. This would require the Department of Revenue to process applications and create a class code in the statewide property tax data base to administer the reduced tax rate.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
-\$46,833	-\$450	-\$950	-\$1,350

Effective Date: July 1, 2011

Applicability Date(s): Applies to residential dwellings and multiple dwelling projects constructed after June 30, 2011

SB 295 Short Title: **Revise manner of appraising certain property for tax purposes**

Primary Sponsor: Bob Lake

Bill Description: This bill would allow property owners of cyclically appraised property to appeal the value annually, and specifies that the department follows the appropriate standard of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation.

This change in law would require PAD to provide taxpayers an appeal packet when they file an informal review and eliminates the 30 day deadline for filing an appeal after receiving an assessment notice.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
-\$70,000	\$0	\$0	\$0

Effective Date: July 1, 2012

Applicability Date(s): n.a.

SB 372 Short Title: **Lower business equipment tax -- phase more reduction on state economic growth**

Primary Sponsor: Bruce Tutvedt

Bill Description: SB 372 provides for the reduction of the class 8 property tax rate from 3.0% to 2.0% for the first \$2 million of market value of class 8 property owned by an individual or business. The \$2 million tax bracket threshold is raised to \$3 million and the tax rate is reduced to 1.5% the first tax year after corporation license and individual income tax collections exceed the prior year's collection by more than 4.0%, starting in FY 2013.

All class 8 property above these thresholds would continue to pay the current law tax rate of 3.0%. The bill provides for full reimbursement from the general fund - for the reduction in tax base caused by this bill - to local governments and TIF districts through entitlement share

payments; school districts through school block grant payments; and the university system.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$1,356,497)	(\$14,364,002)	(\$14,851,136)	(\$22,532,985)

Effective Date: July 1, 2011

Applicability Date(s): This act applies to tax years beginning after December 31, 2011

Termination Date: Section 3(3)(c), (6)(c), and (7)(c) and section 7 terminate June 30, 2013

SB 412 Short Title: **Revise laws to temporarily exempt tribal fee land in trust land process**

Primary Sponsor: Shannon Augare

Bill Description: SB 412 would provide a temporary property tax exemption for tribal fee property that has a pending application to be held in trust by the Federal Government.

The existing tax exempt class code will be used to identify the newly exempt property. There will be little impact on PAD

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
-\$3,059	-\$3,059	-\$3,059	-\$3,059

Effective Date: January 1, 2012

Applicability Date(s): n.a.

Individual and Corporate Income Taxes

HB 44 Short Title: **Repeal the Montana Capital Company Act**
Primary Sponsor: Brian Hoven

Bill Description: The Montana Capital Company Act provided a legal structure for capital companies to channel investment to Montana businesses. The Capital Company Act allowed a credit against income tax or corporate license tax for investment in a capital company. The credit was last available for investments made before July 1, 1995, but credits could be carried forward for up to 15 years. Since the carry-forward period is over, this bill just removes out-of-date language from the code and has no substantive affect on the department.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2011
Applicability Date(s): n.a.

HB 467 Short Title: **Allow tax credits to community, tribal, technical, college endowments**
Primary Sponsor: Randy Brodehl

Bill Description: Section 15-30-2326, MCA allows an income tax credit for contributions to an endowment fund of a unit of the Montana University System or a private college in Montana. HB 467 clarifies that the credit is available for contributions to the endowment funds of community colleges and tribal colleges. It also expands the credit to cover private two-year colleges.

The department already considers all public colleges to be part of the university system, and there are no two-year private colleges in Montana.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2011

Applicability Date(s): n.a.

SB 11 Short Title: **Reduce withholding tax rate for lottery winnings**

Primary Sponsor: Ron Erickson

Bill Description: This bill reduces the withholding rate on lottery winnings over \$5,000 from 10% to 6.9%. This corrects an oversight in SB 407 (2003) which reduced the top marginal income tax rate from 11% to 6.9%. This does not change the tax on lottery winnings, but will reduce over-withholding of tax that is later refunded.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

SB 166 Short Title: **Revise income tax filing extension law**

Primary Sponsor: Joe Balyeat

Bill Description: SB 166 would exempt taxpayers who have an income tax liability of less than \$200 and file their return by the extension deadline from penalty and interest for late filing, late payment, and underpayment through withholding or estimated payments. This would reduce income tax revenue by about \$87,000 per year. Changes will need to be made to GenTax before 2011 returns are due.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	(\$34,000)	(\$87,000)	(\$87,000)

Effective Date: October 1, 2011

Applicability Date(s): Applies to tax years beginning after December 31, 2011

SB 333 Short Title: **Adopt Revisions to the Uniform Principle and Income Act**

Primary Sponsor: Jim Shockley

Bill Description: SB 333 clarifies accounting issues that arise when assets left in trust for a surviving spouse include assets in another trust arrangement, such as an IRA. It also clarifies accounting issues that arise when a trust owns part or all of a business entity, such as a partnership or LLC, where income attributed to the owner may be different from payments to the owner. This bill does not affect income taxes paid by trusts or their beneficiaries.

