GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0315	**Title:**	Revise class eight business equipment tax
Primary Sponsor:	Zinke, Ryan	**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 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$8,909,729	$22,469,181	$21,691,803	$22,485,539
Revenue:				
General Fund	($1,216,387)	($3,214,422)	($3,078,472)	($3,169,761)
State Special Revenue	($105,609)	($289,499)	($301,464)	($313,919)
Net Impact-General Fund Balance:	($10,126,116)	($25,683,603)	($24,770,275)	($25,655,300)

Description of fiscal impact: This bill increases the amount of class 8 property that is exempt from property tax from $20,000 (threshold) to $200,000. Under the bill, all individuals or business entities get the first $200,000 in market value of class tax 8 property exempted for each individual taxpayer. Under current law, the class 8 property of each individual taxpayer with a total class 8 property market value of $20,000 or less is exempt from taxation. The bill provides reimbursement to local governments, school districts, tax increment financing districts, and the 6 mill university levy for lost revenues, contingent on the 61st Legislature providing long-term and equitable reimbursements by statutory appropriations or by other appropriate means.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

Reduction in Taxable Value of Class 8 Property

1. The bill provides an exemption from taxation for the first $200,000 in market value of class 8 property for each individual taxpayer. This replaces the provision in current law which provides that the class 8 property of each individual taxpayer with a total class 8 property market value of $20,000 (threshold) or less is exempt from taxation.

2. The reduction in class 8 tax rate and the $200,000 exemption would begin in TY 2010. The impact would start in FY 2010 for personal property not liened to real property and in FY 2011 for all other property.
3. In TY 2008 the statewide average consolidated mill levy for class 8 property was 515.93 mills. The average mill for county and other local governments was 414.93 (515.93 – 95.00- 6.00). In TY 2008 local school taxes were collected with a statewide weighted average of 227.64 mills. Other local governing entities levied and average of 187.29 local mills.
4. To calculate revenue impact to local governments and schools the taxable value reduction of class 8 property needs to exclude the taxable value of property in TIF districts.
5. The following table illustrates the effects that the change in the exemption to $200,000 would have had on TY 2008 (FY 2009) market value, taxable value, and estimated tax revenues for the general fund (statewide 95 education mills), the university state special revenue fund (6 mills), tax increment financing districts (TIFs), county and other local government revenues.

SB 315: Change in Class 8 Taxable Value and Revenue due to Increased Exemption if Implemented in TY 2008

	Current Law	Proposed Law	Reduction
Number of Taxpayers	18,066	2,643	(15,423)
Impact of Change in Threshold			
Market Value	$5,685,495,953	$4,148,104,596	($1,537,391,357)
Taxable Value at 3% Tax rate(eff: 2.87%)	$163,140,404	$119,026,285	($44,114,119)
Effect on Taxes Collected			
Taxable Value	$163,140,404	$119,026,285	($44,114,119)
Taxable Value in TIFS	$14,036,395	$6,827,248	($7,209,147)
Taxable Value Net of TIFs	**$149,104,009**	**$112,199,037**	**($36,904,972)**
Statewide Mills			
Estimated 6 Mill Tax (includes TIF property)	$978,842	$714,158	($264,684)
Estimated 95 Mill Tax	$14,291,917	$10,754,502	($3,537,415)
Estimated Total Statewide Mills	**$15,270,759**	**$11,468,660**	**($3,802,099)**
Local mills			
Estimated Local School Tax (227.64 mills)	$33,942,037	$25,540,989	($8,401,048)
Estimated Local Government Tax (187.29 mills)	$27,925,690	$21,013,758	($6,911,932)
Estimated Total Local Mill Tax	**$61,867,726**	**$46,554,746**	**($15,312,980)**
Estimated TIFs tax (509.93 mills)	$7,157,579	$3,481,418	($3,676,160)
Total Tax	**$84,296,064**	**$61,504,825**	**($22,791,240)**

Increase in Class 12 Property Tax Rate

6. This bill will affect the calculation of the class 12 tax rate in future years. The class 12 (railroad and airline property) tax rate is calculated as the statewide average tax rate for all other commercial and industrial property in the state (classes 4 (commercial), 8, 9, 13, 14, 15, and 16). Class 8 property has the lowest tax rate among the classes of commercial property used in this calculation. Decreasing the amount of class 8 property used in the calculation will result in the tax rate for class 12 being increased.

