



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 Amended in House Committee-Revised

- 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

|   | <u>FY 2020<br/>Difference</u> | <u>FY 2021<br/>Difference</u> | <u>FY 2022<br/>Difference</u> | <u>FY 2023<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Expenditures:</b>                    |                               |                               |                               |                               |
| General Fund                            | \$353,000                     | \$271,895                     | \$262,195                     | \$261,195                     |
| <b>Revenue:</b>                         |                               |                               |                               |                               |
| General Fund                            | (\$338,000)                   | (\$760,000)                   | (\$937,000)                   | (\$1,127,000)                 |
| <b>Net Impact-General Fund Balance:</b> | <u>(\$691,000)</u>            | <u>(\$1,031,895)</u>          | <u>(\$1,199,195)</u>          | <u>(\$1,388,195)</u>          |

**Description of fiscal impact:** SB 266 as amended in the House creates a nonrefundable income tax credit for employers who hire at least ten qualifying new employees.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Revenue**

1. SB 266, as amended, would create a non-refundable income tax credit which can be carried forward up to 10 years and can be claimed by employers with qualifying net employee growth. Qualifying net employee growth is defined as hiring at least 10 new jobs during the first year the credit is claimed and at least 15 total jobs in any subsequent year to continue claiming the credit. The baseline for an employer's number of jobs to determine their job growth is their employment in CY 2018.
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 claimed. A qualifying new employee must also be earning an average annual wage of at least \$45,000, plus benefits.
3. The amount of the credit is equal to 50% of the taxpayer's federal tax liability for the qualified new employees 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 a portion of new jobs in each industry based on the distribution of salaries (25<sup>th</sup> percentile, median, 75<sup>th</sup> percentile) in that industry and the likelihood of an employer in that industry hiring at least ten new employees in a given credit period and five more in a following credit period to continue claiming the credit.
6. The number of qualifying new jobs was estimated using data from the Montana Employment and Labor Force Projections report (2017-2027) from the Department of Labor and Industry (DLI) and the Quarterly Census of Employment and Wages. These estimates are based on current job growth estimates and does not include any marginal job growth as a result of the incentives created by this bill.
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. These estimates for the number of qualifying new employees in each occupation account for public-sector and non-profit organizations not having a tax liability to claim the credit against.

| Occupation                             | Estimated Number of Qualifying New Employees per Year | Average Wage in Occupation 2019 | Average Credit Per Qualifying Employee | Total Possible Tax Credit Tax Year 2019 |
|--|---|---------------------------------|--|---|
| Management                             | 10  | \$89,790                        | \$3,434                                | \$34,345                                |
| Healthcare Practitioners and Technical | 200   | \$74,780                        | \$2,860                                | \$572,067                               |
| Architecture and Engineering           | 40  | \$71,170                        | \$2,722                                | \$108,890                               |
| Legal                                  | 10  | \$66,960                        | \$2,561                                | \$25,612                                |
| Computer and Mathematical              | 40  | \$63,720                        | \$2,437                                | \$97,492                                |
| Business and Financial Operations      | 70  | \$61,230                        | \$2,342                                | \$163,943                               |
| Construction and Extraction            | 80  | \$59,930                        | \$2,292                                | \$183,386                               |
| Installation, Maintenance, and Repair  | 40  | \$58,170                        | \$2,225                                | \$89,000                                |
| Life, Physical, and Social Science     | 10  | \$55,210                        | \$2,112                                | \$21,118                                |
| Transportation and Material Moving     | 30  | \$47,380                        | \$1,812                                | \$54,369                                |
| <b>Total</b>                           | <b>530</b>  |                                 |  | <b>\$1,350,221</b>                      |

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 able to 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 granted, 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 estimated tax credits claimed for qualifying new employees hired in TY 2019. This makes the estimated decrease in tax revenue for FY 2020 approximately \$338,000. The tax credits for FY 2021 would be a combination of claims for hires in the second half of TY 2019 and hires in the first half of TY 2020.

