

SENATE BILL 239

Introduced by Waterman, et al.

1/23	Introduced
1/23	Referred to Taxation
1/23	First Reading
1/23	Fiscal Note Requested
1/28	Fiscal Note Received
1/29	Fiscal Note Printed
2/05	Hearing
3/15	Tabled in Committee

1 *Smole* BILL NO. *239*  
 2 INTRODUCED BY *Wiggin Water* *Dean C. B. Christensen*  
 3 *Ed Kelly* *John Harrington* *John Bartlett* *Yellowstone* *Boyd* *Boch*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A REFUNDABLE  
 5 EARNED INCOME CREDIT BASED ON A PERCENTAGE OF THE FEDERAL  
 6 BASIC EARNED INCOME CREDIT; ADJUSTING THE AMOUNT OF THE  
 7 CREDIT ACCORDING TO FAMILY SIZE; EXCLUDING THE CREDIT FROM  
 8 INCOME IN DETERMINING ELIGIBILITY FOR CERTAIN PUBLIC  
 9 ASSISTANCE; AMENDING SECTION 53-3-109, MCA; AND PROVIDING AN  
 10 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
 11 DATE."

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

14 NEW SECTION. **Section 1. Earned income tax credit --**  
 15 **limitation -- refund.** (1) There is allowed as a credit  
 16 against the tax imposed by 15-30-103 a percentage of the  
 17 credit allowed for the federal basic earned income credit  
 18 for which a resident individual taxpayer is eligible for the  
 19 tax year under section 32 of the Internal Revenue Code of  
 20 1986.

21 (2) The amount of the credit allowed under subsection  
 22 (1) is determined according to the following schedule:

23 (a) If the taxpayer has one dependent child who has the  
 24 same principal residence as the taxpayer, then the amount of  
 25 the credit is 5% of the amount of the credit determined

1 under section 32 of the Internal Revenue Code of 1986.

2 (b) If the taxpayer has two dependent children who have  
 3 the same principal residence as the taxpayer, then the  
 4 amount of the credit is 25% of the amount of the credit  
 5 determined under section 32 of the Internal Revenue Code of  
 6 1986.

7 (c) If the taxpayer has more than two dependent  
 8 children who have the same principal residence as the  
 9 taxpayer, then the amount of the credit is 75% of the amount  
 10 of the credit determined under section 32 of the Internal  
 11 Revenue Code of 1986.

12 (3) Except married taxpayers living apart who are  
 13 treated as single under section 7703(b) of the Internal  
 14 Revenue Code, the credit is not allowed to married taxpayers  
 15 if the husband and wife report their income on separate tax  
 16 returns.

17 (4) The credit is not allowed for temporary residents  
 18 or nonresidents of the state.

19 (5) In the case of married taxpayers filing separately  
 20 on the same return, the taxpayers must combine their income  
 21 to determine the amount of the credit due under this  
 22 section.

23 (6) The taxpayer is entitled to a refund equal to the  
 24 amount by which the credit exceeds the taxpayer's tax  
 25 liability or, if the taxpayer has no tax liability, a refund

equal to the amount of the credit.

**Section 2.** Section 53-3-109, MCA, is amended to read:

**"53-3-109. Definitions.** For the purposes of this chapter, the following definitions apply:

(1) "Acute medical need" means an illness, injury, or other serious medical condition that:

(a) demands urgent medical attention; and

(b) is expected to last less than 12 months if treated.

(2) "Basic necessities" means food, shelter, utilities, and personal needs.

(3) "Children" means minor and adult children who reside in the same household with their parents. The term includes both adoptive and natural children.

(4) "Chronic illness" or "chronically ill" means the condition of a person who is diagnosed as having an illness, injury, or physical or mental impairment that:

(a) is expected to last for a continuous period of at least 12 months; and

(b) would be considered a disability under 42 U.S.C. 1382(c) if evaluated under criteria used to determine eligibility for the federal supplemental security income program.

(5) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(6) "Employable" means the condition of a person who is not unemployable, as determined by a vocational specialist. A person who is employable is transitionally needy and is not eligible for general relief except as provided in 53-3-215.

