Fiscal Note 2025 Biennium

GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Bill information:	
HB0416 - Provide income tax credit for renting dwelling below market rate (Hamilton, Jim)	
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 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Expenditures:				
General Fund	$93,347	$91,793	$188,922	$188,507
Revenue:				
General Fund	$0	($58,982,000)	($88,641,000)	($111,451,000)
Net Impact-General Fund Balance:	($93,347)	($59,073,793)	($88,829,922)	($111,639,507)

Description of fiscal impact: HB 416 would create an income tax credit of 40% to 50% of foregone rent for landlords renting dwellings below 130% of the U.S. Department Housing and Urban Development (HUD) determination of fair market rent. This bill is estimated to decrease income tax collections and resulting general fund revenues by $58,982,000 in FY 2025, $88,641,000 in FY 2026, and $111,451,000 in FY 2027. The Department of Revenue would require an additional 1.00 FTE, increasing to 2.00 FTE in FY 2026, to implement and administer the credit created in this bill.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. HB 416 would create an income tax credit available for landlords renting dwellings below 130% of fair market rent. This non-refundable credit would be available to individual income taxpayers and applicable for tax years (TY) 2024 through TY 2027. The credit terminates after December 31, 2027.
2. The credit amount would be 40% of the foregone rent in the first year the credit is claimed, 45% in the second and third year and 50% in the fourth and final year. Foregone rent is defined as the difference in rent charged and 130% of fair market rent in the county.

3. Fair market rent is defined by the U.S. Department of Housing and Urban Development (HUD) as the 40th percentile of rent paid for rental housing units in an area. By this definition, 40% of rental housing units in each county, and Montana as a whole, are rented for under fair market rent.
4. Based on the U.S. Census Bureau's *American Community Survey,* there were approximately 137,000 rented housing units in Montana in 2021. The calculations used in this fiscal note assumes rental unit growth matches Montana population growth estimates in HJ 2.
5. For a housing unit to qualify for this credit, it would have to be rented for less than 130% of fair market rent in the county where it is located. It is assumed that approximately 60% of rental units are rented for less than 130% of fair market rent and could qualify for this credit.
6. Additional requirements for a dwelling to qualify for the credit include meeting the housing quality standards of the "housing choice" voucher program, and not already in any other rent reduction program. The department could disallow a credit if the landlord and tenant have not dealt at arm's length. To claim the credit, a taxpayer must submit a rent receipt or lease agreement, and any other supporting documentation required by the department. The taxpayer would file a new DOR form, specific to this credit, calculate the credit, and file the form with their income tax return.
7. Given the requirements outlined in the above, and the typical progressive utilization associated with a new credit, it is assumed that only 60% of the housing units that meet the 130% of fair market rent requirement will claim the credit in the first year (TY 2024). This utilization rate is expected to increase to 70% for TY 2025 and 75% for TY 2026 as more taxpayers become aware of the credit and utilization increases.
8. The following table shows the estimated total number of rented housing units in Montana, the number rented for less than fair market rent, the assumed utilization rate, and the estimated number of units that the credit will be claimed for.

Table 1. Estimating # of Qualifying Units	TY 2024	TY 2025	TY 2026
Total Rented Units	142,400	143,500	144,600
Units Below 130% Fair Market Rent	85,400	86,100	86,800
Estimated Utilization Rate	60%	70%	75%
Units Credit will be Claimed for	51,200	60,300	65,100

9. The credit amount claimed per unit would be 40% of the foregone rent during the first year the credit is claimed, which is the difference between 130% of fair market rent and the actual rent charged for the dwelling. It is assumed the average foregone rent for units claiming the credit would be $400 per month. For example, consider a two-bedroom unit being rented for $900 a month in a county with a fair market rent of $1000. In this case, 130% of fair market rent would be $1300 and the foregone rent would be $400 ($1300-$900) each month, so $4,800 for the year, assuming the unit is rented all 12 months. In this case, the credit amount for that unit would be $1,920 (40% x $4,800), and that is assumed to be average credit amount per unit in the first year (TY 2024).
10. In TY 2025, it is assumed 75% on the units would be claiming the credit for the second consecutive year and therefore getting a credit for 45% of the foregone rent. The other 25% of units would just be claiming the credit for the first year and getting 40% of the foregone rent. The estimated credit amount in TY 2025 would be $2,100 per unit. In TY 2025, it is assumed 90% of the units would be claiming the credit for the second or third consecutive year and 10% for the first time. Therefore, the estimated average credit amount in TY 2026 would be $2,140 per unit.
11. This credit would be non-refundable but could carried-forward up to three years. Based on MeF Schedule E and individual income tax return data for taxpayers with rental property income, approximately 60% of landlord taxpayers have a tax liability that could mostly or entirely be offset by this credit. Therefore, it is assumed the actual tax liability and tax revenue impact would start at 60% of the total credits claimed for TY 2024. This percentage is assumed to increase to 70% in TY 2025 and 80% in TY 2026 and each year thereafter, because the credit can be carried forward up to three years.

