Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0635	**Title:**	Financial incentives for integrated design, efficiency, conservation
Primary Sponsor:	Hands, Betsy	**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	$93,936	$74,777	$76,647	$78,564
Revenue:				
General Fund	$39,285	$58,928	($171,429)	($296,429)
Net Impact-General Fund Balance	($54,651)	($15,849)	($248,076)	($374,993)

Description of Fiscal Impact:

This bill will establish a new energy conservation tax credit against individual income or corporation license tax for construction or major building renovations for high-performance buildings that meet certain energy standards. Total credits are limited to $500,000 in a calendar year. General fund revenue will be reduced by $500,000 per year beginning in FY 2012. The bill will require the Department of Environmental Quality (DEQ) to determine the eligibility of tax credit applications by reviewing and verifying building plans and construction documents for eligible costs prior to construction. Review fee income collected from eligible projects will help to offset the cost of additional FTE required for this work.

FISCAL ANALYSIS

Assumptions:

1. This bill will require the Department of Environmental Quality (DEQ) and the Department of Revenue (DOR) to establish a new program to provide tax credits for commercial construction or building renovations that meet criteria as a high-performance building. A high-performance building must meet silver level certification as established by the U.S. Green Building Council LEED program.
2. The DEQ and the DOR will develop rules to establish and administer the energy conservation credit program for commercial buildings.

3. A maximum of $500,000 in tax credits is available each year beyond 2007 to eligible taxpayers.

Department of Environmental Quality (DEQ)

4. The DEQ will approve preliminary and final tax credit certifications from applicants. DEQ shall review applications, construction plans, and supporting documentation based on program rules. DEQ will provide technical assistance to applicants whose plans are found incomplete or unable to pass preliminary certification. DEQ may require an on site verification of the construction project before approving a final certificate.
5. DEQ will need 1.00 FTE in each fiscal year to develop rules, market the program, provide assistance to taxpayers with questions, and review and approve tax credit applications. Staff costs assume an energy engineer at 0.50 FTE and an energy program specialist at 0.50 FTE. It is assumed that 60-75 projects will be reviewed annually. Estimated personal service costs are $55,790 for FY 2008 and FY 2009.
6. Estimated operating costs are $33,146 in FY 2008 and $18,987 in FY 2009, including startup costs. DEQ estimates startup costs to administer and implement the program in FY 2008 to include $5,000 to contract with a cost planning service or consultant to define and establish criteria for certified costs for high-performance building construction, $1,500 to train staff to administer the program, and $7,659 for new employee and indirect costs.
7. A 2.5% inflation factor has been applied for FY 2010 and FY 2011.
8. It is assumed that in tax year 2008 and 2009 the program will be ramping up and not all $500,000 in tax credits will be utilized each year. Construction projects usually involve long lead times needed for project design, bidding, and securing financing. In 2008, potential participants will be learning about the program and possibly revise their construction projects to meet program rules for eligibility. Under this analysis, it is assumed that in 2008 only $250,000 in tax credits will be utilized by taxpayers. In 2009 the program will ramp up further and $375,000 in tax credits will be utilized. In tax year 2010 and 2011 program participants will utilize the full $500,000 in tax credits available each year.
9. In FY 2008 and FY 2009 it is assumed than some general funds will be needed each year to support program costs. There will be no fee revenue to support program costs in the first six months of FY 2008 since the credit is not available to taxpayers until January 1, 2008. In FY 2010 and FY 2011 it is assumed fee revenue will cover all program costs and the program will be fully self-supported.
10. The DEQ may adopt a reasonable fee schedule paid by applicants that request a tax credit certificate. This fee will be deposited in the general fund. In this analysis the review fee or revenue is assumed to be 5.5% of eligible certified costs. Fee revenue will be adjusted over time based upon the actual costs of implementing this new program.
11. To claim the full $500,000 in tax credits available each year program participants must have $1,428,571 ($1,428,571 x .35 = $500,000) in eligible certified costs. Revenue will be reduced in FY 2008 and FY 2009 under the assumption that not all $500,000 in credits will be claimed in those tax years.

TY	Eligible Costs Claimed	Tax Credit Rate	Tax Credits Claimed	Revenue at 5.5 percent of eligible costs
2008	$714,285	.35	$250,000	$39,285
2009	$1,071,428	.35	$375,000	$58,928
2010	$1,428,571	.35	$500,000	$78,571
2011	$1,428,571	.35	$500,000	$78,571

12. The shortfall in revenue to support the program in the first two years will require $49,650 in general funds in FY 2008 and $15,849 in general funds in FY 2009.
13. The $1,923 excess earned in FY 2010 will be used to cover the shortfall in FY 2011.

Department of Revenue (DOR)

14. Effective January 1, 2008, this bill would allow a total of $500,000 in credits each calendar year for the construction of commercial buildings meeting certain energy standards. The credits may be taken by corporations or by the owners of small business corporations and partnerships.
15. The allowable amount of credits will be taken as indicated by DEQ assumption #11.
16. As discussed in assumption #8, The first credits will be for calendar year 2008 in the amount of $250,000. Individuals claiming the credit will do so on returns filed on extensions in October of the next year. Corporations claiming the credit will do so on returns filed between the fall of the next year and the spring of the following year. Thus, credits for calendar year 2008 will be claimed in FY 2010, and credits for calendar year 2009 will be claimed in FY 2011.
17. General fund revenue will be reduced by $250,000 in FY 2010 and $375,000 in FY 2011 and $500,000 each additional fiscal year.
18. The DOR would need to develop two new forms, one for corporations and one for partnerships and small business corporations. These forms would be developed in the spring of 2008, with operating costs of $2,500 for each form. Since the credit is to be used on a first-come, first-served basis and the limit on total credits would be met by a small number of projects, the number of taxpayers using the credit will be small. The DEQ is to certify projects to receive the credit, so the DOR will have no additional costs for processing and auditing returns claiming the credits.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
DEQ				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$55,790	$55,790	$57,185	$58,615
Operating Expenses	$33,146	$18,987	$19,462	$19,949
TOTAL Expenditures	$88,936	$74,777	$76,647	$78,564
Funding of Expenditures:				
General Fund (01)	$88,936	$74,777	$76,647	$78,564
Revenues:				
General Fund (01)	$39,285	$58,928	$78,571	$78,571
DOR				
Expenditures:				
Equipment	$5,000	$0	$0	$0
Funding of Expenditures:				
General Fund (01)	$5,000	$0	$0	$0
Revenues:				
General Fund (01)	$0	$0	($250,000)	($375,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($54,651)	($15,849)	($248,076)	($374,993)

Long-Range Impacts:

1. General fund revenue would continue to be reduced by $500,000 each fiscal year after FY 2011.

Technical Notes:

1. Section 11(3) provides that Sections 3 through 9 are intended to be codified in Title 90. Section 9 amends 15-32-405, MCA and should not be one of the sections covered by Section 11(3).

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