



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill #	HB0269	Title:	Constitutional amendment for taxpayer protection act to limit tax types
Primary Sponsor:	Skees, Derek	Status:	As Introduced

☒ Significant Local Gov Impact
 ☒ Needs to be included in HB 2
 ☒ Technical Concerns
☐ Included in the Executive Budget
 ☒ Significant Long-Term Impacts
 ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	(\$1,483,877)	(\$1,505,299)
State Special Revenue	\$0	\$0	(\$141,510,369)	(\$283,020,737)
Federal Special Revenue	\$0	\$0	(\$211,898,426)	(\$423,796,851)
Revenue:				
General Fund	\$0	\$0	(\$119,632,000)	(\$240,748,000)
State Special Revenue	\$0	\$0	(\$246,983,722)	(\$531,076,169)
Federal Special Revenue	\$0	\$0	(\$253,670,166)	(\$520,677,410)
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>(\$118,148,123)</u>	<u>(\$239,242,701)</u>

Description of fiscal impact: HB 269 would submit to the electorate, in November 2020, a constitutional amendment that if approved would limit the types of taxes the State of Montana can levy to two of the following three taxes: income tax, property tax, and a general statewide sales tax. The constitutional amendment would reduce general fund, state special and federal special revenue. The reductions in tax collections and their distributions would result in direct expenditure reductions. This fiscal note assumes the limitations apply to taxes, but not fees, or payments in lieu of taxes (see technical note #2).

FISCAL ANALYSIS

Assumptions:

Department of Revenue

- HB 269 proposes a vote to amend the Constitution of the State of Montana. If the constitutional amendment were to pass, the State of Montana would be prohibited from levying any tax other than two of the following three types of tax at any one time: income tax, a general statewide sales tax, and a property tax.

2. This constitutional amendment would be presented to the electorate during the November 2020 general election, if this bill were to pass. The fiscal note presents the cost and revenue effects as if the electorate approved the constitutional amendment.
3. This fiscal note also assumes the state's current income taxes and property taxes will continue to be collected, while other taxes will not. Corporate income taxes are assumed to fall under the definition of income tax in the bill and therefore the revenue (tax) is assumed to be eligible to continue. The fiscal note further assumes the limitations apply to taxes, but not fees or payments in lieu of taxes (see technical note #2). The table below contains a representation of the assumed excluded taxes and their official estimates as contained in HJ 2.
4. Based on current law distributions, the tables below show the total tax revenue eliminated along with tables for general fund and state special revenue distributions.

Tax	Total Revenue (\$ Millions)				
	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
All Other Tax Revenue	\$40.69	\$40.91	\$41.45	\$41.85	\$43.06
Beer Tax	\$4.10	\$4.11	\$4.11	\$4.11	\$4.10
Cigarette Tax	\$64.15	\$62.66	\$61.16	\$59.49	\$57.52
Coal Severance Tax	\$56.23	\$57.04	\$57.15	\$56.09	\$53.14
Electrical Energy Production Tax	\$4.55	\$4.42	\$4.50	\$4.30	\$4.34
Liquor Excise and License Tax	\$31.29	\$32.70	\$34.26	\$35.84	\$37.39
Lodging Facility Use and Sales Tax	\$58.84	\$61.55	\$63.67	\$65.59	\$67.33
Metalliferous Mines Tax	\$14.36	\$14.40	\$14.38	\$14.44	\$14.56
Oil and Natural Gas Production Tax	\$131.25	\$123.82	\$115.98	\$113.92	\$112.60
Public Contractor's Gross Receipts Tax	\$3.50	\$3.58	\$3.66	\$3.73	\$3.81
Rail Car Tax	\$3.49	\$3.88	\$4.20	\$4.43	\$4.64
Rental Vehicle Tax	\$4.97	\$5.39	\$5.68	\$5.84	\$5.99
Retail Telecommunications Tax	\$12.89	\$11.93	\$11.37	\$11.36	\$11.44
Resource Indemnity Tax	\$2.54	\$2.67	\$2.71	\$2.73	\$2.71
Tobacco Products Tax	\$13.25	\$13.28	\$13.25	\$13.18	\$13.11
Wholesale Energy Tax	\$3.52	\$3.46	\$3.49	\$3.48	\$3.48
Wine Tax	\$3.65	\$3.79	\$3.92	\$4.06	\$4.19
Total Tax Revenue	\$503.27	\$449.57	\$444.92	\$444.41	\$443.39