7. The TY 2008 tax rate for class 12 (railroad and airline) property was 3.44%. Recalculating the tax rate with the reduced market and taxable values under this bill, the tax rate would have been 3.47%
8. No class 12 property is located within tax increment financing districts. Therefore, the impact of the class 12 tax rate change would be limited to state and local government and education tax revenue.
9. In TY 2008 the statewide average consolidated mill levy for class 12 property was 508.59 mills. The class 12 average mill levies for county and other local governments was 407.59 (508.59 – 95.00- 6.00). In TY 2008 local school taxes made up (231.59 mills) 56.82% of local mill taxes assessed on class 12 property. Other local governing entities made up the remaining 43.18% (176.00 mills) of local mill taxes.
10. The following table shows the effect the increase in the tax rate would have had on TY 2008 (FY 2009) market value, taxable value, and estimated tax revenues for the general fund (statewide 95 education mills), the university state special revenue fund (6 mills), county and other local government revenues.

SB 315: Change in Tax Year 2008 Railroad and Airline Property (Class 12) Taxable Value and Revenue

	Current Law	Proposed Law	Increase
Total Market Value	$1,266,493,553	$1,266,493,553	
Tax rate	3.44%	3.47%	
Total Taxable Value	$43,567,378	$43,947,326	$379,948
Statewide Mills			
Estimated 95 Mill Tax	$4,138,901	$4,174,996	$36,095
Estimated 6 Mill Tax	$261,404	$263,684	$2,280
Estimated Total Statewide Mills	**$4,400,305**	**$4,438,680**	**$38,375**
Estimated Local Tax			
Estimated Local School Tax Mills (231.60 mills)	$9,917,678	$10,004,169	$86,491
Estimated Local Government Tax (176 mills)	$8,159,734	$8,230,895	$71,160
Estimated Total Local Mill Tax	**$17,757,628**	**$17,912,491**	**$154,863**
Total Tax	$22,157,933	$22,351,171	**$193,238**

Increase in Railroad Car Tax collections

11. Property of railroad car companies (companies other than railroads that own railroad cars) is also taxed at the class 12 property tax rate. All property tax revenue from these companies goes to the state general fund. In TY 2008, the market value for these companies was $108,406,430. Taxable value was $3,729,181 ($108,406,430 x 3.44%). The mill levy applied to this taxable value was 524.79 (statewide average mill levy for commercial property for the previous tax year). This bill would increase TY 2008 taxable value to $3,761,703, an increase of $32,522 ($3,761,703 - $3,729,181). This would increase TY 2008 (FY 2009) state general fund revenues from these companies to $1,974,104, an increase of $17,067 ($1,974,104 - $1,957,037).

Business Tax Revenue Increase

12. With lower property taxes, businesses will have lower property tax expenses to deduct in calculating taxable net revenue. This bill would reduce the property taxes businesses pay by:
13. Corporations that do business in Montana and other states are required to report their Montana property on their corporation license tax returns. Of this property, 66.65% was reported by corporations that had

positive taxable income. It is assumed that the same proportion of total business property is owned by businesses with positive net income.

14. Each calendar year, the reduction in business expenses is half of the reduction in property tax for profitable businesses for the same numbered fiscal year plus half of the reduction for the next fiscal year.
15. The corporation license tax rate is 6.75%. It is assumed that the average marginal tax rate on business income reported on individual income tax returns is also 6.75%.
16. Businesses frequently use the option for an extended deadline for filing tax returns. Because of this, the changes in tax liability will be reported on tax returns filed over the course of the following calendar year, with half of the change coming in the fiscal year including the last half of the tax year and half coming in the next fiscal year. The result is presented in the following table:

SB 315: Estimated Business Tax Revenue Increase

Property Tax Reduction	**TY 2010**	**TY 2011**	**TY 2012**	**TY 2013**
State	(2,825,742)	(4,220,332)	(4,395,618)	(4,578,085)
Local Government	(6,531,940)	(7,704,377)	(8,023,219)	(8,355,133)
Schools	(7,983,096)	(9,452,029)	(9,839,563)	(10,199,079)
TIFs	(579)	(1,182)	(1,230)	(627)
Reduction in Property Tax	($17,341,357)	($21,377,920)	($22,259,630)	($23,132,925)
Corp Tax Collections	$390,083	$870,966	$981,599	$1,021,077
Fiscal Year Adjustment	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Estimated Increase in Corporation Tax	**$195,041**	**$630,524**	**$926,283**	**$1,001,338**

Summary of State Tax Revenue Reduction

17. The tax revenue changes summarized in assumptions 5, 11, and 16 are projected (in assumption 18 below) from the TY 2008 estimates based on the HJR 2 and OBPP growth estimates for each property type:

HJR 2 and OBPP Growth Rates for Property Affected by SB 315

Property Type	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Class 8	4.97%	4.97%	4.10%	4.10%
Class 12	0.76%	0.76%	0.00%	0.00%
Rail car tax (reduced class 12 rate)	5.96%	1.79%	0.50%	0.60%
Weighted Average Growth Rate	4.70%	4.56%	3.68%	3.69%

18. These projections are further adjusted for the fiscal year receipt of property tax. Most property taxes are paid in November and May of the fiscal year following assessment. However, under the provisions of 15-16-119, MCA, owners of personal property that is not liened to real property pay property taxes 30-days after assessments are mailed in March. This means that not liened to real property taxes are paid in the fiscal year they are billed. In TY 2008, class 8 property not liened to real property made up 38% of the total value of class 8 property.

