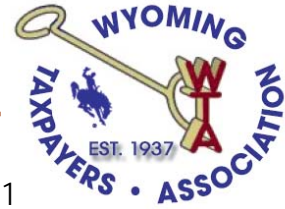


WYOMING TAXPAYERS ASSOCIATION

ACTION ALERT



2011 General Legislative Session – Final Report – Monday, March 7, 2011

The 2011 General Legislative Session wrapped up last week with Governor Mead signing the \$255.9M supplemental budget bill on March 2nd, lauding the Legislature's adoption of the majority of his recommendations – including more funding for highways and local governments. However, in his budget letter dated March 2, 2011, the Governor noted two line-item vetos:

- \$450,000 which was appropriated to study the possibility of moving the Governor's Residence.
- Restoring the full appropriation of \$7,704,495 for executive branch employees, taking out the reference to the judicial branch. Footnote 3, subparagraphs (b) (ii) and (iii) may "improperly grant the executive branch power over the separate and equal judicial branch," according to Chief Justice Kite in a letter to the Joint Appropriations Committee.

While many of the 432 bills filed this session addressed issues such as abortion, validity of marriage, concealed weapons, health care and natural resource issues, the Legislature (House comprised of 50R 10D, and Senate 26R 4D and only one woman) was still able to focus on business – both recruiting new business to the state in the name of diversifying the tax base and also helping those who are already doing business in Wyoming. In the end, 204 bills passed the Legislature.

Two years ago more than 18 bills were dedicated to property tax relief. With valuations going down across the state, the cry for relief has diminished. This session, education largely took the spotlight with an increased demand for bringing more accountability to our schools and teachers in over 20 bills. In the end, the teacher tenure bills died and there will not be any changes to the Hathaway success curriculum, however, we'll head into the interim with more accountability for our education system as a result of SF 70 passing both houses.

Getting his new administration up and running, Governor Mead made many [agency director appointments](#) over the last few weeks, as well as his [recommendations for boards and commissions](#) around the state. Of note, the Governor re-appointed Mr. Ed Schmidt as Director for the Department of Revenue. Director Schmidt was appointed by Governor Fruedenthal and has served in the position for 8 years. In his previous life, Director Schmidt served on the State Board of Equalization and as the administrator of the Mineral Tax Division.

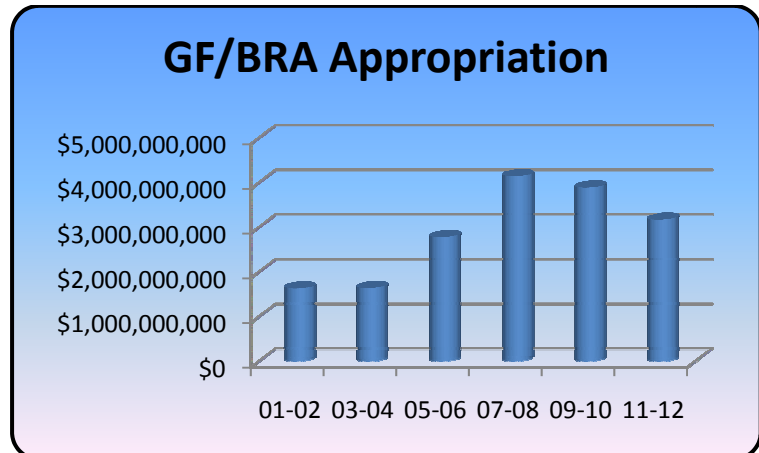
Recall that lawmakers started the session with improved revenue estimates from the Consensus Revenue Estimating Group (CREG) over the October forecast. This is a far cry from where we've been the last two years when CREG estimates were, in fact, reduced prior to last year's legislative session and agencies were cut 10% across the board two years ago. Last year's depressed revenue situation started the call for demanding more accountability in education spending and looking for a more sustainable tax system. This year, with the passage of two major tax exemptions (HB 117 and HB 143) lawmakers debated, more than ever, the merits of tax exemptions and whether they are fulfilling their purpose – to diversity Wyoming's tax base. For the last two years, WTA has been struggling with that exact issue – how tax exemptions (or incentives) should play into Wyoming's overall tax system given that our tax system is unbalanced and over-reliant on the minerals industry.