Tax	General Fund Revenue (\$ Millions)				
	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
All Other Tax Revenue	\$40.69	\$40.91	\$41.45	\$41.85	\$43.06
Beer Tax	\$3.07	\$3.07	\$3.08	\$3.08	\$3.07
Cigarette Tax	\$27.31	\$26.69	\$26.06	\$25.35	\$24.51
Coal Severance Tax	\$13.56	\$15.39	\$15.41	\$15.13	\$14.34
Electrical Energy Production Tax	\$4.55	\$4.42	\$4.50	\$4.30	\$4.34
Liquor Excise and License Tax	\$22.88	\$23.89	\$25.04	\$26.20	\$27.33
Lodging Facility Use and Sales Tax	\$25.22	\$26.38	\$27.29	\$28.11	\$28.86
Metalliferous Mines Tax	\$6.75	\$6.77	\$6.76	\$6.79	\$6.84
Oil and Natural Gas Production Tax	\$60.05	\$56.65	\$53.06	\$52.12	\$51.52
Public Contractor's Gross Receipts Tax	\$3.50	\$3.58	\$3.66	\$3.73	\$3.81
Rail Car Tax	\$3.49	\$3.88	\$4.20	\$4.43	\$4.64
Rental Vehicle Tax	\$3.73	\$4.04	\$4.26	\$4.38	\$4.49
Retail Telecommunications Tax	\$12.89	\$11.93	\$11.37	\$11.36	\$11.44
Resource Indemnity Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Tobacco Products Tax	\$6.27	\$6.28	\$6.27	\$6.23	\$6.20
Wholesale Energy Tax	\$3.52	\$3.46	\$3.49	\$3.48	\$3.48
Wine Tax	\$2.46	\$2.55	\$2.64	\$2.73	\$2.82
Total General Fund Revenue	\$289.94	\$239.89	\$238.52	\$239.26	\$240.75

Tax	State Special Revenue (\$ Millions)				
	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
All Other Tax Revenue	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Beer Tax	\$1.03	\$1.03	\$1.03	\$1.03	\$1.03
Cigarette Tax	\$36.83	\$35.97	\$35.11	\$34.14	\$33.01
Coal Severance Tax	\$42.68	\$41.66	\$41.73	\$40.96	\$38.80
Electrical Energy Production Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Liquor Excise and License Tax	\$8.41	\$8.80	\$9.22	\$9.64	\$10.06
Lodging Facility Use and Sales Tax	\$33.62	\$35.17	\$36.38	\$37.48	\$38.48
Metalliferous Mines Tax	\$7.61	\$7.63	\$7.62	\$7.65	\$7.72
Oil and Natural Gas Production Tax	\$71.20	\$67.17	\$62.92	\$61.80	\$61.08
Public Contractor's Gross Receipts Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Rail Car Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Rental Vehicle Tax	\$1.24	\$1.35	\$1.42	\$1.46	\$1.50
Retail Telecommunications Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Resource Indemnity Tax	\$2.54	\$2.67	\$2.71	\$2.73	\$2.71
Tobacco Products Tax	\$6.98	\$7.00	\$6.98	\$6.95	\$6.91
Wholesale Energy Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Wine Tax	\$1.19	\$1.24	\$1.28	\$1.32	\$1.37
Total State Special Revenue	\$213.33	\$209.69	\$206.40	\$205.15	\$202.64

- The taxes listed in the tables above would be excluded starting January 1, 2022. It is assumed that half the revenue the taxes would have generated in FY 2022 would have been collected in the first half of the year.
- Assuming half the revenue from the eliminated taxes in FY 2022 will not be collected, and no additional revenue from the taxes will be collected in future fiscal years, the general fund reduction would be \$119.63 million in FY 2022 and \$240.75 million in FY 2023. State special revenue would be reduced by \$102.57 million in FY 2022 and \$202.64 million in FY 2023.

Fiscal Year	Change in Revenue (\$ Millions)	
	General Fund	State Special Revenue
2022	(\$119.63)	(\$102.57)
2023	(\$240.75)	(\$202.64)

7. Audits of these taxes would not be conducted after FY 2021. The department would pull staff immediately and not over time. The department would reduce FTE by 19.00 in FY 2022 and FY 2023. This would reduce the department's personal service expenses by \$1,281,329 in FY 2022 and \$1,300,547 in FY 2023. Operating expenses would be reduced by \$202,548 in FY 2022 and \$204,752 in FY 2023.

