DEPARTMENT OF REVENUE

TOTAL APPROPRIATION AUTHORITY

The total appropriation authority for the agency is shown in the pie chart below. HB 2 and HB 13 provide 13.8% of the total authority for this agency. All types of appropriation authority for this agency are described below, including total budget and the percent expended by source of authority.
Appropriation Transfers

Appropriation transfers received by the Department of Revenue (DOR) consisted of funding for the Montana Economic Development Industry Advancement Act (MEDIA) tax incentive created in HB 293 (2019 Legislature) and funding for the foundation-based housing approved in SB 200 (2019 Legislature). The MEDIA Act provides income tax incentives for expenditures related to film, television, and related media production in the state of Montana. SB 200 revised property tax laws related to mobile homes, manufactured homes, and house trailers. To implement these two bills, general fund appropriations for 3.00 FTE and 1.00 FTE were needed for HB 293 and SB 200, respectively. However, lower than anticipated expenditures were due to the 3.00 modified FTE positions for the MEDIA Act not being filled until the second half of FY 2021.

Budget Amendments

Budget amendments processed for DOR provided funding for a modified FTE position to perform increased audit and compliance work for the Department of Interior and additional audit services required in the Grant Cooperative Agreement from the Department of Interior. This agreement is effective through September 30, 2023, and any unspent authority will continue into FY 2023 and three months into FY 2024.

Non-Budgeted Proprietary Funding

The department was appropriated non-budgeted proprietary funding of approximately $251,000 in FY 2021, of which $236,000 or 94.2% was expended. This funding is for the proprietary Collections Services Program which assists other agencies in collecting delinquent accounts.

Other Bills

Appropriations to DOR from other house and senate bills include HB 715 (2019 Legislature) which appropriated $2.0 million in general fund to make payments to a local governing body to comply with HB 636 (2019 Legislature) which revises property tax rates. In compliance with these bills, DOR settled two centrally assessed/industrial protested tax cases which were substantially less than the budgeted amount. Additionally, HB 658 (2019 Legislature) appropriated $150,000 for the Montana Health and Economic Livelihood Partnership (HELP) Act for Medicaid expansion, which DOR is responsible for the management of taxpayer fees for the program.

COVID-19 Authority

The following chart is provided to allow the legislature to examine the funding that is available to the agency for areas impact by COVID-19. Administrative authority for CARES I appropriations were allocated to the agency by the Governor’s Office. Administrative authority is not an appropriation and thus is not included in the total appropriation authority shown on the previous page. The appropriation authority for CARES I, shown below, remains with the Governor’s Office.

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<table>
<thead>
<tr>
<th>Stimulus Authority</th>
<th>Budget</th>
<th>FYE Expended</th>
<th>Percent Expended</th>
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<td>280,614</td>
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During the COVID-19 pandemic, the demand for alcohol increased substantially causing pressure on the state of Montana’s available supply. The Alcoholic Beverage Control Division manages the state’s wholesale liquor operations, which supplies all distributors in Montana. DOR used this funding to increase the wholesale supply of liquor and alcohol as well as hire temporary workers for rotating shifts in order to meet this increased demand.

**Statutory Appropriations**

Statutory appropriations (SA) account for 47.8% of DOR’s total appropriation authority. In FY 2021, SA’s for the department totaled approximately $213.2 million, of which $200.5 million or 94.1% were expended. SA’s include the following:

- **Tribal Alcohol and Cigarette Cooperative Agreements** – Under Title 18, Chapter 11, MCA, the state of Montana is authorized to enter into an agreement with tribal nations over taxation of products such as alcohol and cigarettes to prevent possibilities of dual taxation. Appropriations and expenditures for each tribal agreement is presented in detail in the table below.

- **Oil and Natural Gas Production Tax** – All oil and natural gas producers are required to file an oil and natural gas production tax return where they will be taxed on the gross value of oil or natural gas sold. Revenues are primarily distributed between the state and counties. Specific tax revenue distributions are set in statute under 15-36-331, MCA and 15-36-332, MCA. Oil and gas production tax expenditures were lower than anticipated due to lower than estimated oil prices.

