Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0799		**Title:**	Impose real property transfer tax
Primary Sponsor:	Peterson, Ken		**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	$0	$19,500	$300	$300
Revenue:				
General Fund	$0	$16,244,487	$33,885,999	$36,800,195
Net Impact-General Fund Balance	$0	$16,224,987	$33,885,699	$36,799,895

Description of fiscal impact: This legislation would place a 1% realty transfer tax on sales of Montana real property. The first $500,000 of value is exempt from taxation.

FISCAL ANALYSIS

Assumptions:

1. This bill provides for a 1% realty transfer tax on sales of real property in Montana. The first $500,000 in value will be exempted from the tax.
2. There was an estimated $701,275,655 in sales of agricultural land and $8,478,824,237 in sales of class 4 property in Montana during calendar year 2005. After exempting the first $500,000 of sales value, the taxable portion of the sales was $5,632,692 for agriculture land and $2,377,732,580 for class 4 properties. The total taxable portion was $2,383,365,272. With a 1% tax rate, the tax revenues would have been $23,833,653 ($2,383,365,272 x 0.01) in calendar year 2005.
3. The bill is effective for calendar year 2009. The Center for Applied Economic Research reports that between 1999 and 2003, the average home price increased at an annual growth rate of 8.6%. Data

maintained by the Federal Reserve Bank of Kansas City indicates fairly comparable land value changes for agricultural farmland since the first half of 2004. At this growth rate, the estimated revenues will increase to $33,152,013 ($23,833,653 x 1.086^4) in calendar year 2009, $36,003,087 ($23,833,653 x 1.086^5) in calendar year 2010, and $39,099,352 ($23,833,653 x 1.086^6) in calendar year 2011.

4. Assuming that half of the revenues for the calendar year are received in the same fiscal year and half are received in the following fiscal year, the revenues received will be $16,576,007 ($33,152,013 x 0.5) in FY 2009, $34,577,550 (($33,152,013 x 0.5) + ($36,003,087 x 0.5)) in FY 2010, and $37,551,183 (($36,003,013 x 0.5) + ($39,099,352 x 0.5)) in FY 2011.
5. County treasurers retain 2% of the taxes collected to defray the costs of collection. The amount retained by county treasurers is estimated to be $331,520 ($16,576,007 x 0.02) in FY 2009, $691,551 ($34,577,550 x 0.02) in FY 2010, and $751,024 ($37,551,219 x 0.02) in FY 2011.
6. The remainder of the revenue will be deposited in the general fund. HB 799 states the revenue is to be distributed 1/3 to the Montana University System and the rest to K-12 education. The expected distributions are shown in the table below:

HB 799 Allocation of the Real Estate Transfer Tax General Fund Revenue

	FY 2009	FY 2010	FY 2011
K-12 Education	$10,829,658	$22,590,666	$24,533,463
Montana University System	$5,414,829	$11,295,333	$12,266,732
Total State Revenues	$16,244,487	$33,885,999	$36,800,195

7. The Department of Revenue will require $19,500 in FY 2009 and $300 each following fiscal year for the creation and printing of new forms for this tax.

Fiscal Impact:	**FY 2008 Difference**	**FY 2009 Difference**	**FY 2010 Difference**	**FY 2011 Difference**
Expenditures:				
Operating Expenses	$0	$19,500	$300	$300
TOTAL Expenditures	$0	$19,500	$300	$300
Funding of Expenditures:				
General Fund (01)	$0	$19,500	$300	$300
TOTAL Funding of Exp.	$0	$19,500	$300	$300
Revenues:				
General Fund (01)	$0	$16,244,487	$33,885,999	$36,800,195
TOTAL Revenues	$0	$16,244,487	$33,885,999	$36,800,195
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$16,224,987	$33,885,699	$36,799,895

Effect on County or Other Local Revenues or Expenditures:

1. County treasurers retain 2% of the taxes collected to defray the costs of collection. The amount retained by county treasurers is estimated to be $331,520 in FY 2009, $691,551 in FY 2010, and $751,024 in FY 2011.

Long-Range Impacts:

1. This legislation would continue to have fiscal impacts in years not covered by this note.

Technical Notes:

1. This fiscal note assumes that the taxpayer will assume the costs of the appraisal completed by a "certified real estate appraiser." If the Department of Revenue is directed pay for the appraisal costs, the administrative costs would be dramatically higher.
2. Section 2 provides that considerations realized in the sale of mining property are subject to the real estate transfer tax. This would be difficult to monitor and discover because an RTC is not required to be filed for this purpose.
3. The revenues are dedicated for a specific purpose, but the legislation does not direct the Department of Revenue to deposit these funds in a special revenue account dedicated to those purposes.
4. There is general confusion in the HB 799 regarding the responsibilities of the county treasurer and the Department of Revenue. For example, subsection (2)(b) states that the department must be notified of the occurrence of a sale and (3)(b) states that the sale should be reported to the county treasurer. Because the county treasurer is responsible for collecting the tax, it would be more clear if (2)(b) were amended to replace the department with the county treasurer. In addition, subsection (2) of this section states that the taxes, penalties, and fees are collected by the department, yet the bill provides that the county treasurer collects the taxes, penalties, and fees and remits them to the department. There is also general confusion in the bill draft as to the assessment of penalties and fees. Under new section 3 (line 24), the legislation states that penalties and fees collected must be allocated. Yet there are no other references to "penalties" in the bill or why and how these penalties would be assessed. There is reference for interest due on past-due taxes. Further, as stated above, it is unclear why the Department of Revenue would collect interest and penalties when the county treasurer collects the tax. Finally, it is unclear whether the collection of delinquencies is the responsibility of the county treasurer or the Department of Revenue.
5. Subsection (3) refers to an assessment or refund of the tax within 4 years of the sale, but the subsections all refer to fraud or failure to report a sale. It does not seem that there would be a refund under these scenarios.
6. Currently, county treasurers remit collections to the Department of Revenue on the county collection reports, which are due to the Department of Revenue by the 25th of each month. HB 799 could be streamlined and made more efficient if the realty transfer tax collections were included with other collections remitted on the county collections report.

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