Montana's estate tax is equal to the credit for state taxes allowed by the federal estate tax. The federal Economic Growth and Tax Relief Reconciliation Act of 2001 temporarily replaced the credit with a deduction, which essentially makes Montana's estate tax rate zero. This provision has been extended through the end of 2012. If congress allows this provision to expire, Montana's estate tax will apply to the estates of individuals dying after the end of 2012, and this bill may reduce the tax on some estates. In general, assets left to a surviving spouse are not subject to estate tax until the surviving spouse dies. In some cases, the changes in Section 1 may increase the amount of this spousal exemption. If Montana's estate tax returns, this may have a small effect on revenue.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: January 1, 2012

Applicability Date(s): n.a.

SB 413 Short Title: **Clarify which days or events may extend tax filing dates**

Primary Sponsor: Joe Balyeat

Bill Description: When the IRS extends the filing deadline for income and corporate license tax returns because the deadline falls on a holiday that is not observed in Montana, SB 413 extends the state filing deadline to the first business day after the holiday. It also allows the department to extend filing deadlines or waive penalties and interest for up to a year in the event of a federally declared disaster, terrorist attack, or military action.

The IRS extends the April 15 filing deadline when it is affected by the Washington D.C. holiday Emancipation Day. The normal date for Emancipation Day is April 16. When April 16 falls on Saturday, the holiday is celebrated on Friday, and when the 16th falls on Sunday,

the holiday is celebrated on Monday. Emancipation day has the following effect on filing deadlines: When April 15 falls on Friday or Saturday, the deadline is April 18, and when April 15 falls on Sunday, the deadline is April 17.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: SB 413 took effect on passage and approval, April 25, 2011

Applicability Date(s): SB 413 applies retroactively to returns filed after December 31, 2010

SB 429

Short Title: **Revised uniform limited liability company act**

Primary Sponsor: Art Wittich

Bill Description: Prior to passage of this bill, a limited liability company that had been administratively dissolved could apply to the Secretary of State for reinstatement within 5 years after the effective date of dissolution if it satisfied certain conditions. These conditions include that the application contain a certificate from DOR reciting that all taxes owed by the company have been paid. SB 429 provides an exception to this condition in the case of a limited liability company with only one member (owner) which has not elected to be taxed as a corporation. A limited liability company that qualifies under this exception is not required to submit a certificate from DOR that all taxes owed have been paid with its application seeking reinstatement by the Secretary of State.

While no fiscal note was requested, the changes in SB 429 to law are expected to have an impact on the efficacy of certain DOR compliance activities. The bill also contains coordination language with SB 63 which took effect if both passed. Both did pass, so section 18 of SB 63 amending 35-8-912, MCA is void.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2011

Applicability Date(s): n.a.

HJ 13**Short Title: Interim study of state income tax and sales tax****Primary Sponsor:** Kris Hansen

Bill Description: HJ 13 requested the Legislative Council to designate an appropriate interim or statutory committee to study simplifying the existing individual income tax structure and to consider whether replacing it with a sales and use tax or other revenue sources is in the best interest of the state.

The Legislative Council has designated the Revenue and Transportation Interim Committee (RTIC) as the committee to do the review. The bill directs to the committee to review the provisions of the state income tax law including general provisions, conformity with federal income tax law; provisions relating to married filing jointly, and separately, state specific deductions, exemptions, exclusions, credits and other special provisions. The committee is to review whether the state specific provisions are meeting their intended purpose. The committee will analyze compliance and administrative costs associated with the state individual income tax including taxpayer compliance costs, auditing and enforcement costs and complexity. The committee will consider options for simplifying the income tax and the advantages and disadvantages of doing so.

