

HOUSE BILL NO. 753

INTRODUCED BY HARRINGTON, MENAHAN, QUILICI,
LYNCH, D. BROWN

IN THE HOUSE

FEBRUARY 12, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 27, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

APRIL 3, 1991

SECOND READING, DO PASS.

ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 89; NOES, 11.

APRIL 4, 1991

ENGROSSING REPORT.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 4, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 11, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 15, 1991

SECOND READING, CONCURRED IN.

APRIL 16, 1991

THIRD READING, CONCURRED IN.
AYES, 46; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

APRIL 19, 1991

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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INTRODUCED BY *House* BILL NO. 753
Samuel M. Michener
Spencer Lee Brown

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE RESTRICTIONS ON GRANTING PROPERTY TAX EXEMPTIONS FOR BUSINESS INCUBATOR PROPERTY; AMENDING SECTION 15-24-1802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-24-1802, MCA, is amended to read:

"15-24-1802. Business incubator tax exemption -- procedure. (1) A business incubator owned and operated by a local economic development organization is eligible for an exemption from ~~certain local~~ property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the ~~affected county,~~ consolidated government, or incorporated city or town, ~~or school district in which the property is located or, if the property is not located within the limits of a consolidated government or an incorporated city or town, the governing body of the county shall approve the tax exemption by resolution, after notice and hearing. Prior to holding the hearing, the governing body shall determine that the local~~

economic development organization:
(a) is a private nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;
(b) is engaged in economic development and business assistance work in the area; and
(c) owns and operates or will operate the business incubator.
(3) The tax exemption described in subsection (1) applies ~~only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. The exemption may not apply to all property taxes that may be levied against the property, including levies or and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise required under state law.~~

NEW SECTION. Section 2. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

-End-



-2- INTRODUCED BILL
HB 753

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0753, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate restrictions on granting property tax exemptions for business incubator property; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

Under current law a business incubator owned and operated by a local economic development organization is eligible for an exemption from certain local property taxes. The governing body of the affected county, consolidated government, incorporated city or town, or school district must approve the tax exemption which applies only to the number of mills levied and assessed by the governing body approving the exemption.

Under the proposal, the tax exemption is no longer subject to the approval of the local school district or to the approval of the county if the property is located within the limits of a consolidated government or an incorporated city or town. In addition the exemption is extended to include all property taxes that may be levied against the property rather than just local taxes.

The loss due to this extended exemption is not expected to be great. Currently, there are only one or two such organizations which qualify for the exemption. It is not possible to predict how many more qualifying organizations will be developed over the course of the biennium or the extent of the loss in property taxes.


ROD SUNDSTED, BUDGET DIRECTOR 2-13-91 DATE
Office of Budget and Program Planning


DAN W. HARRINGTON, PRIMARY SPONSOR 2-15-91 DATE

Fiscal Note for HB0753, introduced

HB753

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 753

INTRODUCED BY HARRINGTON, MENAHAN, QUILICI,

LYNCH, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE RESTRICTIONS ON GRANTING PROPERTY TAX EXEMPTIONS FOR BUSINESS INCUBATOR PROPERTY DETERMINED BY THE DEPARTMENT OF REVENUE TO QUALIFY FOR EXEMPTION; AMENDING SECTION 15-24-1802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-24-1802, MCA, is amended to read:

"15-24-1802. Business incubator tax exemption -- procedure. (1) A business incubator owned and operated by a local economic development organization is eligible for an exemption from ~~certain-local~~ property taxes as provided in this section.

(2) IF THE DEPARTMENT OF REVENUE MAKES AN INITIAL DETERMINATION THAT THE BUSINESS INCUBATOR QUALIFIES FOR THE PROPERTY TAX EXEMPTION, IT SHALL PUBLISH NOTICE OF AND HOLD A PUBLIC HEARING TO DETERMINE WHETHER THE PROPERTY SHOULD BE EXEMPT FROM TAXATION.

