Senate Bill 372

In The Senate

February 5, 1981	Introduced and referred to Committee on Taxation.
February 23, 1981	Fiscal note requested.
February 24, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

Senate BILL NO. 372

INTRODUCED BY Johnson, Dan

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW LOCAL GOVERNMENTS TO REDUCE THE PROPERTY TAX VALUATION OF PROPERTY OF NEW BUSINESSES IF SUCH REDUCTION WILL BE BENEFICIAL TO THE LOCAL ECONOMY."

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

Section 1. Short title. This [act] may be cited as the "Montana Local Government Economic Development Tax Incentive Act".

Section 2. Purpose. The purpose of this [act] is to give local governments the authority to grant a reduction in the taxable value of new economic development when in the judgment of the local government the long-term consequences of the development will be beneficial to the local economy by increasing the tax base, diversifying its business activity, creating new jobs, or for other identifiable worthwhile purposes.

Section 3. New business -- definition. As used in this [act] "new business" means:

(1) a business for profit that however long established has not conducted business within the taxing jurisdiction of the local government unit other than on an

occasional basis within 6 months prior to making application for reduction in its taxable valuation as provided in this [act];

(2) a business that was formed in the taxing jurisdiction of the local government during the 6 months prior to an application for reduction in its taxable valuation as provided in this [act] and that is not the product of a change of name or ownership or a reorganization of a business established more than 6 months prior to an application for a reduction in its taxable valuation; and

(3) a business other than a new business as defined in subsections (1) or (2) that the local government governing body may determine is to be treated as a new business under subsection (2) or (3) of [section 2].

Section 4. Eligibility for a reduction in taxable valuation. (1) For a business activity to be eligible for a reduction in its taxable valuation under the provisions of this [act]:

(a) the business must be a new business carrying on a business activity with a probable length of business life twice the length of time for which the taxable valuation reduction will be granted;

(b) the business must create a definable number of employment opportunities that will be filled from the local labor pool; and

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(c) the new business must be one that will contribute to the local government tax base in a definable manner.

(2) If the new business is the result of the expansion, consolidation, or merger of an existing business within the jurisdiction of the local government, the local government governing body may grant a taxable valuation reduction on any additional taxable valuation generated by any new business activity that otherwise meets the criteria for eligibility set forth in subsection (1).

(3) The local government governing body may consider granting a reduction in taxable valuation for an existing business when it has determined that there is a high probability that the business might close or locate elsewhere unless induced to remain open or to stay and if:

(a) it is ascertainable that the relocation or closure will eliminate local jobs and reduce the local tax base; and

(b) the relocation or closure will be forestalled for a time equal to or greater than the length of time for which the reduction in taxable value will be granted.

(4) A reduction in taxable valuation granted under this [act] may not be renewed.

Section 5. Reduction in taxable valuation -- rate -- duration. (1) A local government has the authority to reduce the taxable valuation on any new valuation that is directly attributable to the new business activity that is seeking

the valuation reduction. A taxable valuation reduction may not result in a lower valuation for the property than if the new business activity had not taken place.

(2) A reduction in the taxable valuation of a new business shall consist of a percentage decrease in the valuation that would have otherwise been assigned by the department of revenue.

(3) The reduction in valuation may be established for a period not to exceed 5 years. The reduction must be scaled so that after the first year, as the term of the reduction progresses, the percentage that the valuation is reduced from the actual taxable valuation is less than that granted the previous taxable year. The rate of percentage change through the term of the reduction in valuation may be calculated either on a straight-line method or on a sum-of-the-years digit method.

(4) The percentage reduction in taxable valuation for the first year may not exceed 50%.

Section 6. Grant of reduction in taxable valuation -- conditions. (1) A local government governing body may in its discretion and in conformity with this [act] grant a new business a reduction in the taxable valuation of its property.