12. Due to the timing of tax years relative to fiscal years, credits claimed for TY 2024 would be applied when returns are filed (FY 2025). The following table shows the steps taken to calculate the tax revenue impact in each fiscal year from the estimated number of units the credit will be claimed for.

Table 2. Estimating Tax Revenue Impact	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**
Units Credit will be Claimed for	0	51,200	60,300	65,100
Average Credit per Unit	0	$1,920	$2,100	$2,140
Total Estimated Credit Claimed	0	$98,304,000	$126,630,000	$139,314,000
Tax Liability Impact % of Credit Claimed	0	60%	70%	80%
Total Decrease in Tax Revenue	**0**	**$58,982,000**	**$88,641,000**	**$111,451,000**

13. This bill is estimated to decrease general fund revenues by $58,982,000 in FY 2025, $88,641,000 in FY 2026, and $111,451,000 in FY 2027.
14. The bill's termination date of December 31, 2027, means the credit could be claimed through TY 2027 and would impact income tax revenue through FY 2028.

DOR Administrative Costs

15. The administration of this credit would be complicated and require administrative rules to clarify some provisions in the bill. Due to the complicated calculation of the credit, and necessary supporting documentation, the Department of Revenue anticipates many questions and errors, which would generate desk audits. An additional tax examiner would be necessary for the department to implement and administer this credit, with a second starting in FY 2026 as the credit usage increases and the credit calculation becomes more complicated. The total costs associated with the additional 1.00 FTE for FY 2024 and FY 2025, and 2.00 FTE for FY 2026 and FY 2027 would be $93,347 in FY 2024, $91,793 in FY 2025, $188,922 in FY 2026, and $188,507 in FY 2027.
16. This credit would require a new form to be created for the individual and corporate income tax returns, but these changes would be able to be made during the annual forms update process and not create a significant additional cost.

Department of Commerce

17. For the purposes of this fiscal note it is assumed that it is the responsibility of the taxpayer to provide verification that the unit they are wanting to claim the credit for meets housing quality standards as provided in Section 1, sub-section (3), and that there is no requirement to lease the dwelling to a housing choice voucher program participant.
18. Unless the dwelling is leased to a housing choice voucher program participant, the department will not conduct a housing quality standards inspection. Therefore, there would be no fiscal impact to the Department of Commerce.

Fiscal Impact:	**FY 2024 Difference**	**FY 2025 Difference**	**FY 2026 Difference**	**FY 2027 Difference**
Department of Revenue				
FTE	1.00	1.00	2.00	2.00
Expenditures:				
Personal Services	$81,789	$83,096	$168,305	$170,451
Operating Expenses	$11,558	$8,697	$20,617	$18,056
TOTAL Expenditures	$93,347	$91,793	$188,922	$188,507
Funding of Expenditures:				
General Fund (01)	$93,347	$91,793	$188,922	$188,507
TOTAL Funding of Exp.	$93,347	$91,793	$188,922	$188,507
Revenues:				
General Fund (01)	$0	($58,982,000)	($88,641,000)	($111,451,000)
TOTAL Revenues	$0	($58,982,000)	($88,641,000)	($111,451,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($93,347)	($59,073,793)	($88,829,922)	($111,639,507)

Technical Notes:

Department of Commerce

1. HUD Fair Market Rents, as defined in 24 CFR 888.113 are estimates of 40th percentile gross rents for standard quality units within a metropolitan area or nonmetropolitan county. The Montana Department of Commerce Housing Choice Voucher Payment Standards for 2023 are based on 120% of HUD Fair Market Rents.

NOT SIGNED BY SPONSOR

		RO	2-13-23
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*