

1 HOUSE BILL NO. 416
2 INTRODUCED BY J. HAMILTON, D. FERN, E. STAFMAN, R. FITZGERALD, J. FITZPATRICK, P. TUSS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX CREDIT FOR RENTING A
5 DWELLING FOR LESS THAN MARKET RATE; FUNDING THE CREDIT WITH LODGING SALES TAX
6 REVENUE; PROVIDING THAT THE CREDIT IS AVAILABLE FOR DWELLINGS RENTED AT 130% OR LESS
7 OF FAIR MARKET RENT; PROVIDING THAT THE CREDIT MAY BE CLAIMED BY INDIVIDUALS, PASS-
8 THROUGHES, OR CORPORATIONS; PROVIDING THAT THE CREDIT MAY BE CARRIED FORWARD FOR 3
9 YEARS; PROVIDING DEFINITIONS; AMENDING SECTION SECTIONS 15-30-2303, AND 15-68-820, MCA;
10 AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. Section 1. Credit for renting dwelling for less than market rate. (1) A taxpayer or
15 corporation is allowed a credit against the tax imposed by chapter 30 or 31 for renting a dwelling for less than
16 market rate. The credit is available to a taxpayer or corporation that charges rent on a dwelling of less than
17 130% of fair market rent for the county in which the property is located.

18 (2) The amount of the credit is equal to:

- 19 (a) 40% of forgone rent in the first year the credit is claimed;
- 20 (b) 45% of forgone rent in the second and third consecutive years the credit is claimed; and
- 21 (c) 50% in the fourth consecutive year the credit is claimed.

22 (3) A dwelling for which the credit is claimed must meet the housing quality standards for the
23 housing choice voucher program provided for in 24 CFR, part 982.401.

24 (4) The credit allowed under this section may not exceed the taxpayer's income tax liability but
25 may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried
26 first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

27 (5) If the credit allowed under this section is claimed by a small business corporation, a pass-
28 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the

1 same proportion as used to report the entity's income or loss.

2 (6) The credit may not be claimed for a dwelling for which the rent is limited due to participation in
3 any other program that provides a benefit to the property owner for limiting the rent.

4 (7) The department may disallow the credit when the landlord and tenant have not dealt at arm's
5 length.

6 (8) A small business corporation, a pass-through entity, or a partnership may not claim the credit
7 for a dwelling rented to an employee.

8 (9) The taxpayer or corporation shall file with each claim for the credit a receipt or lease agreement
9 showing rent paid on the dwelling. In addition, a taxpayer or corporation shall, at the request of the department,
10 supply all additional information necessary to support a claim for the credit.

11 (10) Pursuant to 5-4-104, the purpose of this credit is to incentivize voluntary rent reduction, which
12 may lower rents more generally.

13 (11) For the purposes of [section 2] and this section, the following definitions apply:

14 (a) "Dwelling" means a single-family dwelling or unit of a multiple-unit dwelling that is subject to
15 property taxes in Montana.

16 (b) "Fair market rent" means the fair market rent based on the size of the dwelling as published
17 annually by the U.S. department of housing and urban development.

18 (c) "Forgone rent" means the difference between 130% of fair market rent for the county in which
19 the property is located and the actual rent charged.

20
21 **NEW SECTION. Section 2. Credit for renting dwelling for less than market rate.** (1) There is a
22 credit against the tax liability under this chapter for renting a dwelling for less than market rate as provided in
23 [section 1].

24 (2) A corporation may not claim the credit for a dwelling rented to an employee.
25

26 **NEW SECTION. Section 3. Credit for renting dwelling for less than market rate account.** (1)
27 There is an account in the state special revenue fund established in 17-2-102 known as the credit for renting a
28 dwelling for less than market rate account. Revenue in the account must be used to fund the credit provided for

1 in [sections 1 and 2] for renting a dwelling for less than market rate.

2 (2) Revenue provided for in 15-68-820(3)(c) and (4)(e) must be transferred to the account.

3 (3) The department of revenue shall annually transfer to the general fund an amount equal to the
4 credits claimed under [sections 1 and 2].

5 (4) On termination of the credit provided for in [sections 1 and 2], money in the account must
6 remain in the account until the department has made the transfer provided for in subsection (3). After making
7 the transfer provided for in subsection (3), the department of revenue shall transfer any remaining funds to the
8 account provided for in 90-6-133.

9

10 **Section 4.** Section 15-30-2303, MCA, is amended to read:

11 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
12 must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10
13 years thereafter:

14 (a) the credit for contractor's gross receipts provided for in 15-50-207; and

15 (b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

16 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and
17 during each biennium commencing 10 years thereafter:

18 (a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-
19 30-3110, and 15-31-158; and

20 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-
21 30-3111, and 15-31-159.

