

# WYOMING TAXPAYERS ASSOCIATION

## ACTION ALERT



Legislative Summary – Final Report – March 9, 2009

The 37-day 2009 Legislative Session wrapped up last week with the Governor signing the \$165 M supplemental budget bill. During this “transition of more constrained revenues and much uncertainty,” as quoted by Governor Freudenthal, legislators tried to focus on being conservative with fiscal measures and focus on items of ‘need’ rather than ‘want’. Of the 484 bills that were introduced, 220 passed. Recall that lawmakers started the session with sharply reduced budget estimates from the Consensus Revenue Estimating Group (CREG). The overall impact to funds available decreased \$650.6 M to the General Fund and the Budget Reserve Account resulting in just \$259.25 M available to the GF/BRA. The next day, Governor Freudenthal cut his supplemental budget recommendations by \$216 M, and the pace for more calculated spending decisions was set.

Ultimately, the budget passed 54-5 in the House (Edmonds, Madden, Miller, Peasley, and Teeters voting ‘no’) and 24-5 in the Senate (Case, Larson, Meier, Perkins and Schiffer voting ‘no’) and will add to the \$7.8 B budget that was passed last year to round out the biennial spending to \$7.95 B to fund state government through June of 2010. Some argued that much of the spending in the supplemental budget was not necessary, and that the budget was not as slim as it could have been. Indeed, WTA has long been concerned about the growth in government – especially in the new environment of declining revenues. This session brought open discussions about similar concerns and possible work in the interim to curb spending and take a more comprehensive look at the budgeting process and accountability. We are now at a point where state agencies have been asked to cut budgets by 5% - 10% by direction of the Governor. Spending in education is top in the country when we include capital construction. Yet is it sustainable? Are we getting our ‘bang for our buck’ so to speak? Funding to local governments has increased from \$41.5M in FY2001-02 to more than \$400M in this biennium. All very real concerns as we head into the next interim study. WTA encourages policy makers to use this interim to begin talking about a sustainable and comprehensive spending/taxing policy.

One of the biggest discussion items heading into the session was offering broad-based property tax relief. The bills that took on the most competition included a homestead exemption, a reduction in the assessment rate, and a bill that limited assessments to a 3 year average – all to the tune of approximately \$40 M. More than 18 bills were introduced, yet only a handful survived. The winners? Bills that dealt with targeted, means-tested relief for those who really need it – as well as a few bills that helped to improve the assessment and appeals process. Even given the revenue decline, a majority of lawmakers made it clear that broad-based property tax relief was not the best policy for granting property tax relief and that means-tested relief was the way to go, property values are on the decline, and there were better uses for state revenues.

Wyoming’s Abandoned Mine Lands (AML) monies have also been in the hot seat lately. Washington owes the state more than \$580 M of AML funds, and as illustrated below, the supplemental budget bill has a detailed outline of how some of that money is to be used. However, President Obama has an item in this budget request that would eliminate all future payments to states from the AML fund if the state has been doing what it promised to do. And we have, but that money is *vitaly important to the future of Wyoming*. Wyoming’s congressional delegation of Senators Mike Enzi and John Barrasso and Representative Cynthia Lummis have expressed a strong concern for this recent action and will fight to see that every penny gets to this state. It is a main interim topic for the Joint Minerals Committee, as well as Joint Appropriations and WTA will continue to monitor.

Finally, what should we expect in the near future as revenues are projected to continue to decline? The CREG will meet again in May to give a revised revenue estimate as we head into the interim. At least 46 states are facing a budget crisis, and while Wyoming has been considered to be one of the ‘lucky ones’ with ledgers still in the black, state policy makers have grave concerns over the near-term:

- **Decreasing natural gas prices** – the monthly average price for Opal gas in January of 2008 was \$7.33/mcf and in January 2009 the average price was \$3.72/mcf. Keep in mind that \$1.00 change

**WYOMING’S LEADING TAX POLICY AND RESEARCH ORGANIZATION SINCE 1937.**

in the price of natural gas is roughly a \$200 M change to the state budget (\$100 M to the School Foundation Program and \$100+ to the GF/BRA).

- **Crude Oil** – Wyoming crude is currently selling at a negative bonus in the range of \$17.00 to \$21.00 per bbl. One year ago, the price per barrel in Texas was \$90. While the impact from crude is not as dramatic as natural gas, it does impact the bottom line.
- **The number of operating rotary rigs.** National and regional numbers are down from just one year ago, however, Wyoming has virtually been holding steady...so far.
- **Employment and unemployment** – While employment growth has increased if only by 2.2%, unemployment claims for the State increased dramatically late last year.

## Budget Summary

By far, the majority of the supplemental budget targeted capital construction, where the single largest appropriation went to the Cheyenne Lab construction account in the amount of \$68.6 M. Others include: \$4.4 M for the state office building (of which there is created a state office building exterior legislative oversight committee), Casper College Gateway Building \$10 M and residence hall \$29 M.

