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HJ 35 Tax Study

66th Montana Legislature

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To: Members of the HJ 35 Tax Study Committee

From: Megan Moore, committee staff

Date: July 10, 2020

RE: Calculation of Capital Gains Tax Credit (HJ35-04)

At the HJ 35 Tax Study Committee meeting held in May 2020, Rep. Hamilton requested the drafting of a bill to revise the calculation of the capital gains tax credit. The attached draft, HJ35-04, provides that the capital gains tax credit is calculated based on the lesser of the taxpayer's net capital gains or taxable income.

The concept was included in a broader bill considered by the 2017 Legislature, [House Bill 598](#). In correspondence with the bill drafter, former Department of Revenue economist Dan Dodds provided the following example to illustrate the effects of the concept contained in HJ35-04.¹

	Current Law	HJ 35-04
	Taxable income: \$1,000,000 Capital gains: \$2,000,000	
Tax liability before capital gains credit	\$68,445	\$68,445
Credit amount	\$40,000	\$20,000
Tax liability after capital gains credit	\$28,445	\$48,445
Effective tax rate on capital gains	1.4%	2.4%

Using tax year 2018 data, the Department of Revenue estimates revenue collections would have been \$2.6 million higher if the credit had been calculated on the lesser of capital gains or taxable income.

¹ Email from Dan Dodds to Jaret Coles, Dec. 23, 2016.