SB 315: Net Change in State Tax Revenue

Revenue	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Class 8	($1,411,429)	($3,900,000)	($4,059,900)	($4,226,356)
Class 12		$36,646	$36,646	$36,646
Rail Car Tax		$18,408	$18,500	$18,611
Corporation License Tax	$195,041	$630,524	$926,283	$1,001,338
Balance	**($1,216,387)**	**($3,214,422)**	**($3,078,472)**	**($3,169,761)**
State Special Revenue				
Class 8	($105,609)	($291,814)	($303,778)	($316,233)
Class 12		$2,315	$2,315	$2,315
Total	**($105,609)**	**($289,499)**	**($301,464)**	**($313,919)**

Reimbursement to Local Jurisdictions for the loss of Class 8 Taxable Value

19. Section one of this bill provides each local taxing jurisdiction with a reimbursement equal to the difference between the amount it would have received under current law in and the amount it would receive if this bill is enacted. These reimbursements to local governments, school districts, tax increment financing districts and the university system is contingent on the 61st Legislature providing long-term and equitable reimbursements by statutory appropriations or by other appropriate means. For purposes of this fiscal note, it is assumed that these reimbursements will be provided from the general fund.
20. The bill amends 15-10-420, MCA, to limit local government's ability to increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed as provided by law.
21. This fiscal note assumes local governments and eligible TIFs would receive money from state appropriations annually for the reduction in property tax revenue under this bill. However, there is no appropriation or transfer defined in the bill.
22. This fiscal note assumes local school districts would be reimbursed from state appropriations annually for the reduction in property tax revenue to the same funds and in the same proportions the exemption in property tax affected the district. In FY 2010, the reimbursement to the districts' general fund for the property tax loss due to the not liened to real property tax change would be $2.2 million and all other district funds would receive reimbursement of $1.0 million. In FY 2011, the reimbursements would be $6.1 million to districts' general fund and $2.65 million to other budgeted district funds which includes transportation fund, bus depreciation fund, tuition fund, adult education fund, non operating fund, flexibility fund, debt service fund, and building reserve fund. However, there is no appropriation or transfer defined in the bill.
23. This fiscal note assumes that the university system is to be reimbursed for the reduction in property tax revenue through general fund transfers. However, there is no appropriation or transfer defined in the bill.
24. The bill provides for the calculation and disbursement of reimbursements for property tax revenue losses for personal property not liened to real property that occur in FY 2010 (38% of class 8 property).
25. For purposes of this fiscal note it is assumed that reimbursements to local governments, tax increment financing districts, school districts, and the university state special revenue fund resulting from this bill will come from the state general fund. These calculations are used as the basis for the calculation of the fiscal impacts for FY 2010 through FY 2013.
26. Based on preceding calculations, the following table shows reimbursements due to the net change in class 8 and class 12 taxable value.

SB 315: Estimated Reimbursement to Local Governments, School Districts, TIF Districts, and the University System for the Loss of Class 8 Taxable Value

Reimbursement Jurisdiction	TY 2008	TY 2010 (Base)	FY 2010	FY 2011	FY 2012	FY 2013
Local Governments						
Class 8 Property	$6,911,932	$7,257,529	$2,757,861	$7,618,228	$7,930,575	$8,255,729
Class 12 property	($71,160)	($71,701)		($72,246)	($72,246)	($72,246)
Total			**$2,757,861**	**$7,545,982**	**$7,858,329**	**$8,183,483**
School Districts						
Class 8 Property	$8,401,048	$8,821,100	$3,352,018	$9,259,509	$9,639,149	$10,034,354
Class 12 property	($86,491)	($87,149)		($87,811)	($87,811)	($87,811)
Total			**$3,352,018**	**$9,171,698**	**$9,551,338**	**$9,946,543**
The University System						
Class 8 Property	$264,684	$277,918	$105,609	$291,731	$303,692	$316,143
Class 12 property	($2,280)	($2,453)		($2,472)	($2,472)	($2,472)
Total			**$105,609**	**$289,259**	**$301,220**	**$313,671**
Tax Increment Districts						
Class 8 Property	$3,676,160	$3,859,968	$1,466,788	$4,051,809	$4,217,933	$4,390,868
Class 12 property	$0					
Total			**$1,466,788**	**$4,051,809**	**$4,217,933**	**$4,390,868**
Total Estimated Reimbursements			**$7,682,276**	**$20,769,489**	**$21,627,600**	**$22,520,894**

