

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2108

FISCAL
NOTE

BY DELEGATE SPONAUGLE

[Introduced January 9, 2019; Referred
to the Committee on Finance.]

1 A BILL to repeal §11-21-22a of the Code of West Virginia, 1931, as amended; and to amend and
 2 reenact §11-21-22 and §11-21-22b of said code, all relating to personal income tax;
 3 creating the West Virginia Earned Income Tax Credit; and authorizing a refundable tax
 4 credit based upon the federal earned income tax credit.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

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

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

§11-21-22a. Definitions.

1 [Repealed]

§11-21-22b. Eligibility; amount of credit.

2 (a) (1) For each taxable year beginning after December 31, 2018, a West Virginia resident
 3 who is eligible for the federal earned income tax credit under Section 32 of the Internal Revenue

- 4 Code is eligible for a credit under this article equal to 50 percent of the amount of the federal
5 earned income tax credit that the individual:
- 6 (A) Is eligible to receive in the taxable year; and
7 (B) Claimed for the taxable year under Section 32 of the Internal Revenue Code.
- 8 (2) If the West Virginia resident is not eligible for the federal earned income tax credit
9 under Section 32 of the Internal Revenue Code solely because the resident does not have a
10 qualifying child the resident is eligible for a credit under this section equal to 50 percent of the
11 amount of the federal earned income tax credit that the individual would have been eligible for if
12 he or she had one qualifying child.
- 13 (b) If other credits allowed are used by the taxpayer for the taxable year, the West Virginia
14 Earned Income Tax Credit shall be applied last.
- 15 (c) If the amount of the credit allowed exceeds the taxpayer's West Virginia personal
16 income tax liability, the commissioner shall treat the excess as an overpayment and shall pay the
17 taxpayer the amount of the excess, without interest.
- 18 (d) The commissioner shall make an effort every year to inform taxpayers who may be
19 eligible to receive the credit provided under 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 a heading or the present law and underscoring indicates new language that would be added.

§11-21-22b has been completely rewritten; therefore, it has been completely underscored.