Other items of interest include:

- 170+ **employees** added – 158 for prison in Torrington.
- Specified amendments to the **Medicaid contingency appropriations** (Section 302)
- **Budget Reduction Authority** – instead of including the 5% & 10% budget reduction requirement for agencies, Section 311 clarifies the authority provided to the governor for reducing budgets in the case of reduced revenue projections. The language states that his authority applies to all appropriations in this budget bill, as well as all 2008 Session Laws. Agencies include *all* authorities, boards, commissions, councils, departments, institutions, instrumentalities, offices and other separate operating agencies, units or executives and judicial departments of state government, including the University of Wyoming and all community colleges.
- \$4 M from the GF to the state treasurer for deposit into the community college **endowment challenge fund**, as well as \$4 M for the university endowment challenge fund.
- **Local Governments:** \$5 M from the GF to the SLIB for matching grant funds for infrastructure needs for Wamsutter, and \$4.7 M to SLIB for emergency capital project grants to local governments.
- **AML Funds:**
  - For DEQ to submit grant applications for the period ending June 20, 2010:
    - \$29.9 M for abandoned coal mine reclamation
    - \$89,869 for the operation of the mine subsidence insurance program
    - \$2 M for solid waste orphaned site fund
    - \$1.03 M to DEQ Air Quality Division for one-time projects
    - \$4.1 M to DEQ for addressing environmental impacts of energy development
    - \$35,000 to DEQ Land Quality Division for one-time projects
    - \$135,000 to DEQ Solid Waste Division for recycling studies and one-time projects
    - \$10 M to A&I for the joint labs capital construction project
    - \$734,616 to the Wyoming state geological survey for identification of potential CO<sub>2</sub> storage sites and EPA sequestration regulations.
  - FOR DEQ to submit grant applications for the University of Wyoming for the period ending June 20, 2010 for the following projects:
    - \$30 M to the School of Energy Resources for the joint GE/UW clean coal partnership project
    - \$10.6 M to the School of Energy Resources for clean coal technology research
    - \$1.6 M to the School of Energy Resources for the uranium research center
    - \$8 M for CO<sub>2</sub> sequestration research and demonstration.
    - \$500,000 to the College of Agriculture for the reclamation ecology project
    - \$1.5 M to the College of Agriculture to provide initial funding for the proposed \$20 M endowment to fund the reclamation ecology project.
- **Retirement System Appropriations:** \$150.6 M from the school foundation program to the state auditor to hold for any unfunded liabilities within the State retirement system, pending and audit.

- **Federal Mineral Royalty Diversion for Education Endowments:** Any excess of the \$200 M in FMR's that usually flow into the School Foundation Program account would divert to the Higher Education Endowment Reserve Account in the amount of \$3.8 M.
- Of the \$20 M allocated to **NCAR**, not to exceed \$3.5 M is appropriated to the University of Wyoming but only to the extent the university expends funds under its existing contract for architectural and engineering services for construction of the supercomputer.
- The **state treasurer is authorized to borrow from pooled fund investments** to meet cash flow requirements of the Hathaway scholarship program. Amounts borrow shall be repaid when sufficient revenue is available in the Hathaway reserve account or the Hathaway expenditure account.
- **American Recovery and Reinvestment Act:** Section 347 provides for specific allocations of funds from the American Recovery and Reinvestment Act of 2009.
- Creates a **Task Force on Wind Energy** only if management council does not assign the issue to a standing committee.
  - 3 members from the Senate, 4 from the House, 2 from the public-at-large
  - Shall study the following:
    - Statutes relating to the authority of the industrial siting division, the public service commission, and the county zoning authority
    - Any federal statutes that may preempt or limit state or county authority
    - Tax policies
    - Shall submit recommendations to the legislature and Governor by November 1, 2009.
    - Shall exist until December 31, 2009.
- \$3 M from the GF to **Water Development Account I**.
- For fiscal year 2010, **50% of the 1% additional PMTF severance tax** to the PMTF spending policy reserve account.

## Interim Topics

Interim topics for all committees can be found at the following link:

<http://legisweb.state.wy.us/2009/2009Studies.htm>

WTA is particularly interested in the Joint Revenue Committee's number one priority – "Overall revenue picture in face of declining economy." A topic we have been cautioning for years now, WTA, along with other interested fiscally minded associations, has committed to help educate the revenue committee as much as possible – i.e. reviewing Tax Reform 2000, spending trends, etc.

Other study items of interest include:

- **Joint Revenue**
  - Overall revenue picture in face of declining economy
  - CAMA system and tax valuation review
  - Taxation of digital products
  - Tax increment financing
  - Monthly payment of property tax
  - Mineral point of valuation issues
- **Joint Appropriations**
  - Cash flow/revenue projection analysis of Higher Education and Hathaway Endowment Accounts
- **Joint Education**
  - School district accountability
  - School foundation program spending reductions
- **Joint Corporations**
  - Special districts – accountability especially.
- **Joint Transportation**
  - I-80 funding
- **Joint Minerals**
  - Energy generation and transmission – to the extent they overlap with the created task force and any tax or revenue issues.