SUPPLEMENTAL BUDGET SUMMARY

Ultimately, the supplemental budget passed 50-9-1 in the House (Brechtel, Childers, Edmonds, Gay, Jaggi, Kroeker, Miller, Peasley, and Quarberg voting 'no') and 26-4 in the Senate (Burns, Case, Jennings and Scott voting 'no') and will add to the \$2.85B budget that was passed last year (as well as other bills with appropriations for each session) to round the biennial spending to **\$3.17B**. Please refer to WTA's [2011-2012 Biennium Budget Summary](#) for an overview of the original budget bill from the 2010 Legislative Session for the 2011-2012 biennium.

Below is a short illustration of historical appropriations from the General Fund and Reserve Accounts, including savings:

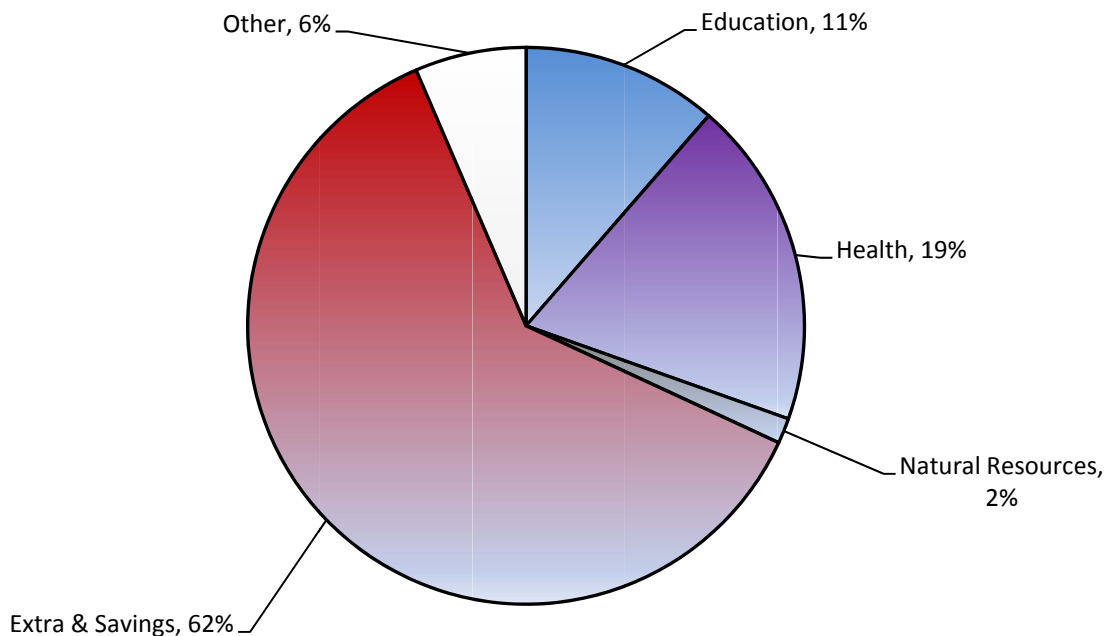
Biennium	GF/BRA Appropriation
01-02	\$1,631,622,185
03-04	\$1,640,074,430
05-06	\$2,778,811,773
07-08	\$4,143,871,725
09-10	\$3,890,137,960
11-12	\$3,170,265,655



Overall spending, including federal and other funds, brings **total spending to \$8.335B for the biennium**, up 9.47% from the original amount of \$7.614B in the 2010 Appropriations Bill. The 2011-12 biennial budget is 19% lower than the 2009-10 budget. Remember, Wyoming state spending peaked during the 2007-08 biennium after a 49% increase from the 2005-06 biennium and a previous increase of 69% in the 2005-06 budget from 2003-04 levels.

When the Legislature left Cheyenne last year the 2010 budget bill left \$700M projected to flow to the **Legislative Stabilization Reserve Account (LSRA)**. This year, with increased natural gas prices, the LSRA will receive more revenues than originally anticipated and will finally top the \$1B mark, for a total of **\$1.026B**.¹

TOTAL 2011 SUPPLEMENTAL BUDGET APPROPRIATIONS - \$255,999,860



¹ Just as the state's coffers benefit from increasing commodity prices, it's important to be reminded how much they are affected when prices go down: for example, when the price of natural gas decreases by \$1/mcf, general fund and budget reserve account revenues decrease by approximately \$245M; for oil, a \$1/bbl decrease results in approximately \$4.7M decrease, and for coal, a \$1/ton decrease results in approximately \$57.7M reduction to the general fund/budget reserve account.