The committee is directed to solicit the knowledge and advice of certified public accountants; tax attorneys; taxpayer groups; individual income taxpayers; tax policy experts; business, industry and agricultural groups; economic development groups; the DOR and others. The committee is requested to complete its work by September 15, 2012, and report its findings and recommendations to the next legislature.

If the RTIC does not require any additional work or analysis beyond what is ordinarily provided to the committee, there is no additional cost to DOR. However, if the study requires additional work or analysis beyond the normal interim committee workload, then the additional cost to DOR is estimated at \$21,600 for the biennium, to be funded by a one-time restricted appropriation.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$10,800	\$10,800	\$0	\$0

Effective Date: July 1, 2011**Applicability Date(s):** n.a.

Natural Resources

SB 266 Short Title: **Revise local coal tax gross proceeds tax abatement**
Primary Sponsor: Alan Olson

Bill Description: This bill reduces the coal gross proceeds tax rate for underground coal mines from 5% to 2.5% starting January 1, 2011 and ending on December 31, 2020. Beginning January 1, 2021, the rate returns to 5%, but underground coal mines are taxed at 2.5% during the first ten years of production. Once an underground coal mine is taxed at 5%, the county may abate the local portion by an amount of up to 50% for two five year periods. Under current law a local 50% abatement was allowed, and this bill allows this abatement to be any percentage up to 50%.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	(\$591,634)	(\$640,827)	(\$658,921)

Effective Date: Effective on passage and approval
Applicability Date(s): Tax years beginning after December 31, 2010

SB 329 Short Title: **Generally revise K-12 laws**
Primary Sponsor: Ryan Zinke

Bill Description: Senate Bill 329 requires the Department of Revenue (DOR) to monitor the amount of funds from oil and natural gas production taxes that go to the school districts. Should a school district reach 150% of its budget, the DOR is required to divert oil and gas production taxes to the general fund for fiscal year 2012. After July 1, 2013 the excess funds must be distributed as follows: 70% to the guarantee account; 5% to the state school oil and natural gas impact account (as provided in Section 8); 25% to the counties for deposit in the county school oil and natural gas impact fund (as provided in Section 9).

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$835,843)	(\$67,558)	(\$68,908)	(\$70,286)

Effective Date: Effective on 2012 school year, and sections 9 and 10
are effective on July 1, 2013
Applicability Date(s): n.a.

Liquor and Tobacco

HB 296 **Short Title: Authorize the construction of the southwest Montana veterans' home in Butte**

Primary Sponsor: Jon Sesso

Bill Description: This bill diverts 1.2% of total cigarette tax revenue from the state general fund to a state special revenue account to fund the construction of the southwest Montana veterans' home. This change would go into effect on July 1, 2011 and terminate on June 30, 2015. Starting July 1, 2015 the distribution of cigarette tax revenue would revert to current law.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$821,721)	(\$888,279)	(\$1,073,967)	(\$1,199,307)

Effective Date: Sections affecting DOR are effective July 1, 2011, and the other sections are effective on passage and approval

Applicability Date(s): n.a.

SB 29 **Short Title: Mandatory alcohol server and sales training**

Primary Sponsor: Lynda Moss

Bill Description: This bill requires retail establishments licensed to serve or sell alcoholic beverages to train their employees on prohibiting the sale to minors or intoxicated persons, and imposes a penalty for those establishments deemed out of compliance. The penalty proceeds are to be deposited in the liquor enterprise fund for administration of this act, Responsible Alcohol Sales and Service.

The bill requires the training of any employee authorized to sell or serve alcoholic beverages and their immediate supervisor, provides a penalty, and provides for rule making. All employees and supervisors must be trained within 60 days of hire, and updated every 5 years after initial training.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: n.a.
Applicability Date(s): n.a.

SB 203 **Short Title: Allow non-brewery sale of beer in growlers for off premises consumption.**

Primary Sponsor: Ryan Zinke

Bill Description: This bill amends 16-1-106, MCA to include in the definitions section the term “Growler,” and defines it as a “refillable, resealable container complying with federal law.” The bill amends 16-3-303, MCA to permit on premises beer retailers to furnish and/or fill growlers for the public, and requires the beer sold to be consumed off premises. The growlers may not be filled prior to the sale. There is no fiscal impact expected with this legislation.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval
Applicability Date(s): n.a.

