MONTANA DEPARTMENT OF REVENUE

GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

TO: Revenue Interim Committee

FROM: Brendan Beatty, Director

DATE: August 16, 2024

SUBJECT: 2025 Legislative Proposals

The following is a list of the Department of Revenue's (Department) proposed legislation that has been approved through the Executive Planning Process/Office of Budget and Program Planning (OBPP) for introduction to the 2025 Legislature. The Department requests the committee review and move its approval of these proposals for pre-introduction.

Please feel free to let me know if I can clarify anything or provide any additional information.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
DO	001	Clean-up liquor profit transfer statute	None	16-1-306

This bill provides for clarification to permit working capital to exist in the liquor fund.

Issue:

Section 16-1-306 requires all fees, charges, taxes, and revenue collected by or under authority of the department related to its role in the sale of alcoholic beverages to be distributed to the general fund without providing for retention of any of the funds as working capital to fund normal ABCD operations. Section 16-12-111(4) provides for retention of a three-month operating reserve necessary to fund the operating costs for the Department. This proposal seeks to provide a similar operating reserve necessary to fund operating costs for the Alcoholic Beverage Control Division.

Proposal:

Amend § 16-1-306 to provide for this working capital amount.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
BITD	002	Income tax simplification clean-up	None	15-30-2342(2); 15-30-2120(5),(6); 15-30-2538; 15-30-2339(1); 15-62-208; 72-3-1006.

This bill includes conforming amendments necessary to implement prior simplification efforts and additional simplification changes to improve efficiency and reduce complexity for citizens and the agency.

Issue:

SB 399 (2021) and SB 550 (2023) enacted substantial changes to Montana's income tax laws. The following proposals offer housekeeping changes that are necessary for the Department to effectively implement those prior legislative changes. The proposals also identify other amendments that offer further clarification and/or simplification.

Proposal:

Amend:

15-30-2342(2) (Historic Preservation Credit): Repeal subparagraph 2. Beginning in 2025, married taxpayers are no longer permitted to use a married filing separately on the same form status on their Montana individual income tax returns (SB 399, 2021). This subsection should be deleted because it relates to a filing status that is no longer available.

15-30-2120(5) and (6) (Contributions to 529 or A Better Life Experience (ABLE) Accounts): Amend to remove references to a filing status no longer available. Beginning in 2025, married taxpayers are no longer permitted to use a married filing separately on the same form status on their Montana individual income tax returns (SB 399, 2021). These provisions should be amended to eliminate language that relates to a filing status that is no longer available.

15-30-2538 (Withholding on mineral royalty payments): Amend to align withholding rate to changes made to the individual income tax rate. The withholding rate on mineral royalties is currently 6.0%--and which historically has been linked with the highest individual income tax rate. Before the 2023 legislative session, the highest individual income tax rate was also 6.0%. Because the highest individual income tax rate is now 5.9% (SB 121, 2023), we propose amending the withholding rate for mineral royalties to 5.9% so the rates match. If the 6.0% remains, mineral royalty withholding would be higher than the actual liability.

15-30-2339(1) (Residential property tax credit for elderly): Amend deadline for credit application to be fair and consistent to all taxpayers. For elderly citizens who are not required to file an income tax return, the statute imposes a deadline of April 15 to file an application. For elderly Montanans who have a filing obligation, however, their application is due at the same time as their tax return—which may or may not be on April 15 in any given year. For fairness and uniformity purposes we propose amending the deadline to be the same for all: the application is due by the filing deadline for the relevant tax year.

15-62-208 (Family Education Savings Program Accounts): Amend to allow taxpayers to rollover a certain amount of 529 funds to the beneficiary's Roth IRA without paying taxes on that amount. Congress recently enacted changes to 529 plans (Family Education Savings Act) for federal tax purposes. Begnning in 2024, a taxpayer is permitted to rollover up to $35,000 from a 529 account to a Roth IRA that is owned by the 529 beneficiary of the 529 account. Currently, this transaction would be subject to a recapture tax under 15-62-208, MCA. To avoid that result, we propose amending 15-62-208 to conform with the federal provisions.