- **Metal Mines Distribution** – Individuals who operate any mine or mining property are required to pay a license tax which is based on the gross value of the product and applied to the payment the mining company receives from metal traders, smelters, roasters, or refineries. Distribution of tax revenues is set in statute under 15-37-117, MCA.

- **Bentonite Production Tax Distribution** – All bentonite producers must file a bentonite production tax return every six months. Tax rates are calculated every year using the formula found in 15-39-101, MCA. Distribution of taxes is set in statute 15-39-110, MCA. Bentonite production was lower than anticipated. Therefore, there were lower bentonite distributions.

- **Entitlement Share** – During the 2001 Legislative Session, the state of Montana assumed control of alcohol, vehicle, and gambling taxes as well as district court fees for local governments. In return, the state reimburses each local government in the form of an entitlement share as stated in statute under 15-1-121, MCA.

- **Film Production Tax Credit Fee** – Production companies must apply for certification with the Department of Commerce to claim the MEDIA Act transferable income tax credit. After being approved by the Department of Commerce, the production company then needs to apply and pay a fee with DOR to claim the tax credit. Fee costs are outlined in 15-31-1005, MCA. Expenditures were lower than anticipated as the DOR only received $11,000 in fee revenue.

- **Cigarette Taxes** – The state of Montana charges a tax on cigarettes sold by selling tax decals to wholesalers who then attach the decal to each pack of cigarettes sold in Montana. Distribution of tax revenues are set in 16-11-119, MCA. In FY 2021 the demand for cigarettes declined while the demand for vapor products and alternative nicotine increased, which resulted in lower expenditures.

The table below details the statutory appropriations and expenditures in FY 2021.
Supplemental Appropriations

During the 2021 Legislative Session, DOR received supplemental appropriations for the Alcoholic Beverage Control Division. Due to the significant increase in demand for alcohol during the COVID-19 pandemic, $8.0 million of supplemental appropriations were needed to maintain adequate inventories. The remaining $5.8 million supplemental appropriation was for the settlement of L.L Liquor v. State of Montana et al. (United States District Court District of Montana, Helena Division, Case No. CV 15-71-H-SHE). During the 2015 Legislative Session, SB 193 was passed which repealed the old commission rate structure for agency liquor stores. Lolo Liquor alleged that SB 193 was a breach of the agency franchise agreement with the store. The federal court ruled in favor of Lolo Liquor and deemed the state of Montana responsible for $5.0 million in economic damages and attorney fees as well as post-judgement interest. In total, the Alcoholic Beverage Control Division paid approximately $5.8 million to Lolo Liquor.

HB 2 Budget Modifications

The following chart shows the HB 2 budget as passed by the legislature, including the pay plan, and the ending FYE modified budget. Net modifications to the budget include operating plan changes from one expenditure account to another, program transfers, reorganizations, and agency transfers of authority. The positive modifications and negative modifications are shown by program, expenditure account, and fund type.
Modifications to the HB 2 budget include a reorganization of DOR’s programs. The Technology Services Division was moved out of the Director’s Office to create its own Division. Additionally, the Information Management and Collection Division transferred the accounting, budgeting, and call center to the Director’s Office. The increase in general fund appropriations is due to continuing authority for a restricted/biennial legislative audit from FY 2020.
In FY 2021, DOR's modified budget was approximately $61.4 million and the department expended $61.3 million or 99.8%. The majority of the department’s budget is general fund used for personal services.
**OTHER ISSUES**

**Information Technology Project Expenditures**

Due to the passage of HB 701 by the 2021 Legislature, implementation of recreational marijuana, DOR requires an update and configuration of the GenTax system to incorporate the new tax type for recreational marijuana taxation and for administering local option taxes and the various license types required in the legislation. The Cannabis Control Division began this project July 1, 2021 with a budget of $3.0 million and to date has expended $750,000. The department estimates a completion date of February 2, 2022.