- AML funding
- **Select Committee on Tribal Relations**
  - Taxation on the Reservation – how state taxes apply, the tax exemptions available and what taxes are imposed by the Tribes. (WTA has committed to work with the Tribes on this project).

## Major Bills of Interest

**HB 67 – Tobacco Excise Tax** - Provides that moist snuff tobacco will be taxed based upon net weight. And for anything up to 1 oz. an excise tax at the rate of \$.60. Anticipated increase in revenue \$819,000 yearly. **Enrolled Act No. 15.**

**HB 138 – Property Tax Refund Program – Madden, Anderson, Landon, Teeters, and Schiffer** - Amends the Property Tax Refund Program so that property taxes must be paid timely, changes the income requirement from 2/3 the median gross household income to 3/4, extends the total household assets from \$50,000 to \$100,000 per adult member, Includes all IRA's as exempt, adds medical savings accounts and allows veterans to apply for both programs by repealing the double dipping provision.. Fiscal note estimates that an increase of 10% per year or 1,850 applicants. Should yield \$72,000 in 2010, \$79,000 in 2011, and \$87,000 in 2012 in increased property tax refunds. **Enrolled Act No. 56.**

**HB 144 – Transparency in Government** - . Creates a Wyoming public finance website, establishes a select committee on technology, requires a report and provides for an appropriation of \$28,000 from the GF to LSO for the meetings of the select committee on technology. Appropriation of \$12,300 from the GF to A&I for creating the searchable website. **Enrolled Act No. 123**

**HB 145 – Rural health care districts – mill levy** - Increases the authorized mill levies for rural health care districts from 2 mills or 4 mills on each dollar of assessed valuation if approved by the board of trustees and the board of county commissioners. Passed third reading in the House Friday. Was amended on the House floor to say that if the board of trustees votes to increase the mill levy beyond the 2 mills, the county commissioners shall call an election to have a vote of the people approve the increase in mills. **Enrolled Act No. 45.**

**HB 221 – Property tax appeals – 2 – Throne bill.** Provides that the taxpayer may present any credible evidence, to rebut the presumption in favor of a valuation asserted by DOR. **Enrolled Act No. 35.**

**HB 283 – Taxation and revenue – digital products** – Provides for a definition for specific digital products. **Enrolled Act No. 85.**

**HB 287 – Helium – property tax** – creates an ad valorem tax on the value of the gross product produced. **Enrolled Act No. 88.**

**SF 53 – Property tax deferral program** – Senator Jennings - Amends the property tax deferral program to 250% of the federal poverty level instead of 150%. **Enrolled Act No. 83.**

**SF 144 – Property tax assessment rules** – Makes the Department of Revenue promulgate rules and regulations to ensure that the county assessors follow statistical quality and fairness of assessed values of residential properties. **Enrolled Act No. 52.**

The following bills did make it through the session (red indicates bills that did not meet WTA's *Cornerstones of Taxation*):

- HB 29 – Alternative Energy
- HB 37 – Veteran's Property Tax Exemption
- HB 45 – Severance Tax Distribution
- HB 52 – Higher Education Endowment Fund
- HB 66 – Statements of Consideration
- **HB 68 – Homestead Exemption**
- HB 84 – Economic Development – Property Tax Exemption

- **HB 87 – Property Tax – Assessment Rate 2**
- **HB 89 – Sales Tax Holiday**
- HB 95 – Sales and Use Tax Distributions
- HB 101 – Excise Tax – Manufacturing Exemption
- HB 102 – Excise Tax – Vendor Compensation
- HB 124 – Irrigation Districts
- HB 131 – Vehicle Sales and Use Tax
- HB 132 – Vehicle Registration Fees
- HB170 – Wyoming Lottery for Education
- HB 172 – Community College property tax exemption – 2
- **HB 175 – Property Tax – assessment rate 3**
- **HB 189 – Property Tax – assessed valuation**
- **HB 202 – Homestead Exemption – 3**
- **HB 214 – Property Tax Assessment Rate**
- HB 217 – College Tuition – Property Tax Credit
- HB 224 – Cigarette Tax
- **HB 234 – Property Tax Assessed Value**
- HB 238 – Tax Refund to the Elderly and Disabled
- **HB 244 – Fuel Tax for Trauma Care**
- HB 247 – Vehicle Registration – Timing
- HB 270 – Electricity Production – Taxation
- HB 272 – Ethanol Tax Credit
- HB 275 – Wind Turbines – royalty fee
- **HB 277 – Homestead Exemption – County Option**
- HB 290 – Tax Increment Financing
- **HB 300 – Property Tax Assessed Value Increase Limitations**
- HB 304 – Lodging Tax
- HB 315 – Property & Sales and Use Tax Exemptions – Repeal
- **HJR 19 – Property Tax Residential Property**
- **SF 55 – Property Tax Assessment Rate**
- **SF 81 – Homestead Exemption 2**
- **SJR 6 – Residential Property – Uniformity of Assessment**

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for our weekly legislative meetings.**