MAJOR APPROPRIATIONS IN THE SUPPLEMENTAL BUDGET BILL

Education

UW -	
UW State Vet lab equipment	\$318,658
Greater Western Library Alliance Membership	\$1,800,000
Capital construction	\$2,600,000
Insurance increases	\$6,000,000
Total UW	\$10,718,658
Comm Colleges	
WY Public TV Endowment Acct.	\$557,707
WY Public TV truck update	\$412,000
State aid for operations	\$3,422,532
Capital construction	\$14,050,000
Total CC's	\$18,442,239
Total Education	\$29,160,897

Health

Senior centers	\$1,000,000
Health Education Grants	\$100,000
EMS	\$383,000
Health - Including Medicaid	\$47,252,637
Total Health	\$48,735,637

Natural Resources

Grasshopper abatement	\$2,660,000
Brucellosis	\$500,000
G&F aquatic invasive species	\$610,976
Total Natural Resources	\$3,770,976

Extras & Savings

Local Government - \$35M to be used for capital projects through SLIB, and \$10M in direct appropriations	\$45,000,000
Municipal Landfill Account	\$15,000,000
Data Center Recruitment	\$15,000,000
Local Fire District Grants	\$1,000,000
Highway projects	\$40,000,000
Railroad quiet zones	\$5,000,000
Airport improvements	\$3,949,668
Capital construction	\$17,992,215
Tourism	\$1,350,000
Endowments	
UW Endowment Challenge	\$3,500,000

Wildlife Trust Fund	\$2,500,000
Cultural Trust Fund	\$1,000,000
Library	\$3,000,000
Community College Endowment	\$3,500,000
Total Extra & Savings	\$157,791,883

Other JAC Appropriations

Misc. appropriations	\$2,363,297
Veteran's memorial in Cody	\$250,000
Ranch A Fencing	\$50,000
Niobrara oil play	\$610,000
LSO	\$1,362,675
DEQ permit backlog assistance	\$1,500,000
State insurance increase	\$2,700,000
State Employee Market Adjustments	\$7,704,495
Total JAC Other	\$16,540,467

Total Supplemental Budget Recommendations **\$255,999,860**

AML Funding	
Mine subsidence insurance program	\$50,100,000
Wyoming water development office for Gillette Madison water project	\$25,402,070
Grants for UW	
Michael. Enzi STEM lab	\$50,000,000
High plains gasification	\$1,050,000
Energy science graduate stipends and fellowships	\$6,547,930
Total AML	\$133,100,000

School Cap Con	\$183,434,428
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INTERIM TOPICS

Interim topics for all committees can be found at the following link:
<http://legisweb.state.wy.us/2011/Interim%20Studies/2011Studies.pdf>

The **Joint Revenue Committee** will study the following topics:

- Economic development and tax policy
- Wind energy tax
- Taxation of agricultural lands as it relates to subdivisions
- Severance tax issues as they relate to the direct cost ratio for coal and issues related to the taxation of uranium
- Dates have been released as the following:
 - May 12-13 in Saratoga
 - August 25-26 in Buffalo
 - October 27-28 in Worland

The **Joint Appropriations Committee** will study:

- State's retirement system including cost of living increases and possible defined contribution plan
- Preference laws, including procurement issues relating to A&I

WYOMING'S LEADING TAX POLICY AND RESEARCH ORGANIZATION SINCE 1937.

- Employee compensation, including merit pay and insurance and cost of living adjustments
- External cost adjustment to the school funding formula

WTA is particularly interested in the Joint Revenue Committee's #1 priority, economic development and tax policy where the committee will consider Wyoming's overall tax policy and tax initiatives which impact state economic development. This is encouraging to WTA, as we have long urged the Committee to review Tax Reform 2000 and build on its findings as we study tax incentives and making Wyoming's tax structure more sustainable. Tax exemptions in the name of economic development have been difficult for WTA to support, especially when we don't have adequate information or data.

