

**DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement**

1. **Patron** Marcia S. "Cia" Price

2. **Bill Number** HB 621

3. **Committee** House Finance

House of Origin:

Introduced

Substitute

Engrossed

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

Second House:

In Committee

Substitute

Enrolled

5. Summary/Purpose:

This bill would make the Virginia Earned Income Tax Credit ("Virginia EITC") fully refundable. Therefore, all eligible taxpayers would be able to claim a credit equal to 20 percent of their federal Earned Income Tax Credit ("EITC"), regardless of whether they are claiming the credit on a nonrefundable or refundable basis. This bill would also expand the credit to include individuals and families who lack a valid Social Security number.

Under current law, the Virginia EITC is only partially refundable. As a result, taxpayers may only claim the full amount if they are claiming the credit on a nonrefundable basis. If they are claiming a credit on a refundable basis, they are eligible for a credit equal to 15 percent of their federal EITC rather than the full 20 percent.

This bill would be effective for taxable years beginning on and after January 1, 2024.

6. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estimates
257 and 258, Department of Taxation

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

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2024-25 | \$524,306 | 2 | GF |
| 2025-26 | \$168,707 | 2 | GF |
| 2026-27 | \$142,407 | 2 | GF |
| 2027-28 | \$142,407 | 2 | GF |
| 2028-29 | \$142,407 | 2 | GF |
| 2029-30 | \$142,407 | 2 | GF |

8. Fiscal implications:

Administrative Costs

The Department of Taxation (“the Department”) estimates that the provision of this bill expanding the Virginia EITC to include individuals and families who lack a valid Social Security number would result in administrative costs of \$524,306 in Fiscal Year 2025, \$168,707 in Fiscal Year 2026, and \$142,407 in each fiscal year thereafter. These amounts include the addition of two new full-time employees to validate information regarding taxpayers who lack a valid Social Security number, as Virginia would no longer be able to rely on federal returns to verify information for such individuals. Under the Department’s current standard processing and systems, issuing any tax refunds to taxpayers without Social Security numbers requires significant manual intervention.

The Department considers the implementation of the provision of this bill that would make the Virginia EITC fully refundable to be “routine” and does not require additional funding to implement this portion of the bill.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2025. The provision of this bill making the Virginia EITC fully refundable would result in a negative General Fund revenue impact of \$32 million in Fiscal Year 2025, \$30 million in Fiscal Year 2026, and \$29 million in Fiscal Year 2027 and each year thereafter. The provision of this bill expanding this credit to include an individual, individual’s spouse, or one or more of the individual’s children who do not have a valid Social Security number would result in an additional unknown negative General Fund revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes. The Department believes the intent of this bill is to provide:

- For those currently receiving a federal EITC, a fully refundable Virginia EITC in an amount equal to twenty percent of the federal EITC claimed, and
- For those taxpayers who were disallowed the federal EITC in whole or in part, due to the lack of valid social security number, a refundable Virginia EITC equal to twenty percent of the federal EITC for which they would have been eligible if they had been able to meet the Social Security number requirement.

While Lines 50-53 make those lacking a valid Social Security number eligible for the credit, the amount of credit that they would be eligible for would equal 20 percent of the federal EITC amount claimed by the taxpayer on their federal return according to Lines 54-55. Because those without a valid Social Security number are not included in the calculation of the federal EITC, any Virginia EITC based on the amount of the federal EITC actually claimed would also exclude them from the Virginia EITC. Technical amendments are

necessary to clarify what the basis of the credit would be for taxpayers without a Social Security number. As a result, the following technical amendments are suggested:

Line 49 after “married persons”

Strike: “eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, or who would have been entitled to such credit under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's dependent children does not have a valid Social Security number,”

Line 54 after “20 percent of”

Insert: “the greater of (i)”

Line 56 after “taxable year”

Insert: or (ii) the credit that would have been claimed by the individual or married persons for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year but for the fact that the individual, the individual's spouse, or one or more of the individual's dependent children does not have a valid Social Security number.

11. Other comments:

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. Taxpayers are required to provide a valid Social Security number for themselves and each dependent they are claiming in the calculation of the EITC.

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 2023, an individual's AGI and earned income must be less than:

- \$56,838 (\$63,398 for married filing jointly) if they have three or more qualifying children;
- \$52,918 (\$59,478 for married filing jointly) if they have two qualifying children;
- \$46,560 (\$53,120 for married filing jointly) if they have one qualifying child; or
- \$17,640 (\$24,210 for married filing jointly) if they do not have a qualifying child.

The maximum federal EITC for Taxable Year 2023 is \$7,430 for an individual with three or more qualifying children, \$6,604 for an individual with two qualifying children, \$3,995 for an individual with one qualifying child, and \$600 for an individual with no qualifying children.

Virginia Low-Income Tax Credits

Virginia allows an individual to claim either:

- The Tax Credit for Low-Income Individuals or
- The Virginia Earned Income Tax Credit (“Virginia EITC ”).

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.

The Virginia EITC generally equals 20 percent of the federal EITC. However, to the extent that a Virginia resident wishes to claim the Virginia EITC on a refundable basis, their credit is limited 15 percent of the federal EITC rather than 20 percent. Because Virginia residents claiming the credit on a refundable basis do not receive the full 20 percent, the Virginia EITC is referred to as “partially refundable.”

Proposed Legislation

This bill would make the Virginia EITC fully refundable. Therefore, all eligible taxpayers would be able to claim a credit equal to 20 percent of their EITC, regardless of whether they are claiming the credit on a nonrefundable or refundable basis. This bill would also expand the credit to include individuals and families who lack a valid social security number.

Under current law, the Virginia EITC is only partially refundable. As a result, taxpayers may only claim the full amount if they are claiming the credit on a nonrefundable basis. If they are claiming a credit on a refundable basis, they are eligible for a credit equal to 15 percent of their federal EITC rather than the full 20 percent.

This bill would be effective for taxable years beginning on and after January 1, 2024.

Similar Bills

Senate Bill 183 is identical to this bill.

cc : Secretary of Finance

Date: 1/29/2024 ALS
HB621F161