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.]

Intr HB2108 2019R1730

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

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

§11-21-22a. Definitions.

1 [Repealed]

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

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

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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

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.

eligible to receive the credit provided under this section.

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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.