

Senate Bill No. 576

(By Senators Kessler (Acting President), Wells,
Foster, Browning, Green, Unger and Jenkins)

[Introduced February 21, 2011; referred to the Committee on
Finance.]

10 A BILL to repeal §11-21-22a of the Code of West Virginia, 1931, as
11 amended; and to amend and reenact §11-21-22 and §11-21-22b of
12 said code, all relating to personal income tax; and
13 authorizing a refundable tax credit based upon the federal
14 earned income tax credit.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §11-21-22a of the Code of West Virginia, 1931, as
17 amended, be repealed; and that §11-21-22 and §11-21-22b of said
18 code be amended and reenacted, all to read as follows:

19 **ARTICLE 21. PERSONAL INCOME TAX.**

20 *PART I. GENERAL.*

21 **§11-21-22. Refundable West Virginia Earned Income Tax Credit.**

22 In order to eliminate West Virginia personal income tax on
23 families with low incomes ~~below the federal poverty guidelines~~ and
24 to reduce the West Virginia personal income tax on working families

1 with moderate incomes ~~that are immediately above the federal~~
2 ~~poverty guidelines~~, there is hereby created a nonrefundable
3 refundable tax credit, to be known as the ~~low-income family tax~~
4 ~~credit~~, West Virginia Earned Income Tax Credit, against the West
5 Virginia personal income tax. ~~The low-income family tax credit is~~
6 ~~based upon family size and the federal poverty guidelines. The~~
7 ~~low-income tax credit reduces the tax imposed by the provisions of~~
8 ~~this article on families with modified federal adjusted gross~~
9 ~~income below or near the federal poverty guidelines: *Provided*, That~~
10 ~~for tax years beginning on and after January 1, 2009, any person~~
11 ~~who is required to pay the federal alternative minimum income tax~~
12 ~~in the current tax year is disqualified from receiving any tax~~
13 ~~credit provided under this section. The West Virginia Earned Income~~
14 Tax Credit is based upon the federal earned income tax credit.

15 **§11-21-22b. Eligibility; Amount of credit.**

16 (a) For each taxable year beginning on or after January 1,
17 2011, a West Virginia resident who is eligible for the federal earned
18 income tax credit under Section 32 of the Internal Revenue Code is
19 eligible for a credit under this chapter equal to ten percent of
20 the amount of the federal earned income tax credit that the
21 individual:

22 (1) Is eligible to receive in the taxable year; and

23 (2) claimed for the taxable year; under Section 32 of the
24 Internal Revenue Code.

1 (b) If other credits allowed are utilized by the taxpayer for
2 the taxable year, the West Virginia Earned Income Tax Credit shall
3 be applied last.

4 (c) If the amount of the credit allowed exceeds the taxpayer's
5 West Virginia personal income tax liability, the commissioner shall
6 treat such excess as an overpayment and shall pay the taxpayer the
7 amount of such excess, without interest.

8 (d) The commissioner shall make efforts every year to inform
9 taxpayers who may be eligible to receive the credit provided under
10 this section.

NOTE: The purpose of this bill is to provide low and moderate income workers with a refundable state tax credit based on the federal earned income tax credit. Current law provides for a nonrefundable tax credit based on federal poverty guidelines.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-21-22b has been completely rewritten; therefore, strike-throughs and underscoring have been omitted.