MAJOR BILLS OF INTEREST

For a listing of all the bills WTA tracked this session, see *WTA's Bill Tracking Sheet*.

HB 22 – PHASED IN FUEL TAX – Increased the motor fuel tax by three cents beginning July 1, 2011, an additional three cents July 1, 2012, and an additional four cents for a total of ten cents beginning July 1, 2012. Distributions would go to cities and towns, counties, highway fund, county roads, and state parks. Once fully implemented the \$0.10 increase would have generated approximately \$73M annually. **The bill passed the House Transportation, Highways, and Military Affairs Committee with a vote of 6-3 on 1/19, however, failed Committee of the Whole 13-47. WTA supported this bill. DEAD.**

HB 59 – RENEWABLE RESOURCES ELECTRICITY – TAX EXEMPTION – Extended the sales and use tax exemption for sales of equipment used to generate electricity from renewable resources with a rating of not more than 25 kW. The sunset was June 30, 2022. The exemption was aimed to benefit purchasers of small wind turbines. **The bill failed to get out of House Revenue with a vote of 2-6 on 1/14 with what ended up being a very interesting discussion of whether tax exemptions are really doing what they were intended to do in terms of diversifying the tax base. DEAD**

HB 60 – TAXATION OF OIL AND GAS FIELD SERVICES – Clarifies what is already in practice and in statute – that the tax is charged to the party to whom the service is rendered (developer) not the contractor. The bill passed the House by a vote of 59-0-1 on 1/18 and passed third reading in the Senate with a vote of 29-0 with 1 excused 2/10. The bill was signed by the Governor on 2/15/11. **WTA supported this bill.**

HB 117 – DATA PROCESSING CENTERS – TAX EXEMPTION – The bill expands on language that passed last year in HB 67, which exempts the sales and use tax on certain equipment purchased in the initial construction of a data center. HB 117 extends the exemption to include prewritten computer software, containers used to transport and house computer equipment, backup power generators, and cooling equipment purchased on the initial construction. A three year exemption from power used to operate the data center was deleted from the bill. In an effort to keep better track of how such tax exemptions affect the state in the name of economic development, a reporting requirement was added to the bill requiring the amount of the tax exemption and certain employment data to be reported on an annual basis. The bill is aimed at large projects – particularly data processing centers where the aggregate purchase of the qualifying equipment exceeds two million dollars in any calendar year. The bill was signed by the Governor on 2/18/11.

HB 143 – MANUFACTURING TAX EXEMPTION – This bill extended the existing sales and use tax exemption on manufacturing equipment for another 6 years, until December 31, 2017. There was no additional non-administrative fiscal impact outside of the existing exemption. In tracking the current sales and use tax exemption on manufacturing equipment, the Department of Revenue has seen wild fluctuations in the use of the exemption. The average revenue decrease, based on the statewide average over the last six reporting years, is \$10,303,000 annually in taxes foregone from the exemption. The bill passed House on 1/26, by a vote of 57-1-2, and the Senate with a vote of 26-4 on 2/18. House Concurred 56-0 with 4 excused 2/22.

HB 147 – EXCISE TAX – VENDOR COMPENSATION – Provides a credit to vendors for the collection and payment of sales and use tax. If the tax due is less than or equal to \$6,250, the credit is 1.95% of the amount of tax

due. If the tax due is more than \$6,250, the credit is equal to 1% of the tax due, provided that the total credit shall not exceed \$500.00 in any month. **The bill was amended in House Revenue to clarify that direct payors are also included in the bill. An appropriation of \$160,000 was added for DOR to update their computer system and the sales and use tax forms. The effective date is January 1, 2012 – delayed slightly, to allow DOR time to implement the changes to the system. The bill passed the House with a vote of 54-6 on 2-3, and the Senate on 3-1 with a vote of 23-6-0-1. WTA actively supported this bill. Of interest, this concept was originally brought to the Legislature by Senator Enzi when he was a legislator. So the passing of this bill is the result of many years of hard work.**

HB 153 – AGRICULTURAL GAS TAX REFUND – This bill moves the tax refund responsibility away from the marketer to the end user; eliminates the current Ag certification process, aligns the refund process with that of the non-dyed diesel refund program, and eliminates the current 70% exemption and allows all gasoline used for agricultural purposes to be eligible for refund. The bill passed the House with a vote of 59-0-1 on 2/3, and the Senate with a vote of 29-1 on 2/18.

