

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

1. **Patron** George L. Barker

3. **Committee** Senate Finance

4. **Title** Individual Income Tax: Refundable Virginia
Earned Income Tax Credit

2. **Bill Number** SB 1297

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow any individual or married couple to claim a refundable individual income tax credit equal to 20 percent of the federal earned income tax credit ("EITC") claimed by such individual or married couple for the same taxable year.

This bill would be effective for taxable years beginning on or after January 1, 2019 and before January 1, 2026.

This is an Executive Bill.

6. **Budget amendment necessary:** No

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") and the Department of Social Services ("DSS") consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have a negative impact General Fund revenue impact of \$10.3 million in Fiscal Year 2019, \$206.0 million in Fiscal Year 2020, \$212.9 million in Fiscal Year 2021, \$220.0 million in Fiscal Year 2022, \$226.6 million in Fiscal Year 2023, \$233.8 million in Fiscal Year 2024, and \$241.1 million in Fiscal Year 2025. No budget amendment would be necessary for this bill because the General Fund revenue impact of making Virginia's EITC refundable is assumed in the Introduced Executive Budget.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Social Services

10. Technical amendment necessary: No.

11. Other comments:

Virginia Low-Income Tax Credits

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

- Virginia 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 EITC for the taxable year and claimed such a credit.
- 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.

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.

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 the worker's 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 for Taxable Year 2019, an individual's AGI and earned income must be less than:

- \$50,162 (\$55,592 for married filing jointly) if they have three or more qualifying children;
- \$46,703 (\$52,493 for married filing jointly) if they have two qualifying children;
- \$41,094 (\$46,884 for married filing jointly) if they have one qualifying child; or
- \$15,570 (\$21,370 for married filing jointly) if they do not have a qualifying child

The maximum federal EITC for Taxable Year 2019 is \$6,557 for an individual with three or more qualifying children, \$5,828 for an individual with two qualifying children, \$3,526 for

an individual with one qualifying child, and \$529 for an individual with no qualifying children.

Department of Social Services Reporting Requirement

DSS is required to provide notice regarding the availability of the federal EITC and Virginia's nonrefundable individual income tax credit equal to 20 percent of the federal EITC to certain individuals. Such individuals include all recipients of Temporary Assistance for Needy Families ("TANF"), food stamps, or medical assistance who had earned income in the prior taxable year based on information available through the Virginia Employment Commission, and according to information made available by the Department, either did not file federal or state income taxes or filed taxes but did not claim the federal or state EITC.

Other States

Twenty-eight states and the District of Columbia allow individuals to claim an EITC equal to a certain percentage of the federal EITC. There are also several localities (such as New York City, Montgomery County, Maryland, and San Francisco) that have credit programs based on EITC. Twenty-two states (California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont and Wisconsin) and the District of Columbia allow such credits to be refundable. Six states (Delaware, Hawaii, Ohio, Oklahoma, South Carolina and Virginia) do not allow such credit to be refunded.

Refundable Tax Credits

For Taxable Year 2018, Virginia allows 35 income tax credits. Of these credits, three are currently refundable:

- Agricultural Best Management Practices Tax Credit;
- Motion Picture Production Tax Credit; and
- Research and Development Expenses Tax Credit.

Proposed Legislation

This bill would allow any individual or married couple to claim a refundable individual income tax credit equal to 20 percent of the federal EITC claimed by such individual or married couple for the same taxable year. Under current law, Virginia allows a nonrefundable tax credit equal to 20 percent of the federal EITC, which means that taxpayers can only utilize the credit up to the extent of their tax liability.

This bill would also require DSS to provide notice regarding the availability of the new refundable credit to certain recipients of TANF, food stamps, or medical assistance as part of its existing notification requirement.

This bill would be effective for taxable years beginning on or after January 1, 2019 and before January 1, 2026.

Similar Legislation

House Bill 2160 is identical to this bill.

House Bill 2086 would incrementally make Virginia's EITC fully refundable by making it 50 percent refundable for Taxable Year 2018 and increasing the refundable portion by 5 percent each taxable year until it becomes fully refundable for Taxable Year 2028 and after.

House Bill 2131 would provide a \$1,000 refundable credit to any taxpayer who is 65 or older and has a family Virginia adjusted gross income that is less than 138 percent of the amount provided in the applicable poverty guidelines.

House Bill 2339 would authorize the Department to share tax information with DSS as necessary to administer outreach and enrollment for the federal EITC and Virginia low-income tax credits, child support services, and public assistance or social services benefits.

cc : Secretary of Finance

Date: 1/14/2019 RWC
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