Budget Shortfall

Introduction

STATE of WYOMING LEGISLATURE
May 26, 2020
LSO Legal and Budget/Fiscal Staff
Categories of Response Options

1. Program reductions, replaced support
2. Use of reserves (LSRA, SIPA, reversions, etc.)
3. Additional federal stimulus or flexibility as to use
4. Increased revenues
## Fiscal Impacts of Major Revenue Enhancements

<table>
<thead>
<tr>
<th>Measure</th>
<th>Approx. Annual Amount (FY22)</th>
<th>Measure</th>
<th>Approx. Annual Amount (FY22)</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Percent Sales and Use Tax</td>
<td>$150 million</td>
<td>1% Increased Return on PWMTF</td>
<td>$80 million</td>
</tr>
<tr>
<td>Eliminate Exemptions (Services, Food, Manufacturing, Data)</td>
<td>$186 million</td>
<td>1% Increased Return on CSPLF</td>
<td>$40 million</td>
</tr>
<tr>
<td>Taxation of Food (included in total)</td>
<td>$57 million</td>
<td>Corporate Tax (2020 HB 64)</td>
<td>$23 million</td>
</tr>
<tr>
<td>One mill</td>
<td>$17 million</td>
<td>Individual Income Tax (2020 HB147)</td>
<td>$110 million</td>
</tr>
<tr>
<td>Increase Assessment Ratio 9.5% to 11.5%</td>
<td>$110 million</td>
<td>One Cent Fuel Tax, with exemptions</td>
<td>$6 million</td>
</tr>
</tbody>
</table>
De-Earmarking History

• 1999 Subcommittee of Revenue-Expenditure Study
• 2000 & 2001 Select Committee on De-earmarking
• Legislative Royalty Impact account combined with the Budget Reserve Account; Municipal Rainy Day Account distributed
• Revisions to distributions, especially severance taxes
• Capped revenue vs certainty vs risk
Severance Tax Distribution

Constitutional 1.5% Severance Tax
*Article 15, Section 19*

- Permanent Wyoming Mineral Trust Fund

Non-Constitutional 1% Severance Tax

- FY2019 and FY2020 General Fund*,***
  - Amount equal to 2/3 of the Constitutional 1.5% Severance Tax

- Leaking Underground Storage Tank (LUST) Program Account**
  - Amount equal to $0.01 of the fuel tax

Distribution of all “Other Non-Constitutional” severance tax up to $155 million

- General Fund: 62.26% $96,503,000
- Water I, Water II, Water III: 15.05% $23,327,500
- Cities/Towns: 9.25% $14,337,500
- Highway Fund: 4.33% $6,711,500
- Counties: 3.88% $6,014,000
- County Road Construction Fund: 2.90% $4,495,000
- Cities, Town, and Counties Cap Con: 2.33% $3,611,500

Severance taxes over $155 million

- 2/3 of the amount goes to the Budget Reserve Account
- 1/3 of the amount goes to the General Fund

For FY 2019 only

“Other Non-Constitutional” Severance taxes over $360.5 million***

- 1/2 of the amount goes to the Budget Reserve Account
- 1/2 of the amount goes to the School Foundation Program Reserve Account

“Other Non-Constitutional” Severance taxes over $410.5 million

- Same distribution as severance taxes over $155 million
FMR Distributions

1% State Administration Fee
*FY2019 = $2 million
*Goes into the General Fund

Distribution of remaining FMRs balance after 1% administration fees

- School Foundation Program 44.800% $88,704,000
- Highway Fund 30.375% $60,142,500
- Cities and Towns 9.375% $18,562,500
- University of Wyoming 6.750% $13,365,000
- Cities, Towns, and Counties Cap Con 3.750% $7,425,000
- School Cap Con Account 2.700% $5,346,000
- Highway Fund - County Roads 2.250% $4,455,000

FMRs over $200 million
*For 2019-2020 biennium*
- 2/3 of the amount goes to the Budget Reserve Account
- 1/3 of the amount goes to the School Foundation Program

FMRs over $500 million
*For 2019-2020 biennium*
- 1/3 of the amount goes to the Budget Reserve Account
- 2/3 of the amount goes to the School Foundation Program
Major Components of Wyoming Tax Structure

Property Taxes - 41% of FY19 total
- property tax paid on mineral production represents 47% of FY19 total
- Calendar year 2018 effective tax rate on owner-occupied housing value 0.55% (#47)

General Sales Taxes - 31% of FY19 total
- State tax rate 4% (#40), avg. local rate 1.34% = 5.34% combined rate (#44)

Severance Taxes - 21% of FY19 total
- 6% of value on oil and gas (4% on stripper oil),
- 7% of value on surface coal, 3.75% of value on underground coal

Other Taxes - 7% of FY19 total
- Fuel tax - $0.24/gallon (#36)
- Cigarette tax - $0.60/pack (#43)
- Alcohol - Beer $0.02/gallon (#50), Wine $0.28/gallon, Spirits $0.94/gallon (no ranks)
- Insurance premium tax ($22.5 million in FY19)
- Franchise taxes ($14.8 million in FY19), wind generation tax ($4.2 million in FY19)

