



# Chamber of Commerce

*Your business advocate since 1931*

## ISSUE BRIEFS

### FOR MONTANA CHAMBER LEGISLATIVE ISSUES SURVEY

*The following short issue briefs are designed to provide more information on the legislative issues survey questions. They include data, proponent arguments, opponent arguments, and any particulars about the business community's standpoint. If you have any questions about an issue, please contact Glenn Oppel, Montana Chamber Government Relations Director, at [glenn@montanachamber.com](mailto:glenn@montanachamber.com) or 406-442-2405.*

#### **1. Tax Simplification**

Montana's income tax code is complex and difficult for taxpayers to comply with. The 2013 Legislature came close to simplifying our income tax code with Senate Bill 282 but could not garner Governor Bullock's support in the final days of the session. Legislators are planning to reintroduce this legislation. A key provision of the proposal includes starting Montana returns with federal taxable income, reducing substantially the additions and subtractions from federal taxable income. It would take our seven marginal tax rates down to two: a 4% tax on the first \$15,600 and 6% tax on the excess over \$15,600. It would reduce the corporate tax rate to 6.5 for most corporations and to 6.75% for corporations that take the water's-edge election. The proposal achieves revenue neutrality by eliminating various tax credits.

According to the most recent data from the Legislative Fiscal Division, Montana is expected to have a \$365 million balance going into the 2015 Session. Much of this surplus is fueled by ever-increasing individual income tax revenues, which have surpassed the billion dollar mark for the first time this last biennium. Some believe that tax simplification isn't enough and that income taxes should be reduced in order to return excess revenue back to the taxpayers. Governor Bullock has resisted these efforts, preferring to maintain a surplus in the state's bank account.

**Question:** Do you think that we should enact revenue-neutral tax simplification so that Montana has a "rainy day" surplus, or do you want more income tax relief to return excess revenue to individuals and corporations that generated it? Do you think we can do both? Or, should we leave well enough alone and stick to the status quo?

#### **2. Tax Fairness**

Under current law, the Montana Department of Revenue (DOR) can audit a corporate tax return and assess additional tax on returns that were filed within the last *three* years or that are being audited by the IRS. The same *three*-year limit applies to consolidated returns of S-corporations. The income tax statute of limitations at the federal level is *three* years for all classes of taxpayers.

However, for individuals and sole proprietors in Montana, the DOR can reach back *five* years. Recently, in 2009, the DOR proposed HB 651 to create an across the board statute of limitations of five years for individuals, sole proprietors, and corporations. The Montana Chamber opposed that legislation and it died in committee.

In the 2013, we introduced HB 268 to reduce the statute of limitations to three years. The DOR argued that the change limits its ability to achieve maximum tax compliance. But even if the statute of limitations was reduced to three years, the DOR could still reach back further if the taxpayer is being audited by the IRS. That would enable the DOR to go after tax avoiders. When the bill was introduced last session, Governor Bullock was concerned about the \$1.1 million fiscal note over the biennium. The DOR admitted that the fiscal note was likely high because the department would save costs on fewer and shorter audits.

The Montana Chamber feels that there is no reason for the state taxing agency to treat individuals and sole proprietors differently from corporations for auditing purposes. If a three-year statute of limitations is adequate for corporations at the state and federal level, it should be adequate for individuals and sole proprietors in Montana. The five-year reach back is just another disincentive for wealth and capital to come to the state.

**Question:** Do you support oppose reducing the statute of limitations:

### **3. *Business Equipment Tax***

The Montana Chamber spearheaded successful legislation in the 2013 Session that eliminated the business equipment tax (BET) for businesses with equipment valued at less than \$100,000. Businesses that have equipment with a statewide aggregate market value between \$100,000 and \$6 million now pay a tax rate of 1.5%, reduced from 2%. The threshold was at \$3 million. At \$6 million and above, the tax rate is 3%. The bill amounts to \$11 million annually in tax relief. The only other state in our region to maintain a BET is Idaho, which reduced it in 2013 as well.

Opponents are concerned about the loss of revenue to the state, local governments, and the University system and how they will replace that revenue to maintain current services. However, whenever reductions have been adopted by the Legislature, policymakers agree to backfill lost revenues to local governments and the University system.

Proponents argue that cutting personal property taxes such as the BET will spur business investment to expand operations, hire more workers, and sell more products or services. This additional economic activity generates more wealth that is taxed in various ways, thereby replacing the revenue lost by cutting or eliminating the tax.

**Question:** Should the Montana Chamber continue to introduce legislation to reduce or eliminate the BET?

### **4. *Medicaid Expansion***

In 2015, the Legislature will again tackle whether to expand the Medicaid program to cover childless adults with incomes below 138% of the federal poverty level. According to the University of Montana Bureau of Business and Economic Research (BBER), between 68,000 and 87,000 Montanans would be eligible to enroll in an expanded program. The BBER estimates that the eight-year cost to the State of Montana of an expanded program, including administrative costs, would be \$517-578 million. Over that same period, the federal obligation would be \$5.8-6.4 billion. The influx of federal money would create 11,500-12,700 jobs annually with \$3.8-4.2 billion in labor income. The economic activity spurred by an infusion of federal dollars would increase state and local tax revenues by \$50-55 million annually. Expansion would also reduce uncompensated care at hospitals – cost savings that would be passed on to consumers of health care goods and services. Net state costs over the entire eight-year period amounts

to \$52 million after considering the reductions in uncompensated care and increased tax revenues attributed to the economic activity resulting from the influx of federal funding.