Office of Public Instruction Fiscal Impact on Expenditures

27. The decrease in property tax values due to exemption in not liened to real property in FY 2010 does not have a Guaranteed Tax Base Aid (GTB) effect on K-12 schools because it is assumed that school districts are reimbursed in the year of the revenue loss, FY 2010.
28. The reimbursement payments to be made to schools June 15, 2010, for all district funds, approximately $3.3 million, will equal the amount of funding not available to schools in FY 2010 due to the impact of SB 315 and the effects of the class 8 exemptions on not liened to real property taxes collected in April 2010.
29. Section 1(3)(b) allows that the office of public instruction shall distribute the reimbursement amount for FY 2010. However, there is no appropriation defined in the bill.
30. There is no requirement in the bill to deposit the district reimbursement in the district general fund. Therefore, there would be a one-time GTB impact to the state of $1.2 million in FY 2010. In years following it is assumed that districts would float their mill levies to make up the difference in the property tax values.
31. County school levies for all district funds will be reimbursed for the loss in property tax due to SB 315 increase to class 8 property tax exemptions in FY 2011 and each subsequent year. The reimbursement is assumed to be a state appropriation paid to the school districts to offset the loss from decreased property tax value due to SB 315. There will be a cost to the state of approximately $8.8 million beginning in FY 2011 and continuing each year. It is assumed from this bill that the reimbursements will grow each year at the same rate property tax value grows.
32. Countywide retirement GTB will increase $0.38 million based on a historical average of 28% of the costs paid by the state and FY 2009 county levies equal to $65.1 million (2.07% decrease in property tax value times $65.1 million local levies times 28% paid by the state).

33. The bill does not specify that counties must deposit the county reimbursement into the retirement fund, so this fiscal note assumes the county would not deposit reimbursements into the retirement fund. Therefore there would be a one-time GTB offset at the county level of $0.38 million.

Department of Revenue Administrative Expenses

34. The Department of Revenue estimates that a total of 5.00 additional FTE will be required to administer the provisions of this bill.
35. The Property Assessment Division will require 3.00 FTE to conduct field audits and other analyses to ensure that all class 8 property is correctly identified with owners to ensure that the $200,000 exemption is correctly applied for all class 8 property owners, and that the value of all exemptions is correctly allocated to local governments and schools for purposes of the calculation of reimbursements.
36. The requirement that the reimbursements be separately calculated for personal property liened to real property and personal property not liened to real property also increases the workload. DOR estimates that 1.00 FTE will be required by the Business and Income Tax Division to identify the first $200,000 of market value and to identify entities that have common ownership and are structured to maximize the exemption amounts over a number of affiliates
37. The Department of Revenue estimates that 1.00 FTE will be required in the Tax Policy and Research Bureau for FY 2010 only to develop the mechanisms and procedures necessary to ensure that the $200,000 exemption is correctly applied for all owners, and that the value of all exemptions is correctly allocated to local governments and schools for purposes of the calculation of reimbursements.
38. The Orion computer system will require enhancements to correctly allocate exempted amounts to local governments, tax increment financing districts, and schools. The estimated cost is $493,020.
39. The following table shows the Department of Revenue's administrative costs for this bill.

SB 315: Department of Revenue Administrative Costs

	FY2010	FY2011	FY2012	FY2013
FTE	5.00	4.00	4.00	4.00
PAD - 3.00 FTE	$207,509	$207,509	$207,509	$207,509
BIT - 1.00 FTE	$56,846	$56,846	$56,846	$56,846
TPR - 1.00 FTE	$56,963	$0	$0	$0
Total Personnel Services	**$321,318**	**$264,355**	**$264,355**	**$264,355**
Operating Expenses - PAD	$21,888	$23,088	$23,088	$23,088
Operating Expenses - BIT	$7,296	$7,896	$7,896	$7,896
Operating Expenses -TPR	$1,796			
Orion Enhancement	$493,020	$0	$0	$0
Total Operating Costs	**$524,000**	**$30,984**	**$30,984**	**$30,984**
Equipment - PAD	$14,700			
Equipment - BIT	$5,700			
Total Equipment	**$20,400**	**$0**	**$0**	**$0**
Total Administrative Costs	**$865,718**	**$295,339**	**$295,339**	**$295,339**

40. The bill repeals 15-1-112, MCA, (Business equipment tax rate reduction reimbursement to local government taxing jurisdictions). This reimbursement program ended after TY 2007.
41. A contingent voidness clause provides that this act is void unless the 61st Legislature provides long term and equitable reimbursements to local governments, school districts, tax increment financing districts, and the 6 mill university levy for lost revenues.