72-3-1006 (Certificates for probate proceedings for estate taxes): Repeal to remove unnecessary administrative work. Montana repealed the estate tax in 2000, and with the federal credit, there is no Montana tax liability associated with this tax starting in 2004. To close a probate, a personal representative has to pay estate tax prior to the liquidation of the estate. 72-3-1006, MCA, requires DOR to issue a tax certificate to validate that had occurred. However, we have to issue certificates for probates that closed before 2004. Currently when a piece of property (generally a mineral property) is discovered that should have been included in the original probate, a tax certificate is still required because there is no statute of limitation under Title 72.

There are very few cases a year, and minimal if any assessments. This creates unnecessary work (and costs) for citizens and the agency. As a result, we propose eliminating the certificate requirement for estates that opened prior to 2004.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	005	Remove reference to Personal Property Farm Manual	None	15-8-111(4)(b)

<u>This bill requests the repeal of an obsolete reference.</u>

Issue:

The valuation process for property contained in the Personal Property Farm Manual is obsolete. The Department uses acquired year and acquired cost to value the personal property contained in the manual. Repealing this reference does not change any process of valuation or value of any of farm personal property.

Proposal:

Repeal the reference to the Personal Property Farm Manual.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	007	Clarify that certain Montana Fish, Wildlife, and Parks properties are subject to property tax	None	15-6-201

This bill seeks to clarify an audit recommendation and expressly state that certain FWP properties are subject to property tax.

Issue:

Based on recommendation #4 from the Legislative Audit's Real Property Tax Exemption Audit it performed in May 2023, we are seeking legislation to clarify the exemption of state-owned lands from property taxes to provide that certain FWP properties are taxable. Section 87-1-603 requires that certain FWP properties are subject to property tax. FWP will be a partner in this legislation and has support from county treasurers.

Proposal:

Provide for an exception in § 15-6-201 for the FWP lands as provided in § 87-1-603.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
DO	008	Provide for an appropriation for the DOR to spend the 5% local option tax.	None	

This bill seeks to provide for an appropriation for the DOR to spend the 5% local option tax it receives.

Issue:

For counties that elected a cannabis local-option tax, the Department of Revenue collects this tax and re-distributes the money back to local governments. 95% of the local-option tax revenue is remitted back to local governments, while the other 5% is retained by the department. This legislation would allow the department to spend this 5% of revenue collected.

Proposal:

Provide for the necessary appropriation for the Department to use this revenue.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
BITD	010	Unclaimed Property Simplification	None	70-9-815

This bill would allow the Department to automatically return certain unclaimed property to its owner.

Issue:

During the 2023 legislative session, we had discussions about improvements we could make to return unclaimed property more efficiently to its owners. One way to do so is to auto match certain claims; if specific criteria is met, the agency is authorized to return the property to the owner.

Proposal:

We propose amending 70-9-815, MCA, to allow the Department to automatically return property if (1) it is less than $2,500; (2) the individual is the sole owner of the property; and (3) we can readily validate the person's identity and address. Currently, 70-9-815, MCA, requires the owner to file a claim with the agency—regardless of the amount of property involved.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	011	Provide for a timeline for disaster relief application.	None	15-16-111

This bill seeks to provide clarity about when a taxpayer must submit an application for property tax relief due to a disaster.

Issue:

Section 15-16-611 does not provide for a deadline that a taxpayer has to apply for property tax relief due to a disaster. This proposal seeks to clarify the timeframe for how long after a disaster a taxpayer has available to apply to the Department for property tax relief.

Proposal:

Provide a two-year period after a disaster for a taxpayer to apply for property tax relief.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	012	Clarify non-fossil energy generation capital asset exemptions	None	15-6-224

This bill seeks to provide clarity about how to apply the exemption to the assessed value of dwellings with exempt nonfossil energy generation capital investments.

Issue:

Section 15-6-224 provides for exemptions for 10 year following installation. However, clarity is needed as to how these exemptions are applied to the value of the property. There are complications when trying to value these non-fossil fuel generating capital investments as the existence of the systems can be difficult to determine. There is no reporting requirement to the Department when these assets are installed, and there is not adequate market data to determine how much value these systems add to a property.