Some argue that we shouldn't turn down the opportunity to insure as many as 70,000 Montanans. It will improve our health care system by reducing uncompensated care, which will result in savings for all consumers. Also, we should welcome the billions of federal dollars that would enter the state, creating thousands of new jobs and tax revenue. If we don't take the money, it will just go to other states.

Others argue that the federal government is broke and shouldn't be spending billions in the states. They also argue that expanding social programs invariably winds up being more expensive than initially anticipated. Cost overruns could expose taxpayers to higher taxes and also serve as a drag on economic growth. Furthermore, the State of Montana could enact its own health care reforms to provide the poor with insurance.

Business owners are divided. Small business owners that can't afford to offer health insurance to their employees like the idea, especially if they are utilizing unskilled workers who generally earn low wages. Some small to larger businesses already offer health insurance and don't need help from the government. All businesses are concerned about facing higher taxes if program costs spiral out of control.

The Montana Chamber Board of Directors supported Medicaid expansion during the 2013 Session as long as it entailed private management, data collection to monitor cost, and the creation of a select committee to monitor the program's financial stability.

**Question:** Do you think that the Montana Chamber should support, oppose, or stay neutral on Medicaid expansion?

### ***5. Early Childhood Education***

Governor Bullock is planning to ask the 2015 Legislature to provide publically-funded preschool for 4-year-olds, dubbed Early Edge Montana. If adopted, the program would make block grants available to schools so they can create or expand early childhood education programs. The plan leaves the decision up to individual school districts to start their own program or partner with existing preschool programs in their community. Montana is one of eight states without a publicly funded pre-kindergarten program. The governor is asking for \$37 million to fund the program.

Proponents think that surplus tax revenue streaming into the state's coffers presents an opportunity to invest in early childhood education. They believe that it better prepares children for a life of learning and career achievement.

Opponents wonder if early childhood education is a good use of taxpayer dollars when many school districts have trouble recruiting teachers because salaries aren't high enough. They also question why the state should finance preschool for all kids, when studies show that such programs are most effective for "at-risk" children. From the business standpoint, some private preschool providers are concerned that they won't be able to meet the teaching and facility requirements of the program and could get pushed out of the market. On the other hand, some in the business community believe that early childhood education will better prepare our youth for the job market.

**Question:** Should the Montana Chamber support, oppose, or stay neutral on Governor Bullock’s early childhood education plan?

#### **6. State Administration and Enforcement of OSHA**

The Labor Management Advisory Council plans to recommend to the 2015 Legislature that the State of Montana take over administration and enforcement of the federal Occupational Health and Safety Act (OSHA). The federal government allows states to do this and provides half the funding, which must be approved by the U.S. Congress. Currently, 26 states administer and enforce OSHA. If the program is approved by the Legislature in 2015, the Montana Department of Labor and Industry (DLI) would then have to develop an enforcement plan for submittal to and approval by the U.S. Department of Labor. Upon approval, Montana would have secure funding for half the cost of the program from the U.S. Congress. According to the DLI, the program could be administered in a revenue-neutral fashion by shifting current safety staff to the new program.

One of the key factors driving Montana’s relatively high work comp premiums is our workplace injury rate – currently third highest in the nation. Having the state take over OSHA enforcement allows regulators to tailor their efforts to address and improve workplace safety by partnering with industries with higher injury rates. Improved workplace safety outcomes not only protect workers but lead to lower work comp insurance rates for the business community. The National Council of Compensation Insurers (NCCI) reported that Montana could reduce the costs of work comp losses by \$115 million if we reduce injuries to just the national average. Currently Montana’s injury rates are 140% of the national average.

Businesses in states with OSHA administration and enforcement programs are generally supportive for a few reasons: 1) having the state run the program enables the business community to better participate in the regulatory process; and 2) they are able to enter into “partnerships” with the state OSHA program to make sure they are in compliance with workplace safety requirements. As mentioned, better workplace safety should translate into lower cost work comp insurance.

State OSHA presents some challenging public policy questions for the business community. Foremost, when a state takes over OSHA enforcement, the federal government grants authority to the state to adopt regulations that are more stringent than OSHA. The Montana Chamber has made it clear to policymakers that, to provide checks and balances in the adoption of state OSHA regulations, the Legislature should create a Board consisting of stakeholders that adopts rules that are implemented by the DLI, as opposed to giving the agency unchecked authority to adopt rules that exceed federal OSHA. In other states without this arrangement, the business community has had to battle unnecessary and expensive workplace safety requirements.

Another concern of the business community is that state OSHA programs also can adopt their own fines, which could be used as revenue generator to fund administration and enforcement. This could create a perverse incentive for regulators to increase fines or issue more violations in order to fund agency operations. The Montana Chamber is insisting that revenue from fines be dedicated to safety education efforts, not to the funding of enforcement functions.

**Question:** Do you support or oppose having the state take over administration and enforcement of OSHA?