SENATE TAXATION
EXHIBIT NO. 4
DATE 4-11-05
BILL NO. HB 410

FISCAL NOTE

Bill #: HB0410 **Title:** Revise date of lien and taxation for new construction

Primary Sponsor: Facey, T **Status:** As Introduced

Sponsor signature Date David Ewer, Budget Director 2/2/05 Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	($246,311)	$341,111
Revenue:		
General Fund	$499,026	$518,488
State Special Revenue	$31,517	$32,747
Net Impact on General Fund Balance:	$745,337	$177,377

- [x] Significant Local Gov. Impact
- [ ] Included in the Executive Budget
- [ ] Dedicated Revenue Form Attached
- [x] Technical Concerns
- [ ] Significant Long-Term Impacts
- [x] Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. This proposal requires that a special assessment by the Department of Revenue take place for newly constructed or newly expanded residential or commercial improvements constructed during a tax year and that were not assessed or taxable as of the preceding January 1. The market value of newly constructed improvements must be greater than $20,000, and if remodeled must expand the size of the improvement.
2. The improvements are to be assessed and taxed as of the date of occupation or use. For this fiscal note, it is assumed that the tax base for the proposal is composed of new residential and commercial real improvements.
3. Under the proposal, the owner of newly constructed or newly expanded improvements must notify the department within 30 days from the date of occupation or use of the improvements. If the owner fails to notify the department within the allotted time, a penalty of .667 percent of the amount of the tax due is added to the tax bill.
4. The tax bill and the penalty described in assumption 3 are due within 30 days. The penalty and interest provisions of 15-16-102(2), MCA and 15-16-102(3), MCA, which reference the due date of property tax payments and when those payments become delinquent, do not apply.

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5. For newly constructed or newly expanded property discovered after October 1st of the tax year, the entire amount of the tax bill is payable by May 31st of the following year.
6. It is assumed that 70 percent of new residential and commercial improvements fit the proposal's criteria of being assessed during the year.
7. For purposes of this fiscal note, since owners of completed property are asked to self-report, compliance is estimated at 60 percent.
8. It is also assumed that the average completion date for new residential and commercial improvements is September 1, which is an average estimated assessment period of four months, or one third of the year on new residential and commercial improvements completed during the year.
9. The total value of new residential and commercial improvement properties not assessed as of January 1, 2004 have an estimated fiscal year 2005 <u>taxable</u> value of $36,148,500 (DOR). Projected growth of residential and commercial improvement properties is 3.9 percent per year. The estimated FY 2006 taxable value of new residential and commercial improvements is $37,558,300 ($36,148,500 x 103.9%). The FY 2007 taxable value is $39,023,100 ($37,558,300 x 103.9%).
10. For FY 2005, the statewide average mill levy for residential and commercial improvements is 524.58. Applying the estimated statewide average mill to the total projected FY 2006 and FY 2007 taxable values of new residential and commercial improvements produces an estimated statewide change in revenues generated from new residential and commercial improvements of $19,702,333 ($37,558,300 x 0.52458) for FY 2006, and $20,470,738 ($39,023,100 x 0.52458) for FY 2007.
11. Applying the aforementioned assumptions, estimated statewide revenues generated from newly completed real residential and commercial improvements not assessed or taxable as of the preceding January 1 is $2,755,568 ($19,702,333 x 70% x 60% x 33.3%) for FY 2006, and $2,863,037 ($20,470,738 x 70% x 60% x 33.3%) for FY 2007.
12. The distribution of estimated revenues for FY 2006 from a special assessment on improvements completed during a tax year that were not assessed or taxable as of the preceding January 1 is $499,026 to the state general fund, $31,517 to the university system 6 mills, and $2,225,025 to local governments and schools. The distribution of estimated revenues for FY 2007 from a special assessment for improvements completed during a tax year that were not assessed or taxable as of the preceding January 1 is $518,488 to the state general fund, $32,747 to the university system 6 mills, and $2,311,803 to local governments and schools.

<u>Expenditures</u>:

13. It is estimated that new construction numbers increase 10 percent per year based on previous years actual counts. For FY 2006, 20,500 parcels are used and for FY 2007, 22,550 parcels are used. The estimated hours needed to accomplish appraisals will require 6.00 FTE in FY 2006 and 6.50 FTE in FY 2007. These are grade 12 appraisers and will cost $233,756 in FY 2006 and $249,639 in FY 2007, including salary and benefits.
14. One FTE, grade 8, property valuation specialist, is needed to review applications at a cost of $25,126 in FY 2006, and $25,052 in FY 2007, including salary and benefits.
15. One computer programmer, grade 16, will be required to create a new field on the Montana Ownership Database System and costs $15,977 in FY 2006 only.
16. Programming changes to the CAMA system (the legacy system that assists the field staff in the estimation of value of all taxable property in Montana) will cost $12,000 in FY 2006. (estimated 80 hours of work)
17. Operating costs include supplies ($875/yr), mailing and creating occupancy certificates to all new construction property owners that reside on the CAMA system will cost $9,590 in FY 2006, and $9,790 in FY 2007, mailing of additional assessment notices will cost $11,656 in FY 2006 and $12,803 in FY 2007, advertising for the taxpayers education program costs are $39,357 in FY 2006, rent for the new employees

is $30,000/yr, maintenance is $800/yr, employee training is $1,600/yr, phone services are $3,584/yr, and network costs are $6,968/yr.

18. Other operations costs include office equipment, computers, phone installation for the new employees for a total of $46,400 in FY 2006.
19. The proposal is effective for tax years beginning after December 31, 2005.