(3) (A) FOR A TAXPAYER TO RECEIVE THE TAX EXEMPTION DESCRIBED IN SUBSECTION (1), THE GOVERNING BODY OF THE

AFFECTED INCORPORATED CITY OR TOWN OR CONSOLIDATED GOVERNMENT, FOLLOWING THE PUBLIC HEARING PROVIDED FOR IN SUBSECTION (2), SHALL GIVE DUE NOTICE, AS DEFINED IN 76-15-103, AND HOLD A PUBLIC HEARING. THE GOVERNING BODY MAY APPROVE OR DISAPPROVE THE TAX EXEMPTION PROVIDED FOR IN SUBSECTION (1). IF APPROVED, THE GOVERNING BODY MUST DO SO BY A SEPARATE RESOLUTION FOR EACH BUSINESS INCUBATOR IN ITS RESPECTIVE JURISDICTION. THE GOVERNING BODY MAY NOT GRANT APPROVAL FOR THE BUSINESS INCUBATOR UNTIL ALL OF THE APPLICANT'S TAXES HAVE BEEN PAID IN FULL. TAXES PAID UNDER PROTEST DO NOT PRECLUDE APPROVAL.

(B) THE RESOLUTION PROVIDED FOR IN SUBSECTION (3)(A) MUST INCLUDE THE APPLICATION SUBMITTED TO THE DEPARTMENT BY THE TAXPAYER SEEKING THE EXEMPTION.

(C) UPON RECEIPT OF APPROVAL OF THE GOVERNING BODY OF THE AFFECTED TAXING JURISDICTION, THE ASSESSOR SHALL MAKE THE ASSESSMENT CHANGE FOR THE TAX EXEMPTION PROVIDED FOR IN THIS SECTION.

(2)(4) In order to qualify for the tax exemption described in this section, the governing body of the ~~affected-county~~, consolidated government, or incorporated city or town, ~~--or-school-district~~ in which the property is located or, if the property is not located within the limits of a consolidated government or an incorporated city or town, the governing body of the county shall approve the tax

1 exemption by resolution, after notice and hearing. Prior to
2 holding the hearing, the governing body shall determine that
3 the local economic development organization:

4 (a) is a private nonprofit corporation as provided in
5 Title 35, chapter 2, and is exempt from taxation under
6 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

7 (b) is engaged in economic development and business
8 assistance work in the area; and

9 (c) owns and operates or will operate the business
10 incubator.

11 ~~(3)~~(5) The tax exemption described in subsection (1)
12 applies ~~only--to-the-number-of-mills-levied-and-assessed-by~~
13 ~~the-governing-body-approving-the-exemption--over--which--the~~
14 ~~governing--body--has--sole-discretion--The-exemption-may-not~~
15 ~~apply~~ to all property taxes that may be levied against the
16 property, including levies or and assessments required under
17 Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise
18 required under state law."

19 NEW SECTION. Section 2. Effective date -- retroactive
20 applicability. [This act] is effective on passage and
21 approval and applies retroactively, within the meaning of
22 1-2-109, to taxable years beginning after December 31, 1990.

-End-

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INTRODUCED BY HARRINGTON, MENAHAN, QUILICI,

LYNCH, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE RESTRICTIONS ON GRANTING PROPERTY TAX EXEMPTIONS FOR BUSINESS INCUBATOR PROPERTY DETERMINED BY THE DEPARTMENT OF REVENUE TO QUALIFY FOR EXEMPTION; AMENDING SECTION 15-24-1802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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(2) IF THE DEPARTMENT OF REVENUE MAKES AN INITIAL DETERMINATION THAT THE BUSINESS INCUBATOR QUALIFIES FOR THE PROPERTY TAX EXEMPTION, IT SHALL PUBLISH NOTICE OF AND HOLD A PUBLIC HEARING TO DETERMINE WHETHER THE PROPERTY SHOULD BE EXEMPT FROM TAXATION.