SB 215 **Short Title: Reduce state markup on liquor based upon percent of Montana ingredients.**

Primary Sponsor: Steven Gallus

Bill Description: This bill would require that the DOR reduce the liquor markup used in determining the wholesale price of liquor sold in Montana for liquor containing certain threshold amounts of Montana-produced ingredients. The bill would apply only to distilleries that produce at the national level 25,000 gallons or fewer of liquor annually. The reduction on the markup would apply to liquor comprised of at least 50% “Montana-produced” ingredients, with incrementally greater reductions applying to liquor containing greater percentages of Montana-produced ingredients.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$49,755)	(\$50,750)	(\$51,765)	(\$52,801)

Effective Date: Effective on passage and approval
Applicability Date(s): n.a.

SB 389 **Short Title: Revising use and tax of alcohol based ingredients by brewers and distillers.**

Primary Sponsor: Kendall Van Dyke

Bill Description: This bill would allow a brewery to import or purchase flavors and other non-beverage ingredients containing alcohol for blending and manufacturing purposes. These flavors and non-beverage ingredients containing alcohol would be exempt from the department's excise tax, license tax, and markup. This bill would also allow a distillery or micro-distillery to import the necessary distilled spirits in bulk for production purposes. These spirits would also be exempt from the department's excise tax, license tax, and markup.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: n.a.

Applicability Date(s): n.a.

Miscellaneous

HB 165 Short Title: **Deposit certain land trust and river bed income to guarantee account.**

Primary Sponsor: Roy Hollandswirth

Bill Description: This bill amends certain provisions of titles 17, 20, and 77 to require income received from certain lands, abandoned riverbeds, riverbeds, and power sites be deposited in a guarantee account for distribution to public schools.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

HB 295 Short Title: **Defining and recording wind energy rights**

Primary Sponsor: Rob Cook

Bill Description: HB 295 provides specification for wind energy agreements by: defining terms, requiring content of wind option agreements, providing a grandfather clause, and other specifications

HB 295 has a small fiscal impact to the DOR IT division: \$4,600 for software changes to Orion, Oasis, the data portal and the Cadastral and \$3,500 for testing these changes.

Similar to water, wind flows across real property to other real property. Because the term of art, “appurtenant” can be ambiguous, HB 295 (the Wind Energy Rights Act) may be unclear regarding the rights of real property owners upwind or downwind of real property with potential or real past, current or future wind resources.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$8,100)	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): n.a.

HB 477 **Short Title: Revise lodging facility use tax allocation to Montana Historical Society**

Primary Sponsor: Roy Hollandsworth

Bill Description: HB 477 establishes a state special revenue account to fund the Montana Historical Society for costs associated with historical interpretation and the Robert Sriver collection. This bill also provides for an allocation to this account. This bill would reduce the lodging facility use tax allocation to the Department of Commerce by 2.6% points, and allocate those funds to the state special revenue account for the Montana Historical Society. There is no net change to the overall expenditure of the lodging facility use tax as a result of HB 477.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

HB 604 **Short Title: Provide for fund transfers to the guarantee account and old state fund account**

Primary Sponsor: Rob Cook

Bill Description: House Bill 604 requires four transfers to be made by the state treasurer to the guarantee account for school funding purposes by August 15, 2011. The transfers to the guarantee account are as follows: \$2.5 million from the motor vehicle recycling and disposal program, \$4.4 million from the orphan share account, \$8.5 million from the coal bed methane protection account, and \$12 million from the board of oil and gas conservation account.

The bill transfers \$1.85 million from the telecommunications services and specialized telecommunications account to the general fund. By July 1, 2011, \$3,166,502 would be transferred from the older Montanans trust fund to the health and Medicaid initiatives account. In addition, \$6 million would transfer from the older Montanans trust fund to the general fund by August 15, 2011, for the purpose of funding the prescription drug plus discount program, and for providing grants to the area agencies on aging and funds for tobacco prevention and cessation; and \$3 million would transfer from the fire suppression account to the general fund. Although the department of

Revenue (DOR) deposits monies to these particular funds and in some existing statutes is referred as the “state treasurer”, it is assumed “state treasurer” in this case means the Department of Administration (DOA). The DOR has no involvement with the motor vehicle and disposal program account, from which transfers are to be made, nor the old state fund account. It is therefore assumed DOA would be responsible for making the transfers.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$2,915,000)	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): n.a.

