Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0327		**Title:**	Deferred property tax system for low income disabled or elderly persons
Primary Sponsor:	Wilmer, Franke		**Status:**	As Introduced

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

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$1,369,907	$88,433	$88,583	$184,684
State Special Revenue	$40,657	$53,276	$76,266	$102,207
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	$1,000,000	$0	$0	$0
Net Impact-General Fund Balance	($1,369,907)	($88,433)	($88,583)	($184,684)

Description of Fiscal Impact:
This bill provides a property tax deferral program for low-income disabled and elderly homeowners. The state will reimburse counties for local revenue reductions, and taxpayers will eventually pay the deferred taxes plus interest to the state.

FISCAL ANALYSIS

Assumptions:

1. This bill creates a property tax deferral program for low income disabled and elderly homeowners. Taxpayers will be able to defer increases in property taxes and repay the deferred taxes, with interest, at a later date. Section 20 of the bill creates a new property tax deferral special revenue fund. Section 24 authorizes a transfer of $1 million from the general fund to the property tax deferral fund. The state will reimburse counties from this fund for local revenue losses, and repayments of deferred taxes will be

deposited into the fund after depositing repayments in the general fund to recover the $1 million transfer plus interest on the deferred taxes at a rate of 6% per year.

2. Section 2 of this bill defines eligible taxpayers as low-income disabled homeowners and low-income elderly homeowners who occupy their residences seven months of the year. According to the American Community Survey, 89,210 (35%) of the 254,458 owner occupied households in Montana in 2005 had household incomes less than $35,000. The same survey estimates that 17% of the total Montana adult population is disabled. The estimated population of disabled, low income homeowners is 15,166 (89,210 x 17%).
3. According to the 2000 Census, there are 62,334 owner occupied households in which the homeowner is 62 or older. Applying the low-income rate among owner-occupied homeowners of 35% as calculated previously, there are an estimated 21,817 low-income elderly homeowners (62,334 x 35%). Combining the total populations produces a total eligible population of 36,983 (15,166 + 21,817).
4. Section 3 (2) sets the amount that can be deferred each year at the difference between the current year's taxes and the taxes assessed on the last year that taxes were not deferred. Four percent of a sample of residences in the Department of Revenue's 2006 property database (MODS) have assessed values that did not increase from 2005 because of the last reappraisal and, therefore, will not be able to defer taxes. Applying this rate to the population of properties leaves an eligible population of 35,504 homeowners (36,983 x 96%).
5. Section 3 limits the deferral amount to not more than 50% of the taxes due or not more than 50% of the appraisal value. Based on a sample of 35,504 from the owner-occupied dataset and applying the 2005 consolidated mills to the calendar year 2005 taxable value and the calendar year 2006 consolidated mills to the calendar year 2006 taxable values, no properties will have the deferral amount reduced because of these limits.
6. The average annual increase in taxes that can be deferred within the sample of 35,504 owner-occupied properties was $44.00 in calendar year 2006. The total amount that can be deferred is $1,562,218 (35,504 x $44.00).
7. Based on the effective date of this bill in Section 27, this program will be available for property taxes assessed in calendar year 2007. Growing the estimated total by the growth rates for Class 4 residential as provided in HJR 2; and, holding the calendar year 2008 rate constant for calendar year 2009 and calendar year 2010, the estimated deferral amounts will be: $1,626,268 ($1,562,218 x 1.041) in calendar year 2007; $1,694,572 ($1,626,268 x 1.042) in calendar year 2008; $1,765,744 ($1,694,572 x 1.042) in calendar year 2009 and; $1,839,905 ($1,765,744 x 1.042) in calendar year 2010.
8. Based on trends for established property tax relief programs and the amount of average savings this bill provides, the anticipated participation rates are 2.5% in FY 2008, 3% in FY 2009, 4% in FY 2010, and 5% in FY 2011. Using these rates, the estimated deferral amounts are $40,657 ($1,626,268 x 2.5%) in FY 2008, $50,837 ($1,694,572 x 3.0%) in FY 2009, $70,630 ($1,765,744 x 4.0%) in FY 2010, and $91,995 ($1,839,905 X 5.0%) in FY 2011. These amounts will be paid from the property tax deferral fund to counties where taxpayers deferred taxes.
9. Section 6 of this bill indicates that interest will accrue at a rate of 6% per year on the loan amount. Based on the average deferral amounts per year and applying 6% interest to the previous year's balance, the estimated fiscal impact of this bill shown in the following table:

		With Annual Accrued Interest of 6% on prior year's deferral balance			
	Estimated Total Deferral Amounts	**FY2008**	**FY2009**	**FY2010**	**FY2011**
FY2008	$40,657	$ 40,657.00	$ 43,096.42	$ 45,682.21	$ 48,423.14
FY2009	$50,837		$ 10,180.00	$ 10,790.80	$ 11,438.25
FY2010	$70,630			$ 19,793.00	$ 20,980.58
FY2011	$91,995				$ 21,365.00
	Yearly Totals	**$ 40,657.00**	**$ 53,276.42**	**$ 76,266.01**	**$ 102,206.97**

10. Section 24 of this bill provides for an appropriation of $1 million to a special revenue account for purposes of making payments of deferred property taxes to county treasures. This fiscal note assumes $1 million is transferred to this account in FY 2008.
11. Section 24 also directs the Department of Revenue to deposit repayments of deferred property taxes with interest into the general fund. Based on the average length of deferrals for similar programs in other states, repayments of the deferred amounts will begin sometime after FY 2011.

