

1 **H. B. 3228**

2
3 (By Delegate Fleischauer, Skaff, Stowers,
4 Hall and Staggers)

5 [Introduced February 21, 2011; referred to the
6 Committee on Finance.]
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10 A BILL to repeal §11-21-22a of the Code of West Virginia, 1931, as
11 amended; to amend and reenact §11-21-22 and §11-21-22b of said
12 code; all relating to personal income tax; and authorizing a
13 refundable tax credit based upon the federal earned income tax
14 credit.

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

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17 be repealed; that §11-21-22 and §11-21-22b of said code be amended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

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

20 *PART I. GENERAL.*

21 **§11-21-22. ~~Working family tax credit~~ Refundable West Virginia**
22 **Earned Income Tax Credit.**

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

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

16 **§11-21-22b. Eligibility; Amount of credit.**

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

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

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

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

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

10 (d) The commissioner shall make efforts every year to inform
11 taxpayers who may be eligible to receive the credit provided under
12 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.