SB 7 Short Title: **Require price of any renewable energy credit for sale or use in the state be listed**

Primary Sponsor: Jim Keane

Bill Description: SB 7 requires that utilities operating in Montana, competitive electricity suppliers and any owners of electrical generating facilities operating in Montana that buy or sell renewable energy credits report annually on those with the Department of Revenue and with the Energy and Telecommunications Interim Committee. The bill directs the DOR to develop the format for the report. The report must include the price of any renewable energy credits bought or sold by the facility or utility, and whether the electrical energy and the renewable energy credit were bought and sold together or separately as a bundled or unbundled service. If the transaction took place in a market where the price of renewable credits is not public information, the reporting entity is not required to disclose the price. The DOR will make the report available for public inspection. Entities that fail to file the report in a timely manner are subject to an administrative penalty of \$1,500 to be assessed by the Department of Revenue. Penalties are to be deposited in the universal low-income energy assistance fund.

The department did not estimate any significant fiscal impact due to the work required by this bill since an inquiry to the Public Service Commission indicated that less than 40 companies would likely be filing these reports. The department will develop the form in its regular form review process.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): Applies to renewable energy credits bought or sold on or after January 1, 2012

SB 411 Short Title: **Revise administration of tax interest, penalties and delinquencies**

Primary Sponsor: Ron Erickson

Bill Description: SB 411 creates penalties for substantial understatement of tax, fraud, and filing a frivolous return, changes the penalties for late filing and for purposely and knowingly failing to file, and increases interest the department is allowed to waive.

SB 411 defines substantial understatement for individual income tax as the greater of \$3,000 or 10% of the correct amount of tax. For all other taxes, it defines substantial understatement as the greater of \$10,000 or 10% of the correct amount of tax or any understatement of at least \$0.5 million. The penalty for substantial understatement is 20% of the understatement of tax.

SB 411 sets the penalty for tax fraud at 75% of the underpayment attributed to the fraud.

SB 411 sets the penalty for filing a frivolous return at \$2,500, and changes the penalty for purposely or knowingly failing to file a return to 15% per month up to 75% of the tax due. SB 411 also increases the interest the department may choose to waive to \$500 per tax period with an additional \$100 per tax period if the taxpayer fulfills all the terms of a payment plan.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
(\$22,500)	\$199,500	\$891,000	\$931,000

Effective Date: Effective on passage and approval

Applicability Date(s): SB 411 applies to tax periods beginning after December 31, 2011

SB 423 Short Title: **Generally revise laws relating to use of marijuana.**
Primary Sponsor: Jeff Essman

Bill Description: This bill generally revises laws relating to the use of marijuana and implementing the Therapeutic Marijuana Act. The bill has no fiscal impact to the Department of Revenue, as it names the Public Service Commission as the licensing authority.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011
Applicability Date(s): n.a.

SB 426 Short Title: **Referendum for contingent property and income tax reductions based on surplus**
Primary Sponsor: Joe Balyeat

Bill Description: This bill places a measure on the November 2012 ballot to refund half of any ending balance in the general fund over 125% of the projected ending fund balance. The refunds would be made through income tax credits, with each taxpayer being eligible for a credit equal to a percent of the income tax and property taxes on a principal residence the taxpayer paid the previous year.

If approved by the voters, the department would need to be prepared to implement this credit any year the trigger is hit, beginning with 2013 income tax returns.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: If approved by voters, SB 426 will take effect January 1, 2013
Applicability Date(s): n.a.

General Administration

HB 103 Short Title: **Authorizing maintenance of reproduced tax records as official record.**

Primary Sponsor: Steve Fitzpatrick

Bill Description: HB 103, at the request of the department, authorizes the department to reproduce any original tax record and use the reproduction as the official tax record. The bill authorizes the department to dispose of the original documents and maintain the reproduction following rules adopted by the Secretary of State for the destruction of public records. This bill would establish the basis for imaging documents and maintaining the imaged record as the official document.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$12,060	\$18,090	\$24,120	\$36,180

Effective Date: January 1, 2012

Applicability Date(s): n.a.

HB 111 Short Title: **Improving tax administration by depositing state agency lodging tax in general fund**

Primary Sponsor: Wayne Stahl

Bill Description: Under HB 111, 30% of the lodging facility use tax paid by state agencies for overnight in-state travel is to be distributed to the general fund. The balance – rather than being returned to funds that paid the tax and are deemed restricted – is distributed to the funds intended for tourism promotion following the statutory 5-way split: Department of Commerce (67.5%); Regional Non-Profit Tourism, Convention, and Visitor Bureaus (22.5%); Department of Fish, Wildlife and Parks (6.5%); University System (2.5%); and the Montana Historical Society (1.0%).

