

# FISCAL NOTE

**Bill #:** HB640

**Title:** Generally revise laws on economic development

**Primary Sponsor:** Dan McGee

**Status:** Third Reading

\_\_\_\_\_  
Sponsor signature Date

\_\_\_\_\_  
Chuck Swysgood, Budget Director Date

## Fiscal Summary

	<b><u>FY2002</u></b> <b><u>Difference</u></b>	<b><u>FY2003</u></b> <b><u>Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$20,241	\$0
<b>Revenue:</b>		
General Fund	\$1,868,357	\$1,914,865
State Special Revenue (Debt Services)	\$510,000,000	\$510,000,000
State Special Revenue (Office of Energy)	\$3,568,291	\$3,614,679
<b>Net Impact on General Fund Balance:</b>	<b>\$1,848,116</b>	<b>\$1,914,865</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
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

**A complete analysis of the proposal is impossible in the timeframe provided for the completion of the fiscal note due to the various triggers and options provided in the bill. The fiscal note, therefore, addresses some of the major features of the bill and should not be considered a complete analysis.**

### ASSUMPTIONS:

#### **Department of Revenue**

1. Under this proposal, the board of investments may make low-interest loans to eligible electrical generator. Section one of this bill defines an eligible electrical energy generator. The board of investments **may** make up to \$100 million a year for 10 years available for loans. The electrical energy generator shall use the proceeds of the loan to construct electrical generation facilities, transmission facilities, and railroad and pipeline capacity. Tax proceeds generated by projects funded under this section, must be directly applied to this program after local impacts are addressed. At least 50% of the tax proceeds must be used for future energy development.
2. Under this proposal, the board of examiners **may** issue general obligation bonds in an amount of up to \$400 million to be used by the state to purchase the necessary power for large customers or to purchase or invest in a plant to generate electrical energy for large customers. The debt service payments on the bonds or power purchased with bond proceeds are payable from the state special revenue account provided for in 15-51-103(2); the revenue in this account is collected from the wholesale energy transaction tax rate of \$0.06 per kilowatt hour on all of the electricity and electrical energy generated, manufactured, or produced by “exempt wholesale generator(s)”, as defined in 15 U.S.C 79z-5a. ***The tax rate of \$0.06 per kilowatt hour is estimated to generate \$510 million annually in fiscal years 2002 and 2003.*** Proceeds from the sale of electrical energy produced by a generating plant funded with general obligation bonds must be deposited in the state special revenue account provided for in 15-51-103(2). **No attempt is made in this fiscal note to project this potential revenue stream.**
3. Under this proposal an electrical energy generation facility or an electrical energy transmission or distribution facility **may** be exempt corporate license tax, income tax, and the wholesale energy transaction tax. An electrical energy generation facility or an electrical energy transmission or distribution facility **may** be exempt from property taxation or subject to taxable rates of 6% or a new 12% classifications rate depending on circumstances. The projected revenue impacts are indeterminable; due to lack of relevant data and trying to predict the actions that will be taken by the electrical energy generation, transmission, and the distribution facilities, or the public service commission.
4. Under this proposal, an “exempt wholesale generator”, as defined in 15 U.S.C. 79z-5a, will pay an electrical energy license tax of \$0.06 per kilowatt hour in place of the \$0.0002 rate under current law. Revenue generated from the \$0.06 rate is deposited in a state special revenue account to be used to provide debt service payments pursuant to Section 3 in the bill. Section 14 of this bill increases the wholesale energy transaction (WET) tax rate from \$0.00015 per kilowatt hour to \$0.00045. The proceeds from 33% of the WET tax is deposited in a state special revenue account to be used to fund the office and activities of the state energy director as provided in Section 4 of this bill. The remaining 67% of the proceeds is deposited in the state general fund. Under HB640, the revenue going to the ***state general fund*** will ***increase*** by \$1.87 million in fiscal 2002 and \$1.91 million in fiscal 2003. Revenue going to the state special revenue account (***debt services***) will be \$510 million annually in fiscal years 2002 and 2003. Revenue going to the state special revenue account (***Office of Energy***) will be \$3.57 million in fiscal 2002

(continued)

and \$3.61 million in fiscal 2003. Table 1 shows assumption six's revenue impact calculations under HB640.