22 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
23 during each biennium commencing 10 years thereafter:

24 (a) the credit for infrastructure use fees provided for in 17-6-316;

25 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
26 2329, 15-31-161, and 15-31-162; and

27 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,
28 chapter 32, part 6.

1 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and
2 during each biennium commencing 10 years thereafter:

3 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

4 (b) the credit for unlocking state lands provided for in 15-30-2380;

5 (c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; ~~and~~

6 (d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174; and

7 (e) the credit for renting a dwelling for less than market rate provided for in [sections 1 and 2].

8 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
9 during each biennium commencing 10 years thereafter:

10 (a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
11 and 15-31-173;

12 (b) the earned income tax credit provided for in 15-30-2318; and

13 (c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

14 (6) The revenue interim committee shall review the tax credits scheduled for review and make
15 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
16 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
17 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or
18 terminate.

19 (7) The revenue interim committee shall review the credits using the following criteria:

20 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions
21 that may have been made regardless of the existence of the tax credit;

22 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

23 (c) whether the credit has out-of-state beneficiaries;

24 (d) the timing of costs and benefits of the credit and how long the credit is effective;

25 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
26 elimination outweigh adverse impacts; and

27 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)

28 terminates December 31, 2026--sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028--

1 sec. 24(1), Ch. 550, L. 2021.)"

2

3 **Section 5.** Section 15-68-820, MCA, is amended to read:

4 **"15-68-820. Sales tax and use tax proceeds.** (1) Except as provided in subsections (2) through (6),
5 all money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the
6 department into the general fund.

7 (2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles
8 under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit
9 of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.

10 (3) Until December 31, 2024, a portion of the revenue collected on the sale or use of
11 accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:

12 (a) 20% in the account established in 22-3-1303 for construction of the Montana heritage center;

13 ~~and~~

14 (b) 5% in the account established in 22-3-1307 for historic preservation grants; ~~and~~

15 ~~(c) 7.5% in the credit for renting a dwelling for less than market rate account established in [section~~
16 ~~3].~~

17 (4) Starting January 1, 2025, a portion of the revenue collected on the sale or use of
18 accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited or distributed as
19 follows:

20 (a) 6% in the account established in 22-3-1304 for operation and maintenance of the Montana
21 heritage center;

22 (b) 6% distributed as provided in subsection (5);

23 (c) 6% in the account established in 22-3-1307 for historic preservation grants; ~~and~~

24 (d) 7% in the account established in 17-7-209; ~~and~~

25 ~~(e) 7.5% in the credit for renting a dwelling for less than market rate account established in [section~~
26 ~~3].~~

27 (5) (a) Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-
28 124 and as provided in subsection (5)(b) of this section, the department shall determine the expenditures by

1 state agencies for in-state lodging for each reporting period and deduct 1% of that amount from the tax
2 proceeds received each reporting period. The department shall distribute the portion of the 1% that was paid
3 with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount
4 deducted less the portion paid with federal funds in the state general fund.

5 (b) The balance of the tax proceeds received each reporting period and not distributed to agencies
6 that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the
7 credit of the department of commerce for tourism promotion and promotion of the state as a location for the
8 production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to
9 the state-tribal economic development commission as follows:

10 (i) 7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks
11 that have both resident and nonresident use;

12 (ii) 68.5% to be used directly by the department of commerce;

13 (iii) (A) except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of
14 commerce to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism
15 region to the total proceeds collected statewide; and

16 (B) if 24% of the proceeds collected annually within the limits of a city, consolidated city-county,
17 resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
18 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
19 district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-
20 county, resort area, or resort area district; and

21 (iv) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal
22 economic development commission established in 90-1-131 for activities in the Indian tourism region.

23 (6) The tax proceeds received that are transferred to a state special revenue account pursuant to
24 subsection (5)(b) are allocated to the entities."

25
26 **NEW SECTION. Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an
27 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section
28 1].

Amendment - 1st Reading-white - Requested by: Jim Hamilton - (H) Taxation

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

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1 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the
2 provisions of Title 15, chapter 31, part 1, apply to [section 2].

3 (3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 30, and the
4 provisions of Title 15, chapter 30, apply to [section 3].

5

6 NEW SECTION. Section 7. Applicability. [This act] applies to income tax years beginning after
7 December 31, 2023.

8

9 NEW SECTION. Section 8. Termination. ~~(1) [This act] terminates [Sections 1 and 2] terminate~~
10 December 31, 2027.

11 (2) [Section 3] terminates December 31, 2028.

12

- END -