GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill #	SB0266	**Title:**	Revise taxation to promote new business and economic activity
Primary Sponsor:	Blasdel, Mark	**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 2020 Difference	FY 2021 Difference	FY 2022 Difference	FY 2023 Difference
Expenditures:				
General Fund	$11,830	$0	$0	$0
Revenue:				
General Fund	($879,000)	($1,979,000)	($2,439,000)	($2,935,000)
Net Impact-General Fund Balance:	($890,830)	($1,979,000)	($2,439,000)	($2,935,000)

Description of fiscal impact: SB 266 would create a nonrefundable income tax credit for employers who hire qualifying new employees. The program will require administrative expenditures at the Department of Labor and Industry to implement, and the tax credit reduces general fund income tax revenue collected by the Department of Revenue.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. This bill would create a nonrefundable income tax credit for employers who hire qualifying new employees. The non-refundable credit can be carried forward up to 10 years
2. A qualifying new employee is defined as an employee who is initially hired during the credit period and who is employed for at least 6 months during the year for which the credit is granted. A qualifying new employee must also be earning an average annual wage of at least $50,000, including benefits, or $35,000, including benefits, if the employee is hired in a county with a population of less than 20,000.
3. The amount of the credit is equal to 50% of the taxpayer's federal tax liability for that qualified new employee under 26 U.S.C 3111 (a) and (b). The total tax liability under 26 U.S.C 3111 (a) and (b) is 7.65% of the wages paid by the employer.

4. The tax credit claimed under this bill would be 3.825% of the wages or salary for each qualifying new employee hired in the credit period.
5. It is assumed that the tax credit would be claimed for each new job with a salary high enough to qualify for the tax credit. The number of qualifying new jobs was estimated using the Montana Employment and Labor Force Projections report (2017-2027) from the Department of Labor and Industry (DLI).
6. The number of qualifying new jobs per year for each type of occupation was estimated using the forecast annual change in jobs for 2019-2027 and the 25th percentile, median and 75th percentile wages for each occupation.
7. These estimates, along with the estimated mean wage for each occupation, the average tax credit amount for each qualifying new employee in the respective occupation and the estimated total tax credits claimed for qualified employees hired in TY 2019, are shown in Table 1 below.

Table 1

Occupation	Estimated Number of Qualifying New Employees per Year	Mean Wage of Occupation 2019	Mean Tax Credit Per Qualifying New Employee	Total Tax Credit Tax Year 2019
Healthcare Practitioners and Technical	415	$80,881	$3,094	$1,285,128
Construction and Extraction	185	$52,944	$2,025	$374,935
Business and Financial Operations	147	$66,226	$2,533	$371,421
Architecture and Engineering	89	$76,977	$2,944	$260,576
Computer and Mathematical	87	$68,919	$2,636	$230,087
Installation, Maintenance, and Repair	84	$49,840	$1,906	$160,850
Management	80	$97,116	$3,715	$296,246
Transportation and Material Moving	55	$41,836	$1,600	$87,512
Education, Training, and Library	40	$45,643	$1,746	$69,736
Community and Social Service	35	$42,604	$1,630	$57,077
Life, Physical, and Social Science	34	$59,715	$2,284	$78,630
Legal	31	$72,423	$2,770	$84,664
Office and Administrative Support	30	$36,904	$1,412	$41,924
Production	28	$42,896	$1,641	$45,685
Sales and Related	23	$37,499	$1,434	$32,882
Protective Service	12	$48,109	$1,840	$21,714
Arts, Design, Entertainment, Sports, and Media	6	$39,337	$1,505	$9,498
Farming, Fishing, and Forestry	6	$35,249	$1,348	$7,719
Total	**1386**			**$3,516,284**