HB 191 – WIND POWER TAXATION – The bill exempted sales and use tax for wind projects and replaced it with a phased in generation tax. The tax will only apply to wind generation facilities which begin commercial operation on or after Jan. 1, 2012. For projects in operation prior to Jan. 1, 2012, the tax will be phased in as follows: \$.25 for generation in 2012-2016; \$.50 for generation in 2017-2021; \$.75 for generation in 2022-2026; \$1.00 for generation occurring in 2027-2031; and \$3.00 for generation in 2032. 60% of the revenues would go to cities and counties and 40% to the general fund. The bill also established an Impact Assistance Fund for local governments. The bill was amended to allow for more impact assistance for counties and a more certain flow of the proceeds into an impact assistance fund. **The bill failed 3rd reading on 2/8 by a vote of 29-29-2 and also upon reconsideration the next day by a vote of 27-32-1. The issue will be discussed during the interim in Joint Revenue Committee. DEAD.**

HB 254 – PROPERTY TAXATION - APPEALS – This bill requires that a board of equalization make specific findings in a property tax appeal cases instead of relying on broad and often generic case law. Testimony in committee maintained that too often, boards of equalization are relying on case law that isn't specific enough to the issue at hand. It passed the House by a vote of 59-0-1 on 2/7, and the Senate unanimously on 2/25.

HJR 7 – DISTRIBUTION OF EXCESS FUNDS – This bill would have allowed the State of Wyoming to distribute excess tax revenues to the citizens - a 'give it back to the people' concept like Alaska. The bill failed Committee of the Whole with a vote of 13-46-1 on 2/7. **WTA actively worked against this bill, cautioning legislators against such a dramatic shift in policy that would shift the tax burden away from the broad population and even further Wyoming's dependence on the mineral industry. DEAD**

The following bills WTA was watching did NOT pass:

- HB 22 – Phased in fuel tax
- HB 26 – Data processing center – sales/use tax exemption
- HB 34 – Sales and use tax distributions
- HB 44 – Annuity premium tax repeal
- HB 45 – Agricultural property taxation
- HB 47 – State parks – user fee program
- HB 53 – Wyoming lottery for education
- HB 59 – Renewable resources electricity – tax exemption
- HB 83 – Veteran's property tax exemption
- HB 84 – Severance tax distributions
- HB 97 – Public school financial transparency
- HB 102 – State common school trust land management account
- HB 104 – Property tax sales – highest bidder
- HB 126 – Irrigation districts – large expenditures
- HB 128 – Ethanol tax credit
- HB 146 – Vehicle sales and use tax
- HB 166 – School district – teacher evaluations

- HB 168 – School district reorganization
- HB 169 – Sales tax on food – local option
- HB 175 – Property tax – assessed value
- HB 185 – Fuel tax – LUST funding
- HB 186 – Wyoming lottery
- HB 191 – Wind power taxation
- HB 195 – Motor vehicle registration fees
- HB 200 – Property tax exemption – improvement and service districts
- HB 212 – Teacher tenure -3
- HB 220 – Homestead exemption – county option
- HJR 2 – Resolution – US constitution requiring a balanced budget
- HJR 7 – Distribution of excess funds
- SF 19 – State park road funding
- SF 44 – Government competition
- SF 52 – Teacher tenure
- SF 86 – Agricultural fuel tax exemption
- SF 106 – School finance – local resources
- SF 114 – Teacher evaluations
- SF 152 – Tolling authority for I-80

A SPECIAL THANK YOU TO UNION PACIFIC AND DEVON ENERGY FOR ALLOWING WTA USE OF THEIR CONFERENCE ROOM AND PHONE FOR OUR WEEKLY LEGISLATIVE POLICY MEETINGS. ALSO, PLEASE JOIN WTA IN THANKING UNION PACIFIC AND BP AMERICA FOR HOSTING WTA'S FIRST EVER 'TOAST & TAXES' BREAKFASTS DURING THE LEGISLATIVE SESSION.