(7) "General relief" means a program of assistance for basic necessities and medical needs for those persons determined to be eligible for such assistance.

(8) "Household" means:

(a) a collective body of persons consisting of spouses or parents and their children who reside together in the same residence; or

(b) all other persons who by choice or necessity are mutually dependent upon each other for basic necessities and who reside in the same residence.

(9) "Income" means the value of all property of any nature, earned, unearned, or in-kind, including benefits, that is reasonably certain to be received or is actually received during the month by members of a household.

(10) (a) "Lump-sum income" means a nonrecurring source of income received in a single payment by a household during any eligibility period, including but not limited to proceeds from a lawsuit, insurance settlement, inheritance, lump-sum retirement, veterans' or unemployment benefits; benefits received under the federal Social Security Act;

1 prizes; and tax refunds.

2 (b) Lump-sum income does not include the amount of the  
3 state earned income tax credit allowed under [section 1] in  
4 the month received and the following month.

5 (11) "New to Montana" means a person who has been a  
6 Montana resident for 1 month or less at the time of  
7 application.

8 (12) "Presumptive income" means the amount of financial  
9 assistance that a person would have received under the aid  
10 to families with dependent children program, as provided for  
11 in Title 53, chapter 4, part 2, if the person had not been  
12 determined ineligible due to receipt of lump-sum income,  
13 overpayment, fraud, or failure or refusal to comply with  
14 requirements for continued participation in the program.

15 (13) "Resource" means all real and personal property  
16 retained after the calendar month of its receipt and which  
17 the household or a member of the household has a legal right  
18 to sell or liquidate.

19 (14) "Secure facility" means any facility in which a  
20 person may be lawfully held against his the person's will by  
21 federal, state, or local authorities.

22 (15) "Self-sufficiency program" means a program designed  
23 to enable temporarily unemployable persons to achieve  
24 self-sufficiency and includes any combination of a  
25 self-sufficiency plan, concentrated rehabilitation

1 activities, or support services.

2 (16) "Serious barrier to employment" means a limitation  
3 in obtaining employment, as determined by a vocational  
4 specialist, that results from:

5 (a) a lack of work skills, experience, or training  
6 necessary to secure employment;

7 (b) the failure to attain a high school education or  
8 its equivalent; or

9 (c) illiteracy.

10 (17) "Serious medical condition" means a mental or  
11 physical condition that causes a serious health risk to a  
12 person and for which treatment is medically necessary.  
13 Diagnosis and determination of necessary treatment must be  
14 made by a licensed medical practitioner, and the department  
15 may confirm the diagnosis through an expert medical review.  
16 Necessary treatment includes essential medical care and  
17 other services that the department determines, by rule, to  
18 be medically necessary. A serious medical condition is  
19 limited to chronic illness, an acute medical need, or a  
20 medical condition that requires services in order for a  
21 person to obtain or retain employment.

22 (18) "Temporarily unemployable" means the condition of a  
23 person who suffers from a temporary illness, injury, or  
24 incapacity that is medically certifiable and that prevents  
25 the person from becoming immediately employable in any

substantial, gainful employment, as determined by a vocational specialist, and who:

(a) is at least 55 years of age and who has a limited ability because of advanced age to obtain or retain suitable employment, as determined by a vocational specialist; or

(b) would not be considered disabled under 42 U.S.C. 1382(c) if evaluated under criteria used to determine eligibility for the federal supplemental security income program.

(19) (a) "Unemployable" means the condition of a person who:

(i) has a serious physical, emotional, or mental handicap that is medically certified and that prevents him the person from being employed in any substantial, gainful employment, as determined by a vocational specialist; or

(ii) suffers from a permanent illness, injury, or incapacity that is medically certified and that prevents the person from working in any substantial, gainful employment, as determined by a vocational specialist.

(b) A person who is unemployable is chronically needy and must be provided general relief as provided in 53-3-215.

(20) "Vocational specialist" means an employment counselor or other experienced personnel who are qualified to evaluate a recipient's ability to work in substantial, gainful employment."

NEW SECTION. **Section 3. Codification instruction.**

[Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

NEW SECTION. **Section 4. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1992.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0239, as introduced.DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a refundable earned income credit based on a percentage of the federal basic earned income credit; adjusting the amount of the credit according to family size; excluding the credit from income in determining certain public assistance; and providing an immediate effective date and a retroactive applicability date.