Montana Department of Transportation

8. The passage of the constitutional amendment would result in the elimination of state fuel taxes effective January 1, 2022. This would eliminate funding for the department and entities that receive distributions of state fuel tax and funding that releases federal matching funds.
9. In FY 2022 the reduction in Highways State Special Revenue and Bridge and Road Safety Accountability Accounts would be \$83,147,385 and in FY2023 the reduction would be \$183,472,489.
10. The distribution of state fuel tax revenue to cities and counties authorized under 15-70-101, MCA, would be reduced by \$13,446,972 in FY 2022 and no longer take place beginning in FY 2023, resulting in a reduction of \$40,920,368.
11. The distribution of state fuel tax revenue to the Montana local technical assistance transportation program (15-70-101, MCA) would be reduced by \$75,000 in FY 2022 and be eliminated in in FY 2023, resulting in a reduction of \$150,000.
12. Distribution of state fuel tax revenue to tribal entities (15-70-450, MCA) would will be reduced by \$2,764,237 in FY 2022 and eliminated in FY 2023, resulting in a reduction of \$6,414,495.
13. Off-highway vehicle accounts distributions under 60-3-20, MCA will be reduced \$1,226,840 in FY 2022 and terminated in FY 2023 for a reduction of \$2,846,919.
14. Refunds for motor carriers in Montana under 15-70-425, MCA would be unnecessary, reducing expenditures in FY 2022 by \$4,364,313, and \$10,107,154 in FY 2023. Refund allowances for distributors per 15-70-410, MCA would reduce expenditure by \$1,202,901 in FY 2022 and \$2,789,036 in FY 2023.
15. By turning federal monies back, MDT would no longer receive federal cost recovery revenue, nor would the department collect "other" revenue from local entities for match on projects. The reduction in federal cost recovery revenue would be \$21,043,292 in FY 2022 and \$43,171,197 in FY 2023. The reduction in "other" revenue would be \$2,735,058 in FY 2022 and \$5,497,167 in FY 2023.
16. The collection of aviation fuel tax revenue will be eliminated. In FY 2022 the reduction in aviation revenue would be \$341,278 and in FY 2023 the reduction would be \$864,952.
17. GVW revenue is considered a user fee, not a tax, thus the collection of GVW revenue will remain intact.
18. In order to collect GVW revenue, some MDT staff would remain employed. A portion of the GVW revenue would be required as Federal Motor Carriers Association match.
19. Any remaining GVW revenue would be used to maintain state highways, at a significant reduction in service delivery. The Emergency Medical Services Program local assistance program would cease to exist.
20. Without a state matching source, all federal monies would be returned to federal agencies such as the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration and the National Highway Traffic & Safety Administration. The Forensic Science Division within the Department of Justice would require funding from another source to continue operations
21. The department would reduce FTE by 933.50 FTE in FY 2022 and 1,867.00 FTE in FY 2023, resulting in personal service reductions of \$80,651,000 in FY 2022 and \$161,303,000 in FY 2023. The reduction would be ongoing.

Secretary of State

22. There would be no fiscal impact to the Office of the Secretary of State. The fiscal impact would be to county governments for the proportional costs per constitutional amendment placed on the ballot.
23. The average statewide cost to place a constitutional amendment on the ballot is \$70,329. Cost will vary depending on the number of amendments on the ballot, the space required on the ballot for the wording of the amendment, and whether additional ballot pages are needed.

<u>Fiscal Impact:</u>	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
FTE (DOR)	0.00	0.00	(19.00)	(19.00)
FTE (MDT)	0.00	0.00	(933.50)	(1,867.00)
Total	0.00	0.00	(952.50)	(1,886.00)

Expenditures:**Department of Revenue (DOR)**

Personal Services	\$0	\$0	(\$1,281,329)	(\$1,300,547)
Operating Expenses	\$0	\$0	(\$202,548)	(\$204,752)

Montana Department of Transportation (MDT)

