Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0572		**Title:**	Property tax relief through income tax credit - elderly renters tax credit
Primary Sponsor:	Erickson, Ron		**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 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$2,500	$60,088	$54,588	$54,588
Revenue:				
General Fund	$0	($31,297,245)	($33,163,982)	($35,139,800)
Net Impact-General Fund Balance	($2,500)	($31,357,333)	($33,218,570)	($35,194,388)

Description of fiscal impact: This legislation provides an income tax credit for property taxes paid and expands the elderly renter's credit.

FISCAL ANALYSIS

Assumptions:

1. Section 1 of HB 572 provides a non-refundable tax credit equal to 10% of Montana property taxes paid on a primary residence, up to a maximum credit of $300. Based on figures from the 2005 American Community Survey, there are 254,458 owner-occupied houses in Montana. A sample of 254,458 residential parcels was drawn from the Department of Revenue's MODS system, and the credit was calculated for each parcel based on its actual calendar year 2006 property taxes paid. This fiscal note assumes that the parcel represents the residential improvement and land eligible for the credit for most owner-occupied homeowners. Based on this sample of 254,458 properties, the total state and local property tax liability would be $326,556,618 for tax year 2007, $349,537,729 in 2008, $375,320,806 in 2009, and $403,081,123 in 2010. The growth in the state and local property tax liability reflects the growth in the taxable value of residential property plus the growth in local mill levies.

2. Property taxes are paid in arrears, so that the property taxes paid in calendar year 2008 are the last half of the 2007 property taxes and the first half of the 2008 property taxes. Therefore, the property taxes paid during each calendar year would be $338,047,174 in 2008, $362,429,268 in 2009, and $389,200,965 in 2010.

3. Taxpayers may claim a credit equal to 10% of their property tax liability, up to a $300 maximum credit amount, for property taxes paid during that tax year. Based on the sample of 254,458 properties, the credit claimed is estimated to be ($31,881,682) for tax year 2008, ($33,813,665) for tax year 2009, and ($35,859,517) for tax year 2010.

4. This legislation would decrease state tax liability due to interactions with the federal tax system. Itemizing taxpayers claiming this credit will report a lower deduction for state taxes paid on their federal tax forms, which will increase their federal tax liability. The increased federal tax liability will increase the state itemized deduction for federal taxes paid for taxpayers not at the $5,000 deduction limit. The increased deduction will reduce state tax liability. The 109,936 taxpayers in 2005 that would likely be affected by this interaction had an average credit of $154. Assuming these taxpayers are subject to a 10% federal tax rate and a 6.9% state tax rate, the decrease in tax liability due to this interaction is estimated to be $116,818 each tax year (109,936 x $154 x 10% x 6.9%).

5. The proposed property tax credit is nonrefundable. On average over the time frame of 1997-2004, 93% of nonrefundable credits claimed are used to decrease tax liability. Therefore, the actual cost of the property tax credit, or amount of the credit used to decrease tax liability, would be ($29,758,605) in tax year 2008 ((-$31,881,682- $116,818) x 93%), ($31,555,349) in tax year 2009 ((-$33,813,665- $116,818) x 93%), and ($33,457,992) in tax year 2010 ((-$35,859,517- $116,818) x 93%).

6. The second section of HB572 increases the percentage of gross rent paid, effectively expanding the elderly homeowners and renter credit for renters. The Department of Revenue maintains a database of all elderly homeowner/renter returns filed for a given tax year. According to this database, the total elderly homeowner/renter credit claimed in 2005 was $11,580,412. A computer simulation program was applied to the 2005 elderly homeowner/renter returns to determine the total credit if the proposed legislation had been in effect for the 2005 tax year. If the proposed maximums and rate schedules had been in effect in 2005, the total elderly homeowner/renter credits claimed would have been $12,813,774, or an increase of 10.65%. The difference between the actual credits claimed and the estimated amount that would have been claimed under the proposed legislation is ($1,233,362).

7. The elderly/homeowner credit estimates in the HJR 2 were $14,446,765 in tax year 2008 and $15,103,940 in tax year 2009. Using the growth rate from tax year 2008 to tax year 2009, estimated credits will be $15,791,010 in tax year 2010. Assuming that credits will increase under the proposed law by the same percent (10.65%) as the 2005 credit increased in assumption 6, the cost of the credit would increase to $15,985,406 in tax year 2008, $16,712,572 in tax year 2009, and $17,472,818 in tax year 2010. The net increase in elderly homeowner/renter credits due to the proposed law change is $1,538,641 in tax year 2008, $1,608,632 for tax year 2009, and $1,681,808 for tax year 2010.