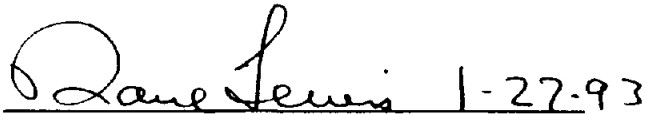
ASSUMPTIONS:

1. For purposes of calculating the credit, a taxpayer's earned income during tax years 1993 and 1994 will be equal to the taxpayer's earned income in tax year 1991 (MDOR).
2. The average Montana Earned Income Credit will be \$276.84 in both FY94 and FY95 (MDOR).
3. In each year of the biennium, there are estimated to be 27,237 households who will be eligible and will apply for the credit (MDOR).
4. Total individual income tax collections will be \$328,943,000 in FY94 and \$339,696,000 in FY95 (ROC).

FISCAL IMPACT:Expenditures:Data Processing Division

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	49.60	50.15	.55	49.60	49.90	.30
Personal Services	\$ 1,515,949	\$1,529,348	\$13,339	\$ 1,520,006	\$1,524,496	\$4,490
Operating Expenses	146,395	160,325	13,930	143,406	144,106	700
Equipment	<u>13,578</u>	<u>13,578</u>	<u>0</u>	<u>12,691</u>	<u>12,691</u>	<u>0</u>
Total	\$ 1,675,922	\$1,703,251	\$27,239	\$ 1,676,103	\$1,681,293	\$5,190
General Fund	\$ 1,046,610	\$1,073,939	\$27,329	\$ 1,046,902	\$1,052,092	\$5,190
State Special	85,313	85,313	0	86,505	86,505	0
Liquor Proprietary	<u>543,999</u>	<u>543,999</u>	<u>0</u>	<u>542,696</u>	<u>542,696</u>	<u>0</u>
Total	\$ 1,675,922	\$1,703,251	\$27,239	\$ 1,676,103	\$1,681,293	\$5,190

FISCAL IMPACT: (Continued next page)

  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

  
 MIGNON WATERMAN, PRIMARY SPONSOR DATE

Fiscal Note for SB0239, as introduced.**SB239**

FISCAL IMPACT: (Continued)

Expenditures:

Income Tax Division

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	123.45	123.95	0.50	123.45	123.95	0.50
Personal Services	\$ 3,296,520	\$3,307,701	\$11,181	\$ 3,305,267	\$3,316,448	\$11,181
Operating Expenses	1,424,031	1,433,569	9,538	1,390,128	1,394,186	4,058
Equipment	<u>72,561</u>	<u>72,561</u>	<u>0</u>	<u>52,971</u>	<u>52,971</u>	<u>0</u>
Total	\$ 4,793,112	\$4,813,831	\$20,719	\$ 4,748,366	\$4,763,605	\$15,239

Funding:

General Fund	\$ 4,298,112	\$4,318,831	\$20,719	\$ 4,238,366	\$4,253,605	\$15,239
State Special	<u>495,000</u>	<u>495,000</u>	<u>0</u>	<u>510,000</u>	<u>510,000</u>	<u>0</u>
Total	\$ 4,793,122	\$4,813,831	\$20,719	\$ 4,748,366	\$4,763,605	\$15,239

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax	328,943,000	321,403,000	(7,540,000)	339,696,000	332,156,000	(7,540,000)

Revenue Allocation:

General Fund	195,721,000	191,235,000	(4,486,000)	202,119,000	197,633,000	(4,486,000)
School Foundation	104,604,000	102,206,000	(2,398,000)	108,023,000	105,625,000	(2,398,000)
LRBF - Debt Service	<u>28,618,000</u>	<u>27,962,000</u>	<u>(656,000)</u>	<u>29,554,000</u>	<u>28,898,000</u>	<u>(656,000)</u>
Total	328,943,000	321,403,000	(7,540,000)	339,696,000	332,156,000	(7,540,000)

Net General Fund Impact (Including SEA)

(7,587,958)

(7,560,429)

SB 239