

# DEPARTMENT OF TAXATION

## 2022 Fiscal Impact Statement

1. **Patron** Jeremy S. McPike
3. **Committee** Senate Finance and Appropriations
4. **Title** Refundable Income Tax Credit for Low-Income Taxpayers

2. **Bill Number** SB 515  
**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 and after January 1, 2023.

6. **Budget amendment necessary:** Yes.  
Item(s): Page 1, Revenue Estimates

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

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2022-23	\$159 million	GF
2023-24	(\$62 million)	GF
2024-25	(\$53 million)	GF
2025-26	(\$54 million)	GF
2026-27	(\$56 million)	GF
2027-28	(\$57 million)	GF

**8. Fiscal implications:**

Administrative Costs

The Department of Taxation 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 General Fund revenue impact of \$219 million in Fiscal Year 2024, \$213 million in Fiscal Year 2025, \$218 million in Fiscal Year 2026, \$223 million in Fiscal Year 2027, and \$229 million in Fiscal Year 2028. The introduced budget assumes a reduction of \$159 million in Fiscal Year 2023 and \$156 million in Fiscal Year

2024 to account for providing a refundable EITC equal to 15 percent of the federal EITC. However, this bill would have no revenue impact in Fiscal Year 2023. Accordingly, a budget amendment would be required increase revenues by \$159 million in Fiscal Year 2023 and to reduce revenues by \$62 million in Fiscal Year 2024 to account for the provision of a refundable EITC equal to 20 percent of the federal EITC effective for Taxable Year 2023.

**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 2022, an individual's AGI and earned income must be less than:

- \$53,057 (\$59,187 for married filing jointly) if they have three or more qualifying children;

- \$49,399 (\$55,529 for married filing jointly) if they have two qualifying children;
- \$43,492 (\$46,622 for married filing jointly) if they have one qualifying child; or
- \$16,480 (\$22,610 for married filing jointly) if they do not have a qualifying child

The maximum federal EITC for Taxable Year 2022 is \$6,935 for an individual with three or more qualifying children, \$6,164 for an individual with two qualifying children, \$3,733 for an individual with one qualifying child, and \$560 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-three states (California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Vermont and Wisconsin) and the District of Columbia allow such credits to be refundable. Five states (Delaware, Hawaii, Ohio, South Carolina and Virginia) do not allow such credit to be refunded.

#### Refundable Tax Credits

For Taxable Year 2021, Virginia allows 33 income tax credits. Of these credits, four are currently refundable:

- Agricultural Best Management Practices Tax Credit;
- Conservation Tillage and Precision Agriculture Equipment Credit;
- Motion Picture Production Tax Credit; and
- Research and Development Expenses Tax Credit.

#### Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2020 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025. Further, during the 2012 Session, the General Assembly enacted House Bill 246, which prohibits any

committee of the General Assembly from reporting any legislation that would add a new credit or renew an existing credit unless the legislation contains a sunset date of no longer than five years from the effective date of the new or renewed 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 and after January 1, 2023.

### Similar Legislation

**House Bill 1312** and **Senate Bill 343** are substantially similar to this bill, except they would be effective for taxable years beginning on and after January 1, 2022 but before January 1, 2029.

cc : Secretary of Finance

Date: 1/27/2022 JLOF  
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