8. Credits for a tax year would be claimed on tax returns filed the following spring. Credits for a tax year will reduce revenue in the next higher numbered fiscal year.

9. The total of the property tax credit and the expansion of the elderly renters credit would be ($31,297,245) in tax year 2008, ($33,163,982) in tax year 2009, and ($35,139,800) in tax year 2010. Therefore the

credits will reduce revenue in FY 2009 by ($31,297,245), by ($33,163,982) in FY 2010, and by ($35,139,800) in FY 2011.

10. The Department of Revenue would require one FTE for the auditing of this credit, plus $2,500 incurred in FY 2008 for the creation of a new tax form and instructions for the credits. The total administrative costs needed to implement this legislation would be $2,500 in FY 2008, $60,088 in FY 2009, and $54,588 in FY 2010 and FY 2011.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	0.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$0	$48,642	$48,642	$48,642
Operating Expenses	$2,500	$5,546	$5,946	$5,946
Equipment	$0	$5,900	$0	$0
TOTAL Expenditures	$2,500	$60,088	$54,588	$54,588
Funding of Expenditures:				
General Fund (01)	$2,500	$60,088	$54,588	$54,588
TOTAL Funding of Exp.	$2,500	$60,088	$54,588	$54,588
Revenues:				
General Fund (01)	$0	($31,297,245)	($33,163,982)	($35,139,800)
TOTAL Revenues	$0	($31,297,245)	($33,163,982)	($35,139,800)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($2,500)	($31,357,333)	($33,218,570)	($35,194,388)

Long-Range Impacts:

1. The cost of this credit will continue to grow for future years not covered in this fiscal note.

Technical Notes:

1. As drafted, this legislation does not prohibit taxpayers from claiming a deduction for property taxes paid on the same property taxes used to claim the credit. If the legislation is amended to prohibit the deduction on amounts used to claim the credit, there will be an offsetting increase in tax liability due to decreased deductions for property taxes.
2. The bill does not specify how married couples filing separately or filing separately on the same form would divide the credit between spouses.
3. The bill does not specify how the credit would be split between non-married joint owners of a property that both use as a primary residence.
4. This bill indexes the maximum credit limit for the property tax credit using the personal consumption expenditures price deflator. Montana's tax brackets are indexed using the CPI.
5. Although the title of the bill states the credit clearly, the text of Section 1 creates confusion whether the credit cannot exceed $3,000, or the property taxes used to claim the credit cannot exceed $3,000 (resulting in a maximum credit of $300). This fiscal note assumes that the credit cannot exceed $300.

6. Paragraph 4 of Section 1 also creates confusion by mentioning an adjustment to gross household income. The property tax credit is not restricted based on gross household income. Further, paragraph four states that the Department should recompute the maximum amount of property taxes that may be incurred for an allowable credit. There is no restriction on the maximum amount of property taxes incurred; taxpayers incurring any amount of property taxes may claim the credit. The intent of paragraph 4 is assumed to index the maximum limit of property taxes used to calculate the credit of $3,000.
7. The definitions of property taxes used to calculate the property tax credit in Section 1 creates confusion because it is different than the definition of property taxes used to calculate the elderly homeowner and renter credit. Under the elderly homeowner and renter credit, "property tax billed" means taxes levied against the homestead, including special assessments and fees but excluding penalties or interest during the claim period. Under section 1, the definition for "Montana property taxes" means the ad valorem real property taxes imposed on property classified under 15-6-143 that were assessed in the calendar year on the owner's principal residence. Under the definition in new section 1, the special assessments and fees would not be included in the calculation of the property taxes paid. Further, the elderly homeowner and renter credit is based simply on the November property tax bill rather than the amount paid during the year.
8. This legislation is not clear whether manufactured homes and mobile homes not attached to real property would be eligible for the property tax credit. The definition of "Montana property taxes" uses the term real property, but also includes property classified under 15-6-134, MCA. Some mobile homes may be assessed as personal property, not as real property. However, mobile homes are classified in 15-6-134, MCA in class 4 property. This fiscal note assumes that manufactured homes and mobile homes would be eligible for the property tax credit.
9. Existing Department records would not allow validation of a property owner's claim of 7 months residence.

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