8. This bill would apply retroactively to tax years beginning after December 31, 2018. It is assumed that the tax credit would be claimed for all qualifying new employees hired starting with tax year TY 2019. It is assumed that tax credits claimed for TY 2019 would impact tax revenues in FY 2020 due to the timing of most tax returns.
9. This credit would be non-refundable and could be carried forward up to 10 years. Some businesses do not have a tax liability or have a tax liability of less than the credit amount they would be able to claim, and these corporations would carry-over all or a portion of the credit to future tax years when they may have a tax liability (approximately 65% of corporations paid the minimum Montana corporate income tax of $50 in TY 2016). It is assumed that in TY 2019, 50% of the potential total credit amount due to qualified new employees hired in that tax year would be paid out and result in a decrease in general fund tax revenue. That percentage is assumed to increase to 60% in TY 2020, 70% in TY 2021 and 80% in TY 2022, because the credit can be carried forward.
10. Due to the requirement of qualifying new employees working at least 6 months in the tax year that the credit is claimed, it is assumed that employees hired more than 6 months into a given tax year would not be claimed until the following tax year. This means the impact on tax revenues from credits in TY 2019 would be half of

the total estimate tax credits claimed for qualifying new employees hired in TY 2019. This means this reduces revenue for FY 2020 by approximately $879,000. The total tax credits for FY 2021would be a combination of the credits claimed for hires in the second half of TY 2019 and hires in the first half of TY 2020. Using the HJ 2 forecast for wage growth of 4.6% per year, the estimated decrease in tax revenue would be $1,979,000 in FY 2021, $2,439,000 in FY 2022 and $2,935,000 in FY 2023.

11. The DOR expects to incur one-time IT application costs of $11,830 in FY 2020.

Department of Labor and Industry (DLI)

12. The Department of Labor & Industry (DLI) would be responsible for the administration of the tax credit, in conjunction with the Department of Revenue. DLI does not currently have the staff or a mechanism in place necessary to administer this program, so additional staff and IT development would be needed to comply with the language in SB 266.
13. The Workforce Services Division (WSD) of DLI would create, accept and administer applications from employers applying for the tax credit in SB 266. WSD estimates 1.00 FTE Band 6 Administrative Specialist, with an annual salary and benefits of $78,213 would be required to administer this program.
14. WSD would also need to calculate, track and produce data to comply with SB 266. To carry out this data function WSD estimates that 0.50 FTE of a Band 7 Economist at a cost in salary and benefits of $51,730 will be required.
15. SB 266 gives DLI the authority to audit employer accounts after receipt of a tax credit. Due to the timing of when applications for a tax credit are due and when wage reports are due to the department, WSD would have to audit a share of employers to ensure the wages reported for the tax credit are consistent with the wages reported for Unemployment Insurance purposes. WSD would need to hire 1.00 FTE Band 6 Auditor with an annual salary and benefits of $72,166 to audit employers' accounts.
16. WSD would also have increased annual operating costs of $46,837 to support the above 2.50 FTE. This includes $15,866 for the DLI cost allocation plan calculated at 7.85% of personal services, $3,500 for rent, $7,260 in technology services costs calculated at $242 per month per FTE, and $20,211 for items such as telephone, copiers, scanners, utilities, minor equipment and supplies calculated at 10% of personal service costs.
17. These positions would require one-time-only start-up operating costs of $2,800 per FTE including $1,600 for furniture and $1,200 for a computer. For the 2.50 FTE total one-time-only costs for would be $7,000.
18. There will be need for legal counsel during the first biennium to assist with program establishment and process development. DLI assumes this will require approximately 600 hours of legal work in the first biennium. The first year would require 75% of this time for initial program development and administrative rule-making. The second year in the biennium would require 25% of this time for ongoing program and process development. At DLI's legal rate of $97/hour, this will cost the program $58,200 in the first biennium. Of this, $43,650 would be charged in FY 2020 and $14,550 would be charged in FY 2021.
19. One-time-only administrative rule-making costs are estimated to be $1,500. This is in addition to the legal work outlined above. This includes the cost to file a 20-page proposal with the Secretary of State's Office and a 5-page adoption notice for the rule-making process. The current rate for these filings is $60/page.
20. Ongoing legal counsel would be approximately 50 hours per year. At $97/hour, ongoing legal work would be $4,850 per year after the first biennium.
21. WSD would need to create an on-line platform for employers to apply for the tax credit, WSD assumes a platform similar to the Apprenticeship Tax Credit would be appropriate. One-time-only development would be 320 hours of internal agency IT work at a cost of $84/hour. Total one-time-only development would cost $26,880 in FY 2020.
22. On-going maintenance would be required for upkeep of the online application platform. WSD assumes 80 hours per year would be required at $72/hour. The ongoing annual cost for IT maintenance would be $5,760.
23. The software license for the IT platform would be a one-time-cost of $13,194 in FY 2020 and an ongoing fee of $2,639 in subsequent years.
24. DLI assumes the expenses would be funded by the general fund.