Personal Services	\$0	\$0	(\$80,651,385)	(\$161,302,769)
Operating Expenses	\$0	\$0	(\$234,046,160)	(\$468,092,319)
Equipment	\$0	\$0	(\$1,864,971)	(\$3,729,942)
Capital Outlay	\$0	\$0	(\$6,478,432)	(\$12,956,865)
Grants	\$0	\$0	(\$11,952,660)	(\$23,905,320)
Transfers	\$0	\$0	(\$890,181)	(\$1,780,362)
OHV/Aero	\$0	\$0	(\$1,423,460)	(\$2,846,919)
MHP	\$0	\$0	(\$16,101,546)	(\$32,203,092)
TOTAL Expenditures	\$0	\$0	(\$354,892,672)	(\$708,322,887)

Funding of Expenditures:

General Fund (01)	\$0	\$0	(\$1,483,877)	(\$1,505,299)
State Special Revenue (02)	\$0	\$0	(\$141,510,369)	(\$283,020,737)
Federal Special Revenue (03)	\$0	\$0	(\$211,898,426)	(\$423,796,851)
TOTAL Funding of Exp.	\$0	\$0	(\$354,892,672)	(\$708,322,887)

Revenues:

General Fund (01) - DOR	\$0	\$0	(\$119,632,000)	(\$240,748,000)
SSR (02) -DOR	\$0	\$0	(\$102,574,000)	(\$202,639,000)
SSR (02) -MDT	\$0	\$0	(\$144,409,722)	(\$328,437,169)
FSR (03) - MDT	\$0	\$0	(\$253,670,166)	(\$520,677,410)
TOTAL Revenues	\$0	\$0	(\$620,285,888)	(\$1,292,501,579)

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	\$0	\$0	(\$118,148,123)	(\$239,242,701)
State Special Revenue (02)	\$0	\$0	(\$105,473,353)	(\$248,055,432)
Federal Special Revenue (03)	\$0	\$0	(\$41,771,740)	(\$96,880,559)

Effect on County or Other Local Revenues or Expenditures:**Department of Revenue**

1. DOR currently collects taxes on behalf of several local governments. These collections would be eliminated.

Montana Department of Transportation

2. City and county statutory distribution of fuel tax collections will be reduced by \$13,446,972 in FY 2022 and no longer take place beginning in FY 2023, resulting in a reduction of \$40,920,368.
3. The local technical assistance transportation program in Bozeman will be reduced by \$75,000 in FY 2022 and no longer take place beginning in FY2023; a reduction of \$150,000.
4. The Montana highway patrol gas tax distribution would drop to zero. The loss in revenue will impact highway safety enforcement.
5. Reductions in off-highway vehicle transfers will affect recreation services by Fish, Wildlife and Parks.

Montana Association of Counties & The Montana League of Cities and Towns

6. It is unclear what happens to debt currently being serviced by property tax collections, bonds, and permissive levies.
7. The prohibition of any existing taxing authority at the local level would have direct fiscal effects on local government. A similar prohibition of existing taxing authority at the state level would have indirect effects on local governments resulting from the shift of service to local entities.

Secretary of State

8. The fiscal impact would be to county governments for the proportional costs per constitutional amendment placed on the ballot. In the November 2016 general elections, the per constitutional amendment cost was \$70,329, the inflation adjusted cost would be \$76,452 in 2020.

Long-Term Impacts:

1. The elimination of DOR revenue collections from these taxes will extend beyond FY 2023.
2. The eliminating, or significant reduction, in investment in Montana roads and bridges will result in deteriorating infrastructure. The long-term costs related to the significant reduction of investment in Montana roads and bridges cannot be calculated.
3. Tribal fuel tax revenue sharing agreements would no longer be necessary with no state fuel tax.

Technical Notes:

1. General fund and state special revenue imbalances would require further appropriations reductions in order to not exceed anticipated revenue.
2. This fiscal note assumes the limitations apply to taxes, but not fees, or payments in lieu of taxes. To the extent that additional taxes, fees or payments in lieu of taxes were legally deemed to be taxes eligible for exclusion under this bill, the revenue losses to the state would be larger. Examples of revenue sources that are not reflected in this fiscal note but may potentially be eliminated by this bill include, but are not limited to: vehicle registrations; video gaming revenues; and fees or taxes on insurance companies and/or insurance premiums.

Montana Department of Transportation

3. The bill does not provide a methodology for the allocation of the remaining taxes.
4. The bill does not provide a flat fee or percentage base to use in calculating an amount that could be allocated to agency functions.
5. There is no revenue to offset the elimination of fuel tax collections, and funding for highway and roads.

Sponsor's Initials_____
Date_____
Budget Director's Initials_____
Date