

HOUSE BILL NO. 285

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EARNED INCOME TAX CREDIT; PROVIDING  
 THAT THE CREDIT IS EQUAL TO 60% OF THE FEDERAL CREDIT PLUS THE ANNUAL PCE INFLATION  
 AMOUNT; PROVIDING DEFINITIONS; AMENDING SECTION 15-30-2318, MCA; AND PROVIDING A  
 RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-30-2318, MCA, is amended to read:

**"15-30-2318. Earned income tax credit.** (1) Except as provided in subsection (3), a resident taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(2) ~~— (a) The~~ Except as provided in subsection (2)(c), the amount of the credit allowed under subsection (1) is ~~3%~~ 60% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32, plus the amount determined pursuant to subsection (2)(b).

(b) The percentage of the credit provided for in subsection (2)(a) must be adjusted annually by the inflation factor for the year in which the credit is claimed. The adjusted percentage becomes the new base for the next year's percentage calculation.

(c) The maximum credit is the amount determined for the year under section 32 of the Internal



1 Revenue Code, 26 U.S.C. 32.

2 (3) (a) Except for married taxpayers living apart who are treated as single under section 7703(b) of  
3 the Internal Revenue Code, 26 U.S.C. 7703(b), the credit is not allowed to married taxpayers if the spouses  
4 report their income on separate tax forms. Married taxpayers filing separately on the same form may allocate  
5 the credit between spouses.

6 (b) The credit is not allowed on earned income that is treated as a dividend received by a member  
7 of an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d).  
8 For the purpose of this subsection (3)(b), the amount of the state tax credit provided for in subsection (2) is  
9 reduced by the reduction percentage.

10 (4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the  
11 taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of  
12 the credit. The credit may be claimed by filing a Montana income tax return.

13 (5) For the purpose of this section, the following definitions apply:

14 (a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue  
15 Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under  
16 subsection (2).

17 (b) "Inflation factor" means a number determined for each tax year by dividing the PCE for June of  
18 the previous tax year by the consumer price index for June 2023.

19 (c) "PCE" means the implicit price deflator, or price index, for personal consumption expenditures  
20 as published in the national income and product accounts by the bureau of economic analysis of the U.S.  
21 department of commerce.

22 (d) "Reduction percentage" means a percentage that is calculated by dividing the earned income  
23 that is disallowed under subsection (3)(b) by the total amount of earned income."

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25 **NEW SECTION. Section 2. Retroactive applicability.** [This act] applies retroactively, within the  
26 meaning of 1-2-109, to income tax years beginning after December 31, 2022.

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