Proposal:

Clarify how the exemption applies to a dwelling or nonresidential structure that has non-fossil fuel generation capital improvements. This could be done by providing that the cost of the non-fossil fuel generation capital investments will be deducted, up to the thresholds provided, from the appraised value.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	013	Provide all real property to be valued on a two-year cycle.	None	15-7-111(3)

This bill provides seeks to cause all real property to be assessed on a two-year cycle.

Issue:

Real property is required to be reappraised at varying intervals. For example, § 15-7-111(1)(a) provides that Class 3, 4, and 10 real property is valued every two years. That same subsection requires that Class 5 real property, for example, be valued annually. Making all the real property valued on the same two-year cycle will provide for more consistent appraisals of real property.

Proposal:

Provide that all real property in Montana is valued on a two-year cycle regardless of classification.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
PAD	014	Repeal § 15-6-135(d)	None	15-6-135(d), 15-6-220(d)

This bill provides seeks to repeal redundant language.

Issue:

The exemption language in 15-6-135(d) regarding air and water pollution control and carbon capture equipment placed in service after January 1, 2014, is addressed at § 15-6-220(d). The language in 15-6-135(d) is unnecessary.

Proposal:

Repeal § 15-6-135(d).

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
IMCD	015	Allow for electronic correspondence with the Department of Revenue	None	

This bill seeks to create a new section in Title 15, Chapter 1 to define written notice to allow for electronic correspondence with taxpayers.

Issue:

Electronic correspondence is faster and provides for cost savings as opposed to mailing correspondence with taxpayers. The Department would like to create an opt-in system for taxpayers to receive department correspondence electronically. The Department is not proposing to require electronic correspondence. Instead, a taxpayer can have more options to receive correspondence in their preferred form by affirmatively opting into the system and chooses to receive correspondence electronically.

Proposal:

Create a new section to expand the definition of written notice in Title 15, Chapter 1, and allow for taxpayers to choose how they receive correspondence from the Department.

Division	DOR File No.	Short Tile	Fiscal Impact	Statutes Impacted
IMCD	017	Require payments above a certain amount to be paid electronically	None	15-1-802

This bill seeks to require the use of electronic payments for any taxes, fees, or amounts due to be paid or collected by the state for taxpayers in the amount of $5,000 or more.

Issue:

Current law requires payments to the Department of $500,000 or more to pay electronically. This law impacted 26 payments the Department received in CY2023.

Processing paper checks creates significant bottlenecks and impedes efficient work. Currently, the Department processes approximately 350,000 paper checks, broken into 11,000 batches.

For checks with everything correct, processing a paper check requires a minimum of seven touchpoints if the check comes in perfect with a voucher. Each perfect batch takes an average of 40 minutes to process.

If there are any defects in the check or the voucher, it requires an additional ten touchpoints to process the check. A defective batch averages about 60 minutes to process.

Perfect electronic payments are automatic and not touched. If they are defective, it requires three touchpoints.

Reducing the threshold for electronic payments to $5,000 and above would save approximately 920 hours of work. This would equal reduction in temporary staffing services. As a point of reference, reducing the threshold for electronic payment threshold to $1,000 would save approximately 3,600 hours of work, allowing for a permanent resource shift to other work priorities.

Taxpayer benefits are ample with electronic payments. Electronic is more secure to be able to trace that electronic footprint from system to system. Electronic applies to taxpayer accounts faster and more accurately because the payment comes with identifiable info. It also removes issues with national paper-based mail delivery services, state and department mail handling, human error on processing.

Importantly, the Department has free e-check payment options available to taxpayers, so this would not create any additional costs or expenses for taxpayers.

Proposal:

Effective for TY 2025 returns due in 2026, payments due the Department of $5,000 or more would be required to be made electronically. In the first year, the Department would accept paper checks that are above this threshold and send correspondence to the taxpayer informing them that payments above the $5,000 threshold in future years would be required to be paid electronically.