(2) A reduction in taxable valuation for a new business shall be done by formal resolution of the local

government governing body. The resolution must:

(a) enumerate in detail how the new business relates to the standards for eligibility set forth in [section 3]; and

(b) specify the term of the reduction and the annual percentage reduction for each year of the term.

(3) The resolution granting the reduction in taxable valuation may at the discretion of the local government governing body require that the new business comply with certain conditions regarding employment from the local labor pool, minimum capital expenditures, length of business life, or other factors the local government considers necessary to safeguard against abuse of the valuation reduction.

(4) The local government governing body shall notify the county assessor of a reduction in taxable valuation in writing prior to June 1 of the first year in which the reduction in taxable valuation applies. The county assessor shall make the appropriate adjustment to the official taxable valuation certified by him in July for official taxation purposes.

(5) The reduction resolution and any amendment thereto is subject to the rights of initiative and referendum as established in Title 7, chapter 5, part 1, but an initiative action must be commenced within 90 days of the passage of the resolution or amendment.

Section 7. Repeal or amendment of a reduction resolution. (1) Except as provided in this section, the resolution granting a reduction in taxable valuation may not be repealed and it may not be amended in any manner that would be adverse to either the local government or the new business during the term of the reduction. The resolution may be modified or repealed under one or more of the following conditions:

(a) A modification is needed to correct a technical or administrative error or to improve the efficiency or effectiveness of the reduction if such an amendment does not substantially affect the rate or duration of the reduction or any condition of the resolution as authorized in subsection (3) of [section 6].

(b) The repeal or modification is mandated by initiative that was commenced within 90 days following the passage of the resolution.

(c) The local government governing body has determined that the affected new business has failed to comply with any of the conditions of the reduction resolution as provided by [section 6(3)].

(d) The local government governing body has determined that the reduction should be transferred to another business as provided in [section 8].

(e) The repeal or amendment is necessary because of fraud, misconduct, or mistake materially affecting the reduction, the grounds for which must be found by a district court after appropriate petition and hearing.

Section 8. Failure of a new business -- transfer of reduction. (1) If a new business having a reduction in taxable valuation under the terms of this [act] fails and its property is thereupon sold to another business or if it is reorganized into a different business organization, the local government governing body may amend the reduction resolution to transfer the balance of the existing reduction of the failed business to the successor business if the local government governing body determines that:

(a) the successor business will be able to comply with any conditions relating to the original grant of taxable valuation reduction;

(b) the successor business will substantially conform to the standards established in [section 4] as enumerated in the original reduction after making appropriate allowances for business decisions that may be necessitated due to the failure of the original new business; and

(c) it is in the best interests of the community to transfer the reduction.

(2) The governing body may, in contemplation of transfer, add conditions to the reduction resolution by amendment but may not modify or delete any existing

conditions in the resolution.

Section 9. Applicability -- conflicts. If there is a conflict between the provisions of this [act] and the provisions of any other law of the state, the provisions of this [act] govern.

Section 10. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. 416-81

Form BD-15

In compliance with a written request received February 23, 1981, there is hereby submitted a Fiscal Note for Senate Bill 372 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposal would allow a local government unit to selectively decrease the taxable value of the property of certain qualifying businesses for a period of up to five years.

ESTIMATE OF IMPACT

Since the implementation of a decrease in taxable value is contingent upon a resolution adopted by a local government unit, it is impossible to give an estimation of the impact of the proposal. Section 5 (lines 1 through 3, page 4) establishes a floor under the reduction so impact will occur only to the extent that a qualifying business demands services whose cost is greater than the tax it pays, thereby shifting increased tax to other property.

TECHNICAL NOTE

The term "local government" is used throughout the proposal. When multiple jurisdictions are involved there should be a mechanism for determining which jurisdiction would take precedence. For example, could a city bind a county by reducing the taxable value of property which lies in the city, or visa versa?

PREPARED BY THE DEPARTMENT OF REVENUE

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Date: 2/24/81