(3) (A) FOR A TAXPAYER TO RECEIVE THE TAX EXEMPTION DESCRIBED IN SUBSECTION (1), THE GOVERNING BODY OF THE

AFFECTED INCORPORATED CITY OR TOWN OR CONSOLIDATED GOVERNMENT, FOLLOWING THE PUBLIC HEARING PROVIDED FOR IN SUBSECTION (2), SHALL GIVE DUE NOTICE, AS DEFINED IN 76-15-103, AND HOLD A PUBLIC HEARING. THE GOVERNING BODY MAY APPROVE OR DISAPPROVE THE TAX EXEMPTION PROVIDED FOR IN SUBSECTION (1). IF APPROVED, THE GOVERNING BODY MUST DO SO BY A SEPARATE RESOLUTION FOR EACH BUSINESS INCUBATOR IN ITS RESPECTIVE JURISDICTION. THE GOVERNING BODY MAY NOT GRANT APPROVAL FOR THE BUSINESS INCUBATOR UNTIL ALL OF THE APPLICANT'S TAXES HAVE BEEN PAID IN FULL. TAXES PAID UNDER PROTEST DO NOT PRECLUDE APPROVAL.

(B) THE RESOLUTION PROVIDED FOR IN SUBSECTION (3)(A) MUST INCLUDE THE APPLICATION SUBMITTED TO THE DEPARTMENT BY THE TAXPAYER SEEKING THE EXEMPTION.

(C) UPON RECEIPT OF APPROVAL OF THE GOVERNING BODY OF THE AFFECTED TAXING JURISDICTION, THE ASSESSOR SHALL MAKE THE ASSESSMENT CHANGE FOR THE TAX EXEMPTION PROVIDED FOR IN THIS SECTION.

+2+(4) In order to qualify for the tax exemption described in this section, the governing body of the affected-county, consolidated government, or incorporated city or town,--or-school-district in which the property is located or, if the property is not located within the limits of a consolidated government or an incorporated city or town, the governing body of the county shall approve the tax

1 exemption by resolution, after notice and hearing. Prior to
2 holding the hearing, the governing body shall determine that
3 the local economic development organization:

4 (a) is a private nonprofit corporation as provided in
5 Title 35, chapter 2, and is exempt from taxation under
6 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

7 (b) is engaged in economic development and business
8 assistance work in the area; and

9 (c) owns and operates or will operate the business
10 incubator.

11 ~~(3)(5)~~ The tax exemption described in subsection (1)
12 applies ~~only--to-the-number-of-mills-levied-and-assessed-by~~
13 ~~the-governing-body-approving-the-exemption--over--which--the~~
14 ~~governing--body--has--sole-discretion--The-exemption-may-not~~
15 ~~apply to all property taxes that may be levied against the~~
16 ~~property, including levies or and assessments required under~~
17 Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise
18 required under state law."

19 **NEW SECTION. Section 2.** Effective date -- retroactive
20 applicability. [This act] is effective on passage and
21 approval and applies retroactively, within the meaning of
22 1-2-109, to taxable years beginning after December 31, 1990.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 11, 1991

Page 2 of 2
April 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 753 (third reading copy -- blue), respectfully report that House Bill No. 753 be amended and as so amended be concurred in:

1. Title, line 5.
Strike: "ELIMINATE"
Insert: "REVISE"
2. Title, lines 7 and 8.
Strike: "DETERMINED" on line 7 through "EXEMPTION" on line 8
3. Page 1, line 15.
Following: "owned"
Insert: "or leased"
4. Page 1, line 19 through page 2, line 18.
Strike: subsections (2) and (3) in their entirety
Renumber: subsequent subsections
5. Page 2, line 21.
Following: "county,"
Insert: "county,"
Strike: "or"
Insert: ", "
6. Page 2, line 22.
Following: "district"
Insert: ", or school district"
7. Page 2, lines 23 through 25.
Strike: "or," on line 23 through "county" on line 25
8. Page 3, line 1.
Following: "after"
Insert: "due"
Following: "notice"
Insert: ", as defined in 76-15-103,"
Following: "hearing."
Insert: "The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax

exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval."