No Individual Income Taxes
No Corporate Income Taxes
# WY Comparative Tax Rates – Surrounding States

<table>
<thead>
<tr>
<th></th>
<th>CO</th>
<th>ID</th>
<th>MT</th>
<th>NE</th>
<th>SD</th>
<th>UT</th>
<th>WY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sales and Use</strong></td>
<td>7.65%</td>
<td>6.03%</td>
<td>0%</td>
<td>6.93%</td>
<td>6.40%</td>
<td>7.18%</td>
<td>5.34%</td>
</tr>
<tr>
<td><strong>Property</strong></td>
<td>0.56%</td>
<td>0.75%</td>
<td>0.76%</td>
<td>1.65%</td>
<td>1.22%</td>
<td>0.62%</td>
<td>0.55%</td>
</tr>
<tr>
<td><strong>Ind. Income^</strong></td>
<td>4.63%</td>
<td>6.925%</td>
<td>6.9%</td>
<td>6.84%</td>
<td>0%</td>
<td>4.95%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Corp. Income^</strong></td>
<td>4.63%</td>
<td>6.925%</td>
<td>6.75%</td>
<td>7.81%</td>
<td>0%</td>
<td>4.95%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Fuel</strong></td>
<td>$0.22</td>
<td>$0.33</td>
<td>$0.3275</td>
<td>$0.302</td>
<td>$0.30</td>
<td>$0.3111</td>
<td>$0.24</td>
</tr>
</tbody>
</table>

Source: Tax Foundation  
^ Top state marginal individual income tax rate  
* Percent of owner-occupied housing value  
Additional comparisons can be prepared upon request.
### Year of Last General Increase, Selected Taxes

<table>
<thead>
<tr>
<th>Tax</th>
<th>Year of Last Increase</th>
</tr>
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<tbody>
<tr>
<td>Statewide Sales and Use Tax</td>
<td>1993 (initial imposition)</td>
</tr>
<tr>
<td>State Ad Valorem Tax</td>
<td>Last imposed 1969*</td>
</tr>
<tr>
<td>Fuel Tax</td>
<td>2013</td>
</tr>
<tr>
<td>Cigarette Tax</td>
<td>2003</td>
</tr>
<tr>
<td>Wind Generation Tax</td>
<td>2010</td>
</tr>
<tr>
<td>Severance Tax (oil and gas)</td>
<td>1981</td>
</tr>
</tbody>
</table>

*Various jurisdictions, including K-12 bonding have increased and decreased substantially in the intervening period.*
K-12 School Finance

Article 7, Section 1.

The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary.

Article 7, Section 9.

The legislature shall make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state, between the ages of six and twenty-one years, free of charge; and in view of such provision so made, the legislature shall require that every child of sufficient physical and mental ability shall attend a public school during the period between six and eighteen years for a time equivalent to three years, unless educated by other means.
Campbell Decisions

• The Legislature is constitutionally obligated to:
  
  • Define and specify a proper education;
  
  • Establish and maintain a system for providing an equal opportunity to a proper education;
  
  • Determine the cost of implementing a proper education;
  
  • Provide adequate funding to meet those costs of implementing a proper education.
Criminal Punishment Protections

- “[N]or shall cruel or unusual punishment be inflicted” Article 1, Section 14; see also Eighth Amendment.

- “No person arrested and confined in jail shall be treated with unnecessary rigor. The erection of safe and comfortable prisons, and inspection of prisons, and the humane treatment of prisoners shall be provided for.” Article 1, Section 16.

The Courts and Criminal Procedure

- Article 5 provides for the creation of the Wyoming Supreme Court, District Courts, Judicial Nominating Commission, Commission on Judicial Conduct and Ethics.

- “All courts shall be open . . .” Article 1, Section 8.

- “The right of trial by jury shall remain inviolate in criminal cases.” Article 1, Section 9; see also Sixth Amendment.

- “In all criminal prosecutions the accused shall have the right to defend in person and by counsel . . . and to a speedy trial by an impartial jury . . . .” Article 1, Section 10; see also Sixth Amendment.
Legislative and Executive Branches; Local Govts

- Article 3 provides for the operation of the legislative branch.

- Article 4 provides for the election of the Governor, Secretary of State, Auditor, Treasurer and State Superintendent.

- “... The compensation of the members of the legislature shall be as provided by law; but no legislature shall fix its own compensation.” Article 3, Section 6.

- Salaries of public officials are to be set by the Legislature, but may not be increased or decreased for the official’s term (not including judges in certain situations).

- County and city governments and county officers are contemplated. Articles 12-14.
“Elections shall be open, free and equal, and no power, civil or military, shall at any time interfere to prevent an untrammeled exercise of the right of suffrage.” Article 1, Section 27.

Article 6 imposes standards for elections, including the time and manner for holding elections.
State Institutions and Offices

- University of Wyoming and Board of Trustees (Article 7, Sections 15 & 17)
- State Hospital (Article 7, Section 23)
- State Penitentiary (Article 7, Section 23)
- Superintendents of Water Divisions (Article 8, Section 4)
- State Engineer (Article 8, Section 5)
- Office of Inspector of Mines (Article 9, Section 1)
- State Board of Equalization (Article 15, Section 9)