5. Under this proposal, the Department of Revenue expenditures will increase by \$20,241 in fiscal 2003.

FISCAL IMPACT:

<b>Table 1</b> <b>HB640 Revenue Impact Calculations</b> <b>FY2002 and FY2003</b>		
<b>-----HB640 Impact - Electrical Energy License Tax-----</b>		
	<b>FY2002</b>	<b>FY2003</b>
Current Law Taxable Kwh	23,220,332,000	23,320,932,000
Minus "exempt wholesale generator(s) Kwh	(8,500,000,000)	(8,500,000,000)
Proposed Law Taxable Kwh	14,720,332,000	14,820,932,000
Multiplied by Tax Rate	\$0.0002	\$0.0002
Proposed Law Revenue	\$2,944,066	\$2,964,186
Minus Current Law Revenue	4,644,000	4,664,000
<b>Sub-Impact to State General Fund</b>	<b>(\$1,699,934)</b>	<b>(\$1,699,814)</b>
"Exempt Wholesale Generator(s)" Kwh	8,500,000,000	8,500,000,000
Multiplied by Tax Rate	\$0.06	\$0.06
<b>Sub-Impact to State Special Revenue (Debt Services)</b>	<b>\$510,000,000</b>	<b>\$510,000,000</b>
<b>-----HB640 Impact - Wholesale Energy Transaction Tax-----</b>		
	<b>FY2002</b>	<b>FY2003</b>
Taxable Kwh	23,788,606,000	24,097,858,000
Multiplied by Tax Rate	\$0.00045	\$0.00045
Proposed Law Revenue	\$10,704,873	\$10,844,036
<b>State Special Revenue (Office of Energy) Share 33%</b>	<b>\$3,568,291</b>	<b>\$3,614,679</b>
State General Fund Share 67%	\$7,136,582	\$7,229,357
Current Law State General Fund	3,568,291	3,614,679
<b>Sub-Impact to State General Fund</b>	<b>\$3,568,291</b>	<b>\$3,614,679</b>
<b>-----HB640 - Summary of Revenue Impacts-----</b>		
	<b>FY2002</b>	<b>FY2003</b>
<b>State General Fund</b>		
Electrical Energy License Tax	(\$1,699,934)	(\$1,699,814)
Wholesale Energy Transaction Tax	3,568,291	3,614,679
<b>Total Impact</b>	<b>\$1,868,357</b>	<b>\$1,914,865</b>
<b>State Special Revenue Accounts</b>		
Debt Services	\$510,000,000	\$510,000,000
Office of Energy	3,568,291	3,614,679
<b>Total Impact</b>	<b>\$513,568,291</b>	<b>\$513,614,679</b>

**Office of Energy:**

6. The proposal provides approximately \$3.6 million annual to fund this new office. This should be more than sufficient revenue, although details on its staffing and operational needs have not been developed and are not presented in this note.

**Department of Commerce:**

7. HB 640 revises state laws concerning economic development concerning electrical generation plants, and authorizes the Board of Investments to make loans to electrical energy generators to construct power plants and related facilities in Montana.
8. Since there is no change in the Board of Investments posted interest rate there would be no loss of income should HB 640 be enacted.
9. There would be no fiscal impact on either the Department of Commerce or the Board of Investments.

**Department of Administration:**

10. Section 3 assigns responsibility to the Department to enter into a contract for the operation and maintenance of a generating plan, if one were purchased by the state. No attempt is made to reflect these potential costs and they are not included in the analysis.
11. Potential debt service payments on \$400 million of bonds, likewise, is not presented in the fiscal note.

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
<u>DOR Expenditures:</u>		
Personal Services	\$0	\$0
Operating Expenses	\$20,241	\$0
Equipment	\$0	\$0
Transfers	\$0	\$0
TOTAL	\$20,241	\$0
<u>Revenues:</u>		
General Fund (01)	\$1,868,357	\$1,914,865
State Special Revenue (Debt Services) (02)	\$510,000,000	\$510,000,000
State Special Revenue (Office of Energy) (03)	\$3,568,291	\$3,614,679
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	\$1,848,116	\$1,914,865
State Special Revenue (Debt Services) (02)	\$510,000,000	\$510,000,000
State Special Revenue (Office of Energy) (03)	\$3,568,291	\$3,614,679

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If an exemption of property taxes occurs under Sections 5 and 6 of the bill, then revenue going to local governments will decrease. Alternatively, Property tax collections may increase if property is moved to the new class fourteen with a tax rate of 12%. This would increase revenue to local governments.

LONG-RANGE IMPACTS:

Under this proposal, revenue from the electrical energy license tax and the wholesale energy transaction tax going to the state general fund and the state special revenue accounts (Debt Services and Office of Energy) will be larger than under current law. If exemption of property taxation, corporation tax, and income tax occurs, then revenue going to the state will decrease. Property tax collections may increase if property is moved to the new class fourteen property with a tax rate of 12%. This would increase revenue to the state.

TECHNICAL NOTES:

1. Section 6 of this bill may need further clarification. Page 4 line 1 includes the phrase “at the appropriate level”. It is unclear what constitutes “appropriate level”. Page 4 line 3 through 7 is not clear regarding if the entity would still be responsible for corporation tax or income tax on any electricity sold outside of the state. It refers to “a portion”, but does not specify whether that means just property taxes or the other taxes listed.
2. In this bill, there are references to corporate license and income tax, but it does not specifically address the various entities such as Subchapter-S corporations, LLCs, partnerships, etc. This may need to be clarified or expanded upon.