11. Using the HJ 2 forecast for Montana wage income growth rate of 4.6% per year, the estimated decrease in tax revenue would be \$760,000 in FY 2021, \$937,000 in FY 2022 and \$1,127,000 in FY 2023.
12. The DOR expects to incur one-time IT application costs of \$11,830 in FY 2020.

**Department of Labor and Industry (DLI)**

13. The Department of Labor & Industry (DLI) would be responsible for the administration of the tax credit with the Department of Revenue. DLI does not currently have the staff or a mechanism in place to administer this program, so additional staff and IT development would be needed to comply with the language in SB 266.
14. 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.
15. WSD would calculate, track and produce data to comply with SB 266. To carry out this 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.
16. 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 to hire 1.00 FTE Band 6 Auditor with an annual salary and benefits of \$72,166 to audit employers' accounts.
17. WSD would also have 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 & supplies calculated at 10% of personal service costs.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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 needed. 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.
23. On-going maintenance would be required for upkeep of the online application. WSD assumes 80 hours per year would be required at \$72/hour. The ongoing annual cost for IT maintenance would be \$5,760.
24. 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.
25. DLI assumes the expenses would be funded by the general fund.

| <b>Fiscal Impact:</b>   | <b>FY 2020<br/>Difference</b> | <b>FY 2021<br/>Difference</b> | <b>FY 2022<br/>Difference</b> | <b>FY 2023<br/>Difference</b> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Department of Labor and Industry (DLI) and<br/>Department of Revenue (DOR)</b> |                               |                               |                               |                               |
| FTE (DLI)   | 2.50                          | 2.50                          | 2.50                          | 2.50                          |
| <b>Expenditures:</b>  |                               |                               |                               |                               |
| 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                           |
| <b>TOTAL Expenditures</b>   | <b>\$353,000</b>              | <b>\$271,895</b>              | <b>\$262,195</b>              | <b>\$262,195</b>              |
| <b>Funding of Expenditures:</b>   |                               |                               |                               |                               |
| General Fund (01)   | \$353,000                     | \$271,895                     | \$262,195                     | \$262,195                     |
| State Special Revenue (02)  | \$0                           | \$0                           | \$0                           | \$0                           |
| <b>TOTAL Funding of Exp.</b>  | <b>\$353,000</b>              | <b>\$271,895</b>              | <b>\$262,195</b>              | <b>\$262,195</b>              |
| <b>Revenues:</b>  |                               |                               |                               |                               |
| General Fund (01)   | (\$338,000)                   | (\$760,000)                   | (\$937,000)                   | (\$1,127,000)                 |
| State Special Revenue (02)  | \$0                           | \$0                           | \$0                           | \$0                           |
| <b>TOTAL Revenues</b>   | <b>(\$338,000)</b>            | <b>(\$760,000)</b>            | <b>(\$937,000)</b>            | <b>(\$1,127,000)</b>          |
| <b>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</b>        |                               |                               |                               |                               |
| General Fund (01)   | (\$691,000)                   | (\$1,031,895)                 | (\$1,199,195)                 | (\$1,389,195)                 |
| State Special Revenue (02)  | \$0                           | \$0                           | \$0                           | \$0                           |

**Long-Term Impacts:**

**Department of Revenue**

1. While this tax credit can be earned through TY 2025 (through December 31, 2025), the carry forward provision would allow credits to be claimed through FY 2036.
2. Credits are assumed to grow with wage and salary growth through TY 2025, at a rate of approximately 4.6% per year. The fixed wage threshold of \$45,000 would result in more jobs qualifying for the credit each year, and the credits claimed would likely increase faster than the wage and salary growth rate.
3. The appropriation in the bill should direct \$11,830 in FY 2020 to the Department of Revenue.

**Department of Labor and Industry**

1. Depending on the timing of the credit application, available wage and employment data may be dated. In this instance, the department would need to rely upon applicant-reported data, which could be verified through an audit after the issuance of a credit.
2. The appropriation in the bill should direct \$341,170 in FY 2020 and \$271,895 in FY 2021 to the Department of Labor and Industry.

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*Sponsor's Initials*

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*Budget Director's Initials*

4/22/19  
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