



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

<b>Bill #</b>	HB0161	<b>Title:</b>	Revise calculation of capital gains tax credit
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<b>Primary Sponsor:</b>	Hamilton, Jim	<b>Status:</b>	As Introduced
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- 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

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$2,608,000	\$2,715,000	\$2,709,000
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$2,608,000</u>	<u>\$2,715,000</u>	<u>\$2,709,000</u>

**Description of fiscal impact:** HB 161 limits the capital gains credit for Montana's personal income tax to the lesser of net capital gains income or the taxpayer's Montana taxable income. The proposed bill increases general fund revenue by \$2.61 million in FY 2023, \$2.715 million in FY 2024 and \$2.709 million by FY 2025.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Revenue (DOR)**

- Under current law, taxpayers with capital gains income are able to claim a personal income tax credit that is equal to 2% of the taxpayer's net capital gains for the tax year. The credit is non-refundable.
- HB 161 limits the capital gains income tax credit to the lesser of 2% of the taxpayer's net capital gains income or the taxpayer's Montana taxable income. The change made by HB 161 applies starting TY 2022.
- In TY 2019, 122,050 income tax returns reported nearly \$2.5 billion in capital gains income.
- Of the 122,050 returns reporting capital gains income, 90,098 reported claiming the capital gains income tax credit, with \$50.8 million in credits claimed.
- The income tax model was modified to incorporate the capital gains income tax credit made by HB 161. The estimated income and tax liability amount under the proposed law were then compared to current law income and tax liability forecasts.

- Based on the capital gains income amounts reported on TY 2019 returns, the model estimates that the proposed changes to the capital gains income tax credit in TY 2022 would increase the tax liability of full-year resident taxpayers by \$2.49 million. The tax liability change reaches \$2.50 million in TY 2025.





Tax Liability Estimates Under Current Law and HB 161			
Tax Year	Tax Liability (In Millions)		
	Current Law	Proposed Law	Change in Revenue
2022	\$1,395.68	\$1,398.17	\$2.49
2023	\$1,454.55	\$1,457.02	\$2.47
2024	\$1,521.48	\$1,523.93	\$2.45
2025	\$1,598.52	\$1,601.02	\$2.50

- As the proposed change in tax liabilities is due to a change in a tax credit, it is assumed that taxpayers will not change their withholding, or estimated payments, as a result of HB 161.
- With no changes in withholding or estimated payments, the changes in tax liability for TY 2022 will reduce general fund revenue in FY 2023, when taxpayers file their income tax return.
- The change in the estimated tax liability of full-year resident taxpayers from the department’s income tax model were adjusted to account for the changes in withholding, estimated payments, non-resident taxpayers, income tax credits and audit collections.
- Based on the adjustment used for HJ 2, the proposed bill would increase income tax revenue by \$2.61 million in FY 2023, \$2.715 million in FY 2024 and \$2.709 million by FY 2025.

*Administrative Expenses*

- The changes made by the proposed bill can be made as part of the department’s annual change process. The department does not expect to incur any significant additional costs because of this bill.

<b>Fiscal Impact:</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<b><u>Difference</u></b>	<b><u>Difference</u></b>	<b><u>Difference</u></b>	<b><u>Difference</u></b>
<b>Department of Revenue</b>				
<b>FTE</b>	0.00	0.00	0.00	0.00
<b>Expenditures:</b>				
Personal Services	\$0	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Funding of Expenditures:</b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Funding of Exp.</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Revenues:</b>				
General Fund (01)	\$0	\$2,608,000	\$2,715,000	\$2,709,000
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>\$2,608,000</u>	<u>\$2,715,000</u>	<u>\$2,709,000</u>
<b>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</b>				
General Fund (01)	\$0	\$2,608,000	\$2,715,000	\$2,709,000

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 Sponsor's Initials                      Date                      Budget Director's Initials                      Date