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
Department of Revenue				
FTE	5.00	4.00	4.00	4.00
Expenditures:				
Personal Services	$321,138	$264,355	$264,355	$264,355
Operating Expenses	$524,000	$30,984	$30,984	$30,984
Equipment	$512,620	$0	$0	$0
Reimbursements:				
Local Governments	$2,757,861	$7,545,982	$7,858,329	$8,183,483
Tax Increment Districts	$1,466,788	$4,051,809	$4,217,933	$4,390,868
University System (OCHE)	$105,609	$289,259	$301,220	$313,671
TOTAL Expenditures	$5,688,016	$12,182,389	$12,672,821	$13,183,361
Funding of Expenditures:				
General Fund (01)	$5,688,016	$12,182,389	$12,672,821	$13,183,361
Revenues:				
General Fund (01)	($1,216,387)	($3,214,422)	($3,078,472)	($3,169,761)
State Special Revenue (02)	($105,609)	($289,499)	($301,464)	($313,919)
TOTAL Revenues	($1,321,996)	($3,503,921)	($3,379,936)	($3,483,680)
Office of Public Instruction:				
Expenditures:				
Reimbursements:				
Local Assistance (General Fund)	$2,244,602	$6,092,323	$6,283,622	$6,480,928
Local Assistance (Other Funds)	$977,111	$2,652,085	$2,735,360	$2,821,251
Local Assistance (GTB)	$0	$1,165,064	$0	$0
Local Assistance (Co. Retire.)	$0	$377,320	$0	$0
TOTAL Expenditures	$3,221,713	$10,286,792	$9,018,982	$9,302,178
Funding of Expenditures:				
General Fund (01)	$3,221,713	$10,286,792	$9,018,982	$9,302,178
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($10,126,116)	($25,683,603)	($24,770,275)	($25,655,300)
State Special Revenue (02)	($105,609)	($289,499)	($301,464)	($313,919)

Effect on County or Other Local Revenues or Expenditures:

Department of Revenue

1. Counties, TIFs, school districts, and other local governing entities are to be reimbursed for property tax revenue lost by this bill. Local governments and TIFs would not be allowed to raise their mill levies to recover revenue loss due to the loss of taxable value under the provisions of this bill due to the reimbursements created by this bill.

Office of Public Instruction

2. It is possible that school districts would deposit the reimbursements to the district flexibility fund and let their district mills float to cover the necessary funding in their other budgeted funds. This allows school district to levy up to an additional $8.8 million dollars per year. Some of this would be permissive levy and some would be voted levy.

Technical Notes:

Department of Revenue

1. The federal 4R Act of 1976 provides the railroads with special protection from discriminatory taxation. The property tax rate for class 12 property (railroads and airlines) a result of the 4R Act. The act allows railroads to bypass the traditional appeal process and take discrimination cases directly to the federal district court. States that have increased commercial property exemptions have faced legal challenges by the railroads with adverse consequences for state and local revenue.
2. Under current law, entitlement share payments for tax increment financing districts that were in existence prior to the implementation of the entitlement share payment program have been the fixed amounts in 15-1-121(6)(b), MCA. These districts receive the benefits of growth through the increase in value within these districts from year to year. Under this law, these districts, as well as tax increment financing districts that came into being since 2000, will receive reimbursements for lost tax revenues due to this bill.
3. Under this bill, DOR can require taxpayer identification numbers for individuals involved in pass through entities. The same authority is not granted to prevent other taxpayers from seeking multiple exemptions.
4. Section 7 of this bill for the school bonds limitations adds new language to include the taxable value of personal property reported under 15-6-219, MCA. This would also include personal property that has been exempted previously. Personal property that has previously been specifically exempted in statute is not reported for property tax purposes, e.g. harnesses, tack, hand-held tools, household goods, bicycle, etc. Perhaps the citation should be 15-6-219(1)(f), MCA.

Office of Public Instruction

5. There is no appropriation defined in the bill to pay the reimbursements.
6. For the purposes of this fiscal note it is assumed that a funding formula would be devised to reimbursed school districts for the revenue loss due to the reduction in taxable value under this bill.

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