1   **H. B. 2630**

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3   (By Delegates Sponaugle, Perdue, Reynolds, Marcum, H. White,
4   Campbell, Bates, R. Phillips, Hartman, Morgan and Pushkin)
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6   [Introduced February 5, 2015; referred to the

7   Committee on Finance.]

FISCAL NOTE

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10   A BILL to repeal §11-21-22a of the Code of West Virginia, 1931, as amended; and to amend and

11   reenact §11-21-22 and §11-21-22b of said code, all relating to personal income tax; creating

12   the West Virginia Earned Income Tax Credit; and authorizing a refundable tax credit based

13   upon the federal earned income tax credit.

14   *Be it enacted by the Legislature of West Virginia:*

15   That §11-21-22a of the Code of West Virginia, 1931, as amended be repealed; and that

16   §11-21-22 and §11-21-22b of said code be amended and reenacted, all to read as follows:

17   **ARTICLE 21. PERSONAL INCOME TAX.**

18   PART I. GENERAL.

19   **§11-21-22. ~~Working family tax credit~~ Refundable West Virginia Earned Income Tax Credit.**

20   In order to eliminate West Virginia personal income tax on families with <u>low</u> incomes ~~below~~

21   ~~the federal poverty guidelines~~ and to reduce the West Virginia personal income tax on <u>working</u>

22   families with <u>moderate</u> incomes ~~that are immediately above the federal poverty guidelines,~~ there is

23   hereby created a ~~nonrefundable~~ <u>refundable</u> tax credit, to be known as the ~~low-income family tax~~

1 ~~credit,~~ <u>West Virginia Earned Income Tax Credit,</u> against the West Virginia personal income tax. ~~The~~

2 ~~low-income family tax credit is based upon family size and the federal poverty guidelines. The~~

3 ~~low-income tax credit reduces the tax imposed by the provisions of this article on families with~~

4 ~~modified federal adjusted gross income below or near the federal poverty guidelines:~~ *~~Provided,~~* ~~That~~

5 ~~for tax years beginning on and after January 1, 2009, any person who is required to pay the federal~~

6 ~~alternative minimum income tax in the current tax year is disqualified from receiving any tax credit~~

7 ~~provided under this section.~~ <u>The West Virginia Earned Income Tax Credit is based upon the federal</u>

8 <u>earned income tax credit.</u>

9 **§11-21-22b. Eligibility; amount of credit.**

10 <u>(a) (1) For each taxable year beginning after December 31, 2014, a West Virginia resident</u>

11 <u>who is eligible for the federal earned income tax credit under Section 32 of the Internal Revenue</u>

12 <u>Code is eligible for a credit under this article equal to fifty percent of the amount of the federal</u>

13 <u>earned income tax credit that the individual:</u>

14 <u>(A) Is eligible to receive in the taxable year; and</u>

15 <u>(B) Claimed for the taxable year under Section 32 of the Internal Revenue Code.</u>

16 <u>(2) If the West Virginia resident is not eligible for the federal earned income tax credit under</u>

17 <u>Section 32 of the Internal Revenue Code solely because the resident does not have a qualifying child</u>

18 <u>the resident is eligible for a credit under this section equal to fifty percent of the amount of the</u>

19 <u>federal earned income tax credit that the individual would have been eligible for if he or she had one</u>

20 <u>qualifying child.</u>

21 <u>(b) If other credits allowed are used by the taxpayer for the taxable year, the West Virginia</u>

22 <u>Earned Income Tax Credit shall be applied last.</u>

1   (c) If the amount of the credit allowed exceeds the taxpayer's West Virginia personal income

2 tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer

3 the amount of the excess, without interest.

4   (d) The commissioner shall make an effort every year to inform taxpayers who may be

5 eligible to receive the credit provided under this section.

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.

Strike-throughs indicate language that would be stricken from 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.