HB 111 also distributes the portion of taxes paid with federal funds to the Department of Administration (DOA) State Accounting Division, to be returned to the federal government in a lump sum distribution via 17-3-106(2), MCA, instead of being distributed to the above-mentioned funds intended for tourism promotion.

HB 111 creates an annual shift of approximately \$25,000 from state special revenue to the general fund.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$24,013	\$24,734	\$25,476	\$26,240

Effective Date: July 1, 2011

Applicability Date(s): Applies to expenditures by state agencies for in-state lodging that are paid after June 30, 2011

HB 543 Short Title: **Revise 2-4-307, MCA, regarding material adopted by reference**

Primary Sponsor: Steve Fitzpatrick

Bill Description: Under current law, agencies may adopt by reference a model code, federal agency rule, rule of any agency of this state, or other similar publication if the publication of the model code, rule, or other publication is unduly cumbersome, expensive, or otherwise inexpedient.

This bill necessitates that the use of referenced material must also be reasonable, and that agencies provide an online link to the referenced code or rule.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2011

Applicability Date(s): This act applies to rules proposed by an agency on or after October 1, 2011

HB 641 Short Title: **Review tax expenditures**

Primary Sponsor: Betsy Hands

Bill Description: The bill requires that certain information be included in the biennial report published by the Department of Revenue, and that the department provides the public with the report online and in hard copy when requested.

The department must include the amount of revenue loss from property tax and income tax expenditures. The department must

also include the MCA and the year the law was enacted that grants the tax expenditure. The department already includes all of this information except for the year of enactment.

This bill also includes a provision that the department must include in the tax expenditure report "other identifiable preferential treatment of income or property." Items that are considered other identifiable preferential treatment will have to be determined and included in the next biennial report.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

SB 75 Short Title: **Allow flexible hours for local property tax operations**

Primary Sponsor: Jon Sonju

Bill Description: This bill allows certain DOR county offices to establish alternative office hours. Offices with four or fewer employees may adopt the alternative hours if the new hours are published twice a year in a newspaper of general circulation published in the affected county.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): n.a.

SB 120 Short Title: **Require publishing of appointed members to all state agency boards**

Primary Sponsor: John Brenden

Bill Description: SB 120 requires that whenever a board, committee, commission, or advisory council of the executive, legislative, or judicial branch publishes a report, such as an audit report, program evaluation report, research report, or statutorily required report, the board, committee, commission, or advisory council shall publish in the report:

- (a) the name of each board, committee, commission, or advisory council member;
- (b) an address, telephone number, or e-mail address for each board, committee, commission, or advisory council member; and
- (c) the term of each board, committee, commission, or advisory council member, including the date that the member's term expires.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

SB 189

Short Title: **Generally revise public defender laws.**

Primary Sponsor: Jim Shockley

Bill Description: Senate bill 187 revises and repeals certain provisions of the Montana Public Defender Act. This version of the bill – specifically, section 3 – strikes prior suggested language involving the Department of Revenue. For example, the requirement that the Department of Corrections give the Department of Revenue a copy of court orders to make payments to the office of the state public defender, and the requirement that the Department of Revenue intercept state and federal tax refunds are stricken from this version. There is no cost to the Department of Revenue associated with this bill.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: July 1, 2011

Applicability Date(s): n.a.

SB 382

Short Title: **Require the Department of Revenue to provide certain information to taxpayers**

Primary Sponsor: Kim Gillan

Bill Description: SB 382 requires the department to provide certain information on valuation of centrally assessed property either on its website or directly to taxpayers.

Each year, the department must post capitalization rates for centrally assessed properties and supporting information 30 days before issuing assessment notices. The department must accept comments on this information for 20 days and provide responses within 20 days of the close of the comment period.

The department must include underlying calculations with each determination of value, and the department must provide a written explanation to the taxpayer when it changes its reliance on any indicator of value by more than 15% from the previous year.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: October 1, 2011

Applicability Date(s): n.a.

SB 409 Short Title: **Revise methods to establish rental fees and sale of state land cabin sites**

Primary Sponsor: Bruce Tutvedt

Bill Description: SB 409 establishes an open market bidding process for vacant cabin site properties. The minimum bid must be 1.5% of the most recent appraised value by the DOR. It does not impact DOR because it does not change our requirement of valuation for tax purposes.

Impact on State General Fund:

FY2012	FY2013	FY2014	FY2015
\$0	\$0	\$0	\$0

Effective Date: Effective on passage and approval

Applicability Date(s): n.a.