9. Page 3, line 9.
Following: "owns"
Insert: "or leases"
10. Page 3.
Following: line 10
Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."
Renumber: subsequent subsection
11. Page 3, lines 15 and 16.
Strike: "to" on line 15 through "including" on line 16
Insert: "only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to"

Signed: 
Mike Halligan, Chairman

HB 4-11-91
Ad. Coord.
SB 4-11-91 8:30
Sec. of Senate

1 HOUSE BILL NO. 753
 2 INTRODUCED BY HARRINGTON, MENAHAN, QUILICI,
 3 LYNCH, D. BROWN
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE REVISE
 6 RESTRICTIONS ON GRANTING PROPERTY TAX EXEMPTIONS FOR
 7 BUSINESS INCUBATOR PROPERTY ~~DETERMINED BY THE DEPARTMENT OF~~
 8 ~~REVENUE TO QUALIFY FOR EXEMPTION~~; AMENDING SECTION
 9 15-24-1802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 10 AND A RETROACTIVE APPLICABILITY DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 15-24-1802, MCA, is amended to read:

14 "15-24-1802. Business incubator tax exemption --
 15 procedure. (1) A business incubator owned OR LEASED and
 16 operated by a local economic development organization is
 17 eligible for an exemption from certain local property taxes
 18 as provided in this section.

19 ~~(2) IF THE DEPARTMENT OF REVENUE MAKES AN INITIAL~~
 20 ~~DETERMINATION THAT THE BUSINESS INCUBATOR QUALIFIES FOR THE~~
 21 ~~PROPERTY TAX EXEMPTION, IT SHALL PUBLISH NOTICE OF AND HOLD~~
 22 ~~A PUBLIC HEARING TO DETERMINE WHETHER THE PROPERTY SHOULD BE~~
 23 ~~EXEMPT FROM TAXATION.~~

24 ~~(3) (A) FOR A TAXPAYER TO RECEIVE THE TAX EXEMPTION~~
 25 ~~DESCRIBED IN SUBSECTION (1), THE GOVERNING BODY OF THE~~

1 ~~AFFECTED INCORPORATED CITY OR TOWN OR CONSOLIDATED~~
 2 ~~GOVERNMENT, FOLLOWING THE PUBLIC HEARING PROVIDED FOR IN~~
 3 ~~SUBSECTION (2), SHALL GIVE DUE NOTICE, AS DEFINED IN~~
 4 ~~76-15-103, AND HOLD A PUBLIC HEARING. THE GOVERNING BODY MAY~~
 5 ~~APPROVE OR DISAPPROVE THE TAX EXEMPTION PROVIDED FOR IN~~
 6 ~~SUBSECTION (1). IF APPROVED, THE GOVERNING BODY MUST DO SO~~
 7 ~~BY A SEPARATE RESOLUTION FOR EACH BUSINESS INCUBATOR IN ITS~~
 8 ~~RESPECTIVE JURISDICTION. THE GOVERNING BODY MAY NOT GRANT~~
 9 ~~APPROVAL FOR THE BUSINESS INCUBATOR UNTIL ALL OF THE~~
 10 ~~APPLICANT'S TAXES HAVE BEEN PAID IN FULL. TAXES PAID UNDER~~
 11 ~~PROTEST DO NOT PRECLUDE APPROVAL.~~

12 ~~(B) THE RESOLUTION PROVIDED FOR IN SUBSECTION (3) (A)~~
 13 ~~MUST INCLUDE THE APPLICATION SUBMITTED TO THE DEPARTMENT BY~~
 14 ~~THE TAXPAYER SEEKING THE EXEMPTION.~~

