

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Kenneth R. Plum

3. **Committee** House Finance

4. **Title** Individual Income Tax; Refundability of Low-Income Tax Credits

2. **Bill Number** HB 1151

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would make both the Tax Credit for Low-Income Individuals and the credit equal to 20 percent of the federal Earned Income Tax Credit ("EITC") refundable.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

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7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013-14	\$0	GF
2014-15	(\$216.6 million)	GF
2015-16	(\$430.4 million)	GF
2016-17	(\$403.9 million)	GF
2017-18	(\$384.1 million)	GF
2018-19	(\$368.1 million)	GF
2019-20	(\$354.7 million)	GF

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills

likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

This revenue estimate assumes that the bill would be effective for taxable years beginning on and after January 1, 2014 (see Line 10 below). This bill would have a negative General Fund revenue impact of \$216.6 million in FY 2015, \$430.4 million in FY 2016, \$403.9 million in FY 2017, \$384.1 million in FY 2018, \$368.1 million in FY 2019, and \$354.7 million in FY 2020. Under current law, neither the Tax Credit for Low-Income Individuals nor the credit equal to 20 percent of the federal EITC may exceed an individual's or married couples' Virginia income tax liability. This bill would make the portion of either credit that exceeds an individual's or married couples' Virginia income tax liability refundable beginning in FY 2015.

In Taxable Year 2011, only 52 percent of Virginia taxpayers who claimed the federal EITC filed a Virginia income tax return. If this bill is enacted, it is unknown how many more Virginia taxpayers who claimed the federal EITC would file a Virginia income tax return for purposes of claiming the credit. Therefore, the actual revenue impact of this bill could be significantly higher.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

As currently written, the effective date of this bill is not specified and the taxable year in which it would be effective is unclear. To address this issue, the Department suggests the following technical amendment:

Line 54, after Line 53

Insert: **2. That the provisions of this act shall be applicable for taxable years beginning on and after January 1, 2014.**

11. Other comments:

Virginia Low-Income Tax Credits

Virginia's allows an individual to claim either the Tax Credit for Low-Income Individuals or a credit equal to 20 percent of the federal EITC that was claimed for the taxable year:

- The Tax Credit for Low-Income Individuals is a nonrefundable individual income tax credit equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on such individual's or married person's income tax return for the taxable year.
- Virginia also allows a nonrefundable individual income tax credit equal to 20 percent of the federal EITC claimed by an individual for the taxable year. The

credit is for any individual or married persons that are eligible for the federal earned income tax credit for the taxable year and claimed such credit.

No household may claim both credits in the same taxable year. For purposes of these credits, "household" means an individual or married persons, regardless of whether such married persons file joint or separate Virginia individual income tax returns.

Virginia Tax Credit for Low-Income Individuals

For an individual or married persons filing a joint return to be eligible for the Tax Credit for Low-Income Individuals, their family Virginia adjusted gross income may not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during the taxable year. For purposes of the credit, "poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia that are updated annually in the Federal Register by the U.S. Department of Health and Human Services. The federal poverty guideline amounts are adjusted based on how many persons live in a household. The following table shows the federal poverty guideline amounts that correspond to a given number of persons living in a household for 2013:

Persons in Household	Poverty Guideline Amounts
1	\$11,490
2	\$15,510
3	\$19,530
4	\$23,550
5	\$27,570
6	\$31,590
7	\$35,610
8	\$39,630

For households with more than 8 persons, the poverty guideline amounts increase by \$4,020 for each additional person.

Federal Earned Income Tax Credit

The federal EITC is a refundable tax credit for eligible individuals who have earned income in a taxable year that is below certain threshold amounts. The amount of the federal EITC is based on the presence and number of qualifying children in the worker's family, as well as the amount of federal adjusted gross income ("AGI") and earned income. For purposes of the federal EITC, earned income includes any wages, salaries, tips, and other employee compensation includible in an individual's gross income, plus the individual's net earnings from self-employment without regard to the federal deduction for self-employment taxes. To qualify for the federal EITC, an individual's AGI and earned income must be less than:

- \$46,227 (\$51,567 for married filing jointly) if they have three or more qualifying children;
- \$43,038 (\$48,378 for married filing jointly) if they have two qualifying children;

- \$37,870 (\$43,210 for married filing jointly) if they have one qualifying child; or
- \$14,340 (\$19,680 for married filing jointly) if they do not have a qualifying child.

The maximum federal EITC for Taxable Year 2013 was \$6,044 for an individual with three or more qualifying children, \$5,372 for an individual with two qualifying children, \$3,250 for an individual with one qualifying child, and \$487 for an individual with no qualifying children.

Other States

Twenty-four states, the District of Columbia, New York City, and Montgomery County, Maryland allow individuals to claim an EITC equal to a certain percentage of the federal EITC. Nineteen states (Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Vermont, and Wisconsin), the District of Columbia, New York City, and Montgomery County, Maryland allow such credits to be refundable. Rhode Island's EITC is partially refundable. Four states (Delaware, Maine, Ohio, and Virginia) do not allow such credits to be refundable.

Refundable Tax Credits

Virginia currently allows 35 income tax credits. Of these credits, five are refundable:

- Agricultural Best Management Practices Tax Credit for individuals;
- Virginia Coal Employment and Production Incentive Tax Credit;
- Coalfield Employment Enhancement Tax Credit;
- Motion Picture Production Tax Credit; and
- Research and Development Expenses Tax Credit.

Proposed Legislation

This bill would make both the Tax Credit for Low-Income Individuals and the credit equal to 20 percent of the federal EITC refundable.

The effective date of this bill is not specified. A technical amendment is suggested on Line 10 to make this bill effective for taxable years beginning on or after January 1, 2014.

Similar Bills

House Bill 1085 and **Senate Bill 288** would extend Virginia's conformity to the federal enhanced EITC to taxable years ending before January 1, 2018.

cc : Secretary of Finance

Date: 1/28/2014 MTH
HB1151F161