FISCAL NOTE

Bill #:	HB0394	**Title:**	Corporate accountability for public investment in economic development
Primary Sponsor:	Christine Kaufmann	**Status:**	As Introduced

____ ____

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY2002 Difference	FY2003 Difference
Expenditures:		
General Fund	52,500	35,000
Revenue:	**0**	**0**
Net Impact on General Fund Balance:	**($52,500)**	**($35,000)**

Yes	No		Yes	No	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Department of Commerce

1. HB 394 requires accountability for business subsidies from both state and local governments, defines terms, requires public purposes for business subsidies, provides criteria for business subsidies, requires subsidy agreements, wage and job goals, repayment schedules for not meeting goals, and requires reports.
2. "Business subsidy" or "subsidy" means a state or local government agency grant, a contribution of personal property, real property, or infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, a reduction or deferral of any tax or fee, a guarantee of payment under loan, lease, or other obligation, or any preferential use of government facilities given to a business. “Local government agency" includes a county, a city or town, a housing authority, a port authority, an

airport authority, a community development agency, a nonprofit entity created by a local government agency, or any other entity created by or authorized by a local government with authority to provide business subsidies.

3. Grantors are required to monitor the progress of all recipients in achieving subsidy agreement goals and objectives and forward annual reports to the Department of Commerce by April 1 each year. The Department of Commerce is required to analyze, compile, and publish a statewide report by August 1 of each year. "Among the information in the summary and compilation report, the department shall include:
   (a) total amount of subsidies awarded in each region of the state;
   (b) distribution of business subsidy amounts by size of the business subsidy;
   (c) distribution of business subsidy amounts by time category;
   (d) distribution of subsidies by type and by public purpose;
   (e) percent of all business subsidies that reached their goals;
   (f) percent of recipients that did not reach their goals within 2 years after the benefit date;
   (g) total dollar amount of recipients that did not meet their goals after 2 years from the benefit date;
   (h) percent of recipients that did not meet their goals and that did not receive repayment;
   (i) list of recipients that have failed to meet the terms of a subsidy agreement in the past 5 years and that have not satisfied their repayment obligations;
   (j) number of part-time and full-time jobs within separate bands of wages; and
   (k) benefits paid within separate bands of wages."
4. It is assumed that the Department would contract with outside vendors to analyze and compile the statewide report. It is estimated that such a contract would cost approximately $15,000 each year, and that publishing and mailing costs would be $5,000 each year.
5. The Department would be required to develop a database to contain relevant historical information for all reporting entities. Said database would be critical in meeting the requirements of Section 8 (2), which states that "The department shall coordinate the production of reports so that useful comparisons across time periods and across grantors can be made. It is estimated that the development of the database, which would be done by an outside contractor, would cost $10,000 in FY 2002.

Department of Agriculture

6. There is assumed to be no fiscal impact to the Department of Agriculture. (See Technical Note)

Department of Natural Resources and Conservation

7. Assume that a business can include a person, partnership, corporation or any other non-governmental entity.
8. Reporting would require 0.25 FTE at an approximate cost of $12,500 per year.
9. Operating costs involving rule making, travel, and hearing costs would be $10,000 in FY 2002 and $2,500 in FY 2003.

FISCAL IMPACT:

Department of Commerce

	FY2002 Difference	FY2003 Difference
Expenditures:		
Operating Expenses	$30,000	$20,000
Funding:		
General Fund (01)	$30,000	$20,000

FISCAL IMPACT:

Department of Natural Resources and Conservation

	FY2002 Difference	FY2003 Difference
FTE	0.25	0.25
Expenditures:		
Personal Services	12,500	12,500
Operating Expenses	10,000	2,500
TOTAL	$22,500	$15,000
Funding:		
General Fund (01)	22,500	15,000
Revenues:	0	0
Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	52,500	35,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Reporting, public notice and hearings will be increased and create ongoing expenses for local governments. Initial one-time costs for redevelopment of grant and loan agreements and the establishment of new procedures will be required to comply with HB 394. Included in this requirement are all cities and towns greater than 2,500 in population, all counties, all conservation districts, many water and sewer districts, refuse districts, and many other forms of state and local governments. HB 394 also would require changes to local governmental accounting procedures.

TECHNICAL NOTES:

Department of Agriculture

1. Section 1, definitions, does not define a "business" entity. The bill does not clarify whether farming and ranching are considered businesses for the purpose of receiving Department of Agriculture loans and grants. If they are included, there would be a fiscal impact.

Department of Natural Resources and Conservation

2. A "business " is not defined in the bill nor is it defined in Title 90, Chapter 1 the part of the statute that HB 394 would be codified. The bill should be amended to reference the definition of a business found in Title 2, Chapter 2, Part 102 or an alternate definition of a "business" should be placed in the bill.
3. New Section 3 (1)(f) requires a commitment within the subsidy agreement to continue operations in the jurisdiction where the subsidy is used for at least 5 years. This would not be difficult to add to grant and loan agreements. However, even within a 5-year window, situations change and businesses may be sold or closed. With a grant, the public benefit may be ongoing, such as water conservation measures installed with the use of grant dollars, even though the business is sold. With loans, the debt may be rolled over to a new business that has bought the old business and assumed the debt liability. Again, the benefit is ongoing. HB 394 seems to require that in these changes, the "business subsidy" would have to be repaid (New Section 5).
4. New Section 3 (2) requires that subsidies in the form of grants must be structured as forgivable loans. This creates a difficulty in governmental accounting. Loans are booked as assets. However, in the specific case of a grant, repayment would not be anticipated. In other words the system would be

accounting for assets that should not exist. Further, a loan agreement is typically more difficult to negotiate than a grant agreement.

5. New Section 3 (6) requires that certain goals be included in the "subsidy agreement." Specifically HB 394 requires the goals for jobs creation and wages goals to be included in the "subsidy agreement." Many of the natural resource grants and loans that the department of natural resources and conservation provides are focused on the resource benefits of projects not the employment benefits. Many of the private loans made to purchase new, efficient sprinklers for irrigation actually reduce labor requirements. Agreeing to specific employment requirements in these types of agreements will cause confusion and may preclude loans that would benefit the environment.
6. New Section 5 requires that if the goal of the subsidy agreement is not met, that the recipient must repay the subsidy to the grantor. Under the private loan program, the borrower must secure the loan with a mortgage of real property in excess of 125 percent of the loan amount. Therefore, for these loans, a requirement for repayment of the subsidy would carry with it the security position the department established under the loan agreement. With grants, this type of security is not required. Either this type of security should be required for grants (forgivable loans) or the repayment clauses may be difficult to enforce.
7. New Section 6 (2) requires recipients to report on a minimum of 9 items. Several of these items do not apply to natural resource grants and loans. However, HB 394 would require the recipient to report on these specific items anyway.
8. New Section 7 (1) requires local governments, with a population greater than 2,500, and all state agencies to file a report with the Department of Commerce "**regardless of whether or not they have awarded any business subsidies**." This requirement will result in excess reporting.
9. New Section 9 states that "(a) an appropriation to a state government agency that specifies that an appropriation be granted to a particular business … must contain a statement of the expected benefits associated with the grant." The Montana Constitution prohibits appropriations being made to a particular business. Therefore, this clause is unnecessary.