GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0463	**Title:**	Revise taxation of new or expanded business enterprise property
Primary Sponsor:	Villa, Dan	**Status:**	As Introduced

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

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$43,116	$37,664	$37,664	$37,664
Revenue:				
General Fund	***************************UNKNOWN***************************			
Net Impact-General Fund Balance	***************************UNKNOWN***************************			

Description of fiscal impact:
This bill provides property tax incentives for new and expanding business enterprises, revising current law incentives, and removing new industrial property from class 5.

FISCAL ANALYSIS

Assumptions:

1. Section 2 of this bill provides definitions for businesses eligible for the tax incentives provided by this bill. Based on these definitions, an eligible new business enterprise is one that:
   a. Anticipates to derive more than 50% of annual gross revenue from sales outside Montana or produces value-added products;
   b. Commences operations in Montana on or after January 1, 2008; and
   c. Employs at least 10 qualifying employees.
2. The definition in Section 2 for an expanding business enterprise is a business that:
   a. Derives more than 50% of annual gross revenue from sales outside Montana or produces value-added products and
   b. Employees an additional 10 qualifying employees on or after January 1, 2008.

3. Section 2(6) provides a definition of a qualifying employee as a permanent, full-time employee who is:
   a. Paid the lesser of either the county average annual wage or the Montana annual wage based on the Department of Labor's quarterly census,
   b. Necessary to the business's operations, and
   c. Employed during the entire applicable qualifying period.
4. Value added products or commodities are defined in Section (2)(8) as products suitable for sale out of state that are manufactured, processed, produced or created from raw or intermediate materials. Section 2(8)(b) states that services, transportation, or sales are not value added unless incidental to the production.
5. Sections 2(3) and 2(5) define new or expanding business enterprise property as buildings, machinery, and fixtures necessary for the employment of the qualifying employees and utilized throughout the entire qualifying period. The Department of Labor and Industries Quarterly Census of Employment & Wages form 2005 shows the average annual wage paid in the private sector in Montana as $27,937 and the lowest average county private sector wage as $11,249.
6. Section 2(7) defines the qualifying period as the first 3 years of new or expanded operations or the time period during which the new or expanding may qualify for local abatements.
7. Section 3 of the bill directs that those new or enhanced business enterprises qualifying for abatement of taxes for both state and local mills levies be taxed at 33% of the taxable value for the three years of the qualifying period. Business enterprises receiving a tax abatement under Section 3 are not eligible for the local abatement provided in Section 6.
8. For new or enhanced business enterprises that qualify for local abatements, Section 5 directs that those qualifying for abatement of taxes for both state and local mills levied be taxed at 33% of the taxable value for the three years of the qualifying period.
9. For tax year 2006, based on legal name and tax identification number, approximately 424 companies had property that qualified under the current law new and expanding industry abatement statute. The $31.650 million of taxable value associated with the current new and expanding industry property abatement program is provided in the following table:

Tax Year 2006
Value of New and Expanding / New Industrial Properties

Property Type	Tax Class	Tax Year 2004 Taxable Value
New Industrial Improvements	4	24,423,434
New & Expanding Industry - Pollution Control	5	40,838
New & Expanding Industry - Equipment	8	4,369,434
New & Expanding Gase/Elec. Equipment	9	176,393
Centrally Assessed New & Expanding Situs	13	84,831
New & Expanding Wind Generation	14	2,555,683
Total		31,650,613

Under this proposal, these properties would continue to receive the current law tax abatement. However, any new applicants would have to meet the new criteria proposed by this bill. Since the criteria are quite different, the history of abatements to date cannot be used to project future impacts. There is no way to determine the actual number of new or expanding industries that would apply or be granted these abatements. **Therefore, determining fiscal impact is impossible.**

10. The following provides an example of the impact of this bill. In tax year 2007, if a business invests $5 million in taxable market value for a class 4 industrial building and $25 million in class 8 property, meeting the criteria of expanding business enterprise property. The property is assumed to be located in a county without a vocational college. It is also assumed that the business submits and is approved for the

state and local abatement provided in Section 3. Under this law, the taxable value of the qualifying property would be 33% of the taxable value without the abatement for 3 years. Using 101.53 for the state and university mills and growing the current statewide average local mill levy of 425.31 by 3.7% (calendar year 2001 to calendar year 2006 local mill levy growth rate) annually to 457.37 provides an estimated impact on tax revenue in FY 2008 in the following table:

Impact of HB 463 as Introduced on Qualifying Business Investment for State/Local Abatements of $30 million

Tax Year 2007	State Mills	Local Mills	Taxable Market Value	Current Law FY2008 Taxable Value	Current Law FY2008 State Taxes	Current Law FY2008 Local Taxes	Proposed Law FY2008 Taxable Value	Proposed Law FY2008 State Taxes	Proposed Law FY2008 Local Taxes
Class 4	101.53	457.37	$5,000,000	$153,500	$15,585	$70,206	$50,655	$5,143	$23,168
Class 8	101.53	457.37	$25,000,000	$750,000	$76,148	$343,028	$247,500	$25,129	$113,199

11. For qualifying property of a business receiving the local abatement under Section 6 of this bill the taxable value for local mills purposes for this property would be 50% of the taxable value without the abatement for 5 years. Growing the current statewide average local mill levy of 425.31 by 3.7% annually to 457.37 provides an estimated impact on tax revenue in FY 2008 in the following table for a qualifying business investment of $5 million of taxable value in a class 4 industrial building and $25 million of taxable value in class 8 property:

Impact of HB 463 as Introduced on Qualifying Business Investment for Local Abatements of $30 million

Tax Year 2007	Local Mills	Taxable Market Value	Current Law FY2008 Taxable Value	Current Law FY2008 Local Taxes	Proposed Law FY2008 Taxable Value	Proposed Law FY2008 Local Taxes
Class 4	457.37	$5,000,000	$153,500	$70,206	$76,750	$35,103
Class 8	457.37	$25,000,000	$750,000	$343,028	$375,000	$171,514

12. The Department would require 0.5 FTE to process the applications for new and expanding business. The anticipated expenses associated with this position are $43,116 in FY 2008 and $37,664 in FY 2009 through FY 2011.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	0.50	0.50	0.50	0.50
Expenditures:				
Personal Services	$31,718	$31,718	$31,718	$31,718
Operating Expenses	$5,498	$5,946	$5,946	$5,946
Equipment	$5,900	$0	$0	$0
TOTAL Expenditures	$43,116	$37,664	$37,664	$37,664
Funding of Expenditures:				
General Fund (01)	$43,116	$37,664	$37,664	$37,664
TOTAL Funding of Exp.	$43,116	$37,664	$37,664	$37,664
Revenues:				
General Fund (01)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($43,116)	($37,664)	($37,664)	($37,664)

Effect on County or Other Local Revenues or Expenditures:

1. Local governments will see impacts to the extent to which they have new and expanding industry.

Long-Range Impacts:

1. At this time, DOR is unable to determine the number of new or expanding industries that would apply for these abatements. In addition, because the new abatement programs are local option programs, there is no way to determine how many applications will be granted or approved within such a process. The general fund and the university 6 mill account would be impacted depending on future new and expanding industries being granted abatements that include state mill levies.

Technical Notes:

1. In section 4(7)(a) the bill provides that DOR may include in its decision an assessment as to whether the investment would have taken place without the tax change. In many instances, DOR, based on the information it receives, will not be in a position to appropriately judge to what degree the abatement impacted the enterprise's investment decision.

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