Office of Public Instruction

20. The increase in property tax values from the HB 410 would impact the state's obligation to fund the guaranteed tax base aid for school districts and counties.
21. Property tax values increase by 1.1% in FY 2006. There will be a one-year guaranteed tax base (GTB) cost reduction. The guarantee level is determined by the prior year taxable values applied against current year taxable values. The lower guarantee level in FY 2005 will apply to the higher taxable values in FY 2006 and cause decreased state contribution as districts levy fewer mills to compensate for the drop in taxable values.
22. The one-time decreased cost will be $480,000 in FY 2006 for district levies as calculated by the school fund model. Countywide retirement GTB will decrease $204,000 based on a historical average of 27% of the costs paid for by the state and a FY 2004 county levies equal to $68.6 million (1.1% times $68.6 million local levies times 27%).
23. In FY 2007 and beyond the lower overall level of taxable values will not have a significant impact in statewide guaranteed tax base aid costs.

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
FTE	7.30	7.50
Expenditures:		
Personal Services	274,859	274,691
Operating Expenses	162,830	66,420
Local Assistance (schools)	(684,000)	0
TOTAL	($246,311)	$341,111
Funding of Expenditures:		
General Fund (01)	($246,311)	$341,111
Revenues:		
General Fund (01)	$499,026	$518,488
State Special Revenue (02) *Six Mill Account*	$31,517	$32,747
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$745,337	$177,377
State Special Revenue (02) *Six Mill Account*	$31,517	$32,747

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
It is estimated that there will be additional revenue of $2.3 million each year for local governments and schools. However, the counties will incur additional administration expenses (see technical notes #1, #4, and #8).

TECHNICAL NOTES:

1. Section 1, lines 22 and 23 of the bill states "...completed during the tax year that were not assessed or taxable as of the preceding January 1 ***or improvements that have become the property of a person subject to taxation must be assessed*** (emphasis added) " appears to create the situation that all transactions involving the transfer of ownership of improvements to real property are also subject to the bill. This creates the situation of year round assessment notices and tax bills for the department and county treasurers. This will have major impacts to the administrative costs of the department and have not been included in this fiscal note.
2. Section 1-2a requires the property owner to notify the department of occupation or use of the improvements. The bill does not specify the form of notification. It does not specify that the department develop a form for use in this process. For purposes of the fiscal note, the costs of creating and distributing the form have been included.
3. The impact of this fiscal note includes new construction of residential improvements located on agricultural and forestland. However, the bill does not specifically include (or exclude) them. Language should be added to clarify whether new construction on agricultural and forestland is subject to the provisions of the bill.
4. Section 1(5)(a) requires the county treasurer to notify the person to whom the tax is assessed of the amount due. There is a potential for significant changes to local government computer systems for billing and tracking of these special assessments.
5. New Section 1(5)(b) requires that if the department determines the amount of tax due after October 1st of the tax year, the notification by the treasurer must state that taxes are payable by May 31st of the following year. Taxes collected under the bill from October 1 to January 1 are excluded from 15-16-102, MCA, which allows taxes to be paid in 2 equal halves. For instance, in the case of mobile homes, all taxes due would be due when the 1st half payment is due on May 31st, with no 2nd half payment being made on November 31st. Language under 15-16-102, MCA, may need to be added to exclude the new taxes collected (under the bill) from October 1 to January 1 from being eligible to pay in two separate payments.
6. Section 6 of the bill amends 15-15-102, MCA, to allow the taxpayers affected by the provisions of New Section 1 to file an appeal with the department or with the County Tax Appeal Board (CTAB) either after receiving the special assessment or the result of a review pursuant to an AB-26. This could result in year round reviews of property via the AB-26 process and appeal process. The DOR is not currently staffed for that continuous review and appeal activity.
7. The proposal does not identify the effect that increased property values and tax revenues may have on the guaranteed tax base aid (GTB) received by school districts. How the value associated with these properties impact the GTB and any re-calculation of state aid associated with the proposal should be included in the bill.
8. Under 15-10-420, MCA, newly taxable property is excluded from the local government calculation of a fiscal year mill levy. Under current law, in the year following discovery and up until the certification date (first Monday in August), the value associated with newly taxable property is removed from the mill levy calculation of local government units. The mill levy established under local government budgeting procedures and applied to the newly taxable property is considered the "growth" allowed to a government

unit outside the limitations of 15-10-420, MCA. The proposal appears to establish situations where newly taxable property subject to the provisions of the bill are taxed differently than other properties and could potentially cause two windfall property tax payments to local governments.

For example, under the proposal a newly constructed property discovered after the certification of value date would be subject to the current fiscal year mill levy. The current fiscal year mill levy would have been established without using the value of this newly constructed and discovered property in the budget calculations. Taxation of the property at the time of discovery could provide additional revenue to local government units at the expense of the taxpayer, which appears to be the intent of the bill.

Under section 1, sub-section 7 of the proposal, during the tax year following discovery, the value associated with the newly constructed and discovered property is once again excluded from the local governments' budgeting process by being deemed "newly taxable property". The property has already paid one year's worth of taxes, prorated from the time of discovery, based on the provisions of the bill. But, by determining the mill levy without benefit of the property value associated with the newly constructed and discovered property, the mill levy is kept higher than it otherwise would be, increasing the tax liability of the newly constructed property and all other property. This is especially true where the value of newly constructed and discovered property is extraordinarily high and could help reduce the mill levy if it were included in the budget considerations. The government unit could potentially gain a second windfall at the expense of the taxpayer, i.e. the property tax mill levy would be artificially high resulting in a higher than necessary tax liability.

Not until the third year after discovery is the value of the affected newly constructed property that's assessed and taxed under the provisions of the bill given consideration in the calculation of mill levies. This appears to be an inequitable treatment of the taxpayer and should be researched further by legal counsel.