Administrative Costs:

12. To administer this program and because of the retroactive applicability date in the bill, in FY 2008 the department will require programming changes to the CAMAS computer systems at a programming cost of 240 hours @ $20 per hour for $48,000 and computing systems costs of $200,000. In addition, starting in FY 2008, one paralegal in pay plan 20 band 6 will be required and starting in FY 2011 one attorney in pay plan 20 band 8 would be required, with continued staffing needs as the number of deferrals increases. The total estimated department costs associated with this bill are $369,907 in FY 2008, $88,433 in FY 2009, $88,583 in FY 2010, and $184,684 in FY 2011.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	2.00
Expenditures:				
Personal Services	$54,502	$54,502	$54,502	$138,198
Operating Expenses	$308,705	$33,931	$34,081	$39,786
Equipment	$6,700	$0	$0	$6,700
Transfers	$1,000,000	$0	$0	$0
TOTAL Expenditures	$1,369,907	$88,433	$88,583	$184,684
Funding of Expenditures:				
General Fund (01)	$1,369,907	$88,433	$88,583	$184,684
State Special Revenue (02)	$40,657	$53,276	$76,266	$102,207
TOTAL Funding of Exp.	$1,410,564	$141,709	$164,849	$286,891
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$1,000,000	$0	$0	$0
TOTAL Revenues	$1,000,000	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($1,369,907)	($88,433)	($88,583)	($184,684)

Effect on County or Other Local Revenues or Expenditures:

1. Local governments and school districts where taxpayers participate in the deferral program would receive less in property taxes, but would receive offsetting reimbursements from the state.

Long-Range Impacts:

1. The state would continue to reimburse counties from the property tax deferral fund. Repayments of deferred taxes, plus interest, will eventually be deposited into the fund.
2. The Department of Revenue will continue to incur costs of administering the program after FY 2011.

Technical Notes:

Department of Revenue

1. Section 1(3) of this bill provides a definition of "home." This definition does not include mobile homes as defined in 15-1-101. The definition includes a multi-unit building.
2. Section 1(5) excludes special improvement districts from the deferral. This would require additional accounting processes for tracking. It would be more advantageous to defer the entire amount assessed and billed.
3. Sections 2(1) and 2(6) of the bill reference county assessors. Most county assessor positions have been eliminated; therefore, it will be the local Department of Revenue office that will handle the claim and make the determination on the deferral.
4. Section 2(1)(b) allows for a deferral based on income. The current language in the bill sets the income as $35,000 but does not allow for adjustments to this amount for future tax years. Bill language needs to be added to provide for recalculation of the maximum household eligible income annually.
5. The bill also does not provide that, if annual household income rises above the allowable limit, the taxpayer is no longer eligible for a deferral. Adding bill language to provide for an annual verification process of eligibility for continuation of the deferral may be useful.
6. Current bill language does not provide the taxpayer recourse if their claim for a deferral is denied. Under other property tax programs, the person may appeal the Department's decision as provided by Title 15, Chapter 15, MCA.
7. Section 3(2)(b) indicates that property taxes may not exceed 50% of the appraised value. For purposes of clarification, it would be useful if the bill stated this is the full reappraisal value as determined by the Department of Revenue.
8. Section 4 provides for a claim form; however, there is no recourse to the Department for false or fraudulent application by a taxpayer. Adding bill language indicating an erroneous claim constitutes false swearing as defined in 45-7-202, MCA, may be useful.
9. Section 5(2)(a) refers to Title 30, Chapter 9 as the reference for purchase-money security interest foreclosures. The correct reference should be Title 30, Chapter 9 A.
10. Section 10 makes reference to the mortgage records of the county which is erroneous. The bill should instead state that the Department shall record with the county clerk and recorder a list of tax deferred properties.
11. Section 11(2) requires that the amount of deferred taxes is due and payable five days before the date of removal. The five day requirement adds extra administrative effort in tracking. It would be preferred if the deferral was payable at the time the declaration for manufactured home / mobile home movement is issued.
12. Section 15(1) refers to taxes unpaid as of July 1 of the tax year. The Department would prefer if the reference were to delinquent taxes with the date requirement eliminated.
13. Section 16 requires the owner to apply for delay in issuance of a tax deed to the Department. Such applications will be handled by the county treasurer rather than the Department. The county treasurer would also be responsible for reimbursing the Department for the amount of deferred taxes and interest not collected.
14. Section 16 provides that the owner may appeal a decision on an application to delay foreclosure to the county tax appeal board. The district court is the appropriate body to handle such an appeal.
15. Section 20 provides for a special revenue fund to be used by the department for payments of deferred taxes.

16. The bill does not provide contingencies if the amount of funds in the special revenue fund in Section 20 is not sufficient to make required payments.
17. Previous interpretation of 15-16-102, MCA, has concluded that the county treasurer cannot accept partial payments of taxes. Authority should be extended in 15-16-102, MCA, to allow the county treasurer to accept partial payments of taxes deferred under the program put forth by this bill.
18. Section 26 provides for an effective date upon passage and approval and Section 27 allows for retroactive applicability to tax years beginning after December 31, 2007. The time requirement associated with computer system development and the application deadline effectively prevents the Department from implementing the new program until January 1, 2008.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*