Fiscal Impact:	**FY 2020 Difference**	**FY 2021 Difference**	**FY 2022 Difference**	**FY 2023 Difference**
Department of Labor and Industry (DLI) and Department of Revenue (DOR)				
FTE (DLI)	2.50	2.50	2.50	2.50
Expenditures:				
Personal Services (DLI)	$202,109	$202,109	$202,109	$202,109
Operating Expenses (DLI)	$139,061	$69,786	$60,086	$60,086
Operating Expenses (DOR)	$11,830	$0	$0	$0
TOTAL Expenditures	$353,000	$271,895	$262,195	$262,195
Funding of Expenditures:				
General Fund (01)	$353,000	$271,895	$262,195	$262,195
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Funding of Exp.	$353,000	$271,895	$262,195	$262,195
Revenues:				
General Fund (01)	($879,000)	($1,979,000)	($2,439,000)	($2,935,000)
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	($879,000)	($1,979,000)	($2,439,000)	($2,935,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($1,232,000)	($2,250,895)	($2,701,195)	($3,197,195)
State Special Revenue (02)	$0	$0	$0	$0

Long-Term Impacts:

Department of Revenue

1. While tax credits can be earned through TY 2029 (through December 31,2029), because tax credits can be carried forward for up to 10 years they could be claimed through FY 2040.
2. Credits are assumed to grow with wage and salary growth through to the end of TY 2029. The current trend growth rate of wages and salaries is approximately 4.6% per year. Credits are likely to increase faster than this in later years as the wages are fixed.

Technical Notes:

Department of Revenue

1. There is no section 1 subsection (4) in the bill. The subsequent subsections should be renumbered.
2. On page 2, line 20, the word 'least" is missing following "at" and before "$35,000".

Department of Labor and Industry

3. DLI does not collect the amount of benefits provided to employees by employers. The average yearly wage in Section 1 (8)(k)(B) could only be obtained through the employer's self-reporting on the tax credit application. Verification could only be done through an audit after the tax credit is granted.
4. The tax credit application would be due no later than February 1st. At this point in time DLI only has wage and employment information through the previous July. Any wage and employment information after July

would have to come through the employer's self-reporting. Verification could only be done through an audit after the tax credit is granted.

5. There is no definition of "account" as noted Section 1 (8).
6. The approval or denial of the tax credits would have to occur within a brief period of time each year. The impact on the workload and whether one individual can process all applications is unknown at this time.
7. An employer will know a credit is received sometime between February and April of the following year after the employment has occurred, meaning that the certification is done after the tax year is over. Because employers would not know if they qualified until after the tax year is over, this tax credit may or may not influence hiring behavior of the employer.
8. The biennial report to the revenue and transportation interim committees includes the names of the qualifying employers of the tax credit. While the bill grants DLI authority to collect and review this information, this information is confidential protected tax information with regards to public dissemination.

NO SPONSOR SIGNATURE

		TL	2/21/19
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*