

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 316

BY SENATORS JEFFRIES, BALDWIN, BEACH, OJEDA,
PREZIOSO, ROMANO, SMITH, FACEMIRE, AND STOLLINGS
[Originating in the Committee on Health and Human
Resources; Reported on February 21, 2018]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §11-21-97, relating to creating a refundable personal income tax credit to
3 encourage persons receiving public assistance to get married; reducing the so-called
4 marriage penalty that may exist in certain public assistance programs; declaring legislative
5 intent; defining terms; requiring certain facts be proven to obtain the credit; detailing how
6 the credit is calculated; authorizing procedural rules; and authorizing the sharing of
7 confidential information