15 ~~(C) UPON RECEIPT OF APPROVAL OF THE GOVERNING BODY OF~~
 16 ~~THE AFFECTED TAXING JURISDICTION, THE ASSESSOR SHALL MAKE~~
 17 ~~THE ASSESSMENT CHANGE FOR THE TAX EXEMPTION PROVIDED FOR IN~~
 18 ~~THIS SECTION.~~

19 ~~(2)(4)(2)~~ In order to qualify for the tax exemption
 20 described in this section, the governing body of the
 21 affected county, COUNTY, consolidated government, or,
 22 incorporated city or town, or school district, OR SCHOOL
 23 DISTRICT in which the property is located or, if the
 24 property is not located within the limits of a consolidated
 25 government or an incorporated city or town, the governing

1 body-of-the--county shall approve the tax exemption by
 2 resolution, after DUE notice, AS DEFINED IN 76-15-103, and
 3 hearing. THE GOVERNING BODY MAY APPROVE OR DISAPPROVE THE
 4 TAX EXEMPTION PROVIDED FOR IN SUBSECTION (1). IF A TAX
 5 EXEMPTION IS APPROVED, THE GOVERNING BODY SHALL DO SO BY A
 6 SEPARATE RESOLUTION FOR EACH BUSINESS INCUBATOR IN ITS
 7 RESPECTIVE JURISDICTION. THE GOVERNING BODY MAY NOT GRANT
 8 APPROVAL FOR THE BUSINESS INCUBATOR UNTIL ALL OF THE
 9 APPLICANT'S TAXES HAVE BEEN PAID IN FULL OR, IF THE PROPERTY
 10 IS LEASED TO A BUSINESS INCUBATOR, UNTIL ALL OF THE OWNER'S
 11 PROPERTY TAXES ON THAT PROPERTY HAVE BEEN PAID IN FULL.
 12 TAXES PAID UNDER PROTEST DO NOT PRECLUDE APPROVAL. Prior to
 13 holding the hearing, the governing body shall determine that
 14 the local economic development organization:
 15 (a) is a private nonprofit corporation as provided in
 16 Title 35, chapter 2, and is exempt from taxation under
 17 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;
 18 (b) is engaged in economic development and business
 19 assistance work in the area; and
 20 (c) owns OR LEASES and operates or will operate the
 21 business incubator.
 22 (3) UPON RECEIPT OF APPROVAL OF THE GOVERNING BODY OF
 23 THE AFFECTED TAXING JURISDICTION, THE ASSESSOR SHALL MAKE
 24 THE ASSESSMENT CHANGE FOR THE TAX EXEMPTION PROVIDED FOR IN
 25 THIS SECTION.

1 ~~{3}{5}~~(4) The tax exemption described in subsection (1)
 2 applies ~~only--to-the-number-of-mills-levied-and-assessed-by~~
 3 ~~the-governing-body-approving-the-exemption--over--which--the~~
 4 ~~governing--body--has--sole-discretion--The-exemption-may-not~~
 5 ~~apply to all-property-taxes-that-may-be-levied--against--the~~
 6 ~~property,--including~~ ONLY TO THE NUMBER OF MILLS LEVIED AND
 7 ~~ASSESSED BY THE GOVERNING BODY APPROVING THE EXEMPTION OVER~~
 8 ~~WHICH THE GOVERNING BODY HAS SOLE DISCRETION.~~ IF THE
 9 ~~GOVERNING BODY OF A COUNTY, CONSOLIDATED GOVERNMENT, OR~~
 10 ~~INCORPORATED CITY OR TOWN APPROVES THE EXEMPTION, THE~~
 11 ~~EXEMPTION APPLIES TO~~ levies or and assessments required
 12 under Title 15, chapter 10, 20-9-331, or 20-9-333 or
 13 otherwise required under state law."

14 NEW SECTION. Section 2. Effective date -- retroactive
 15 applicability. [This act] is effective on passage and
 16 approval and applies retroactively, within the meaning of
 17 1-2-109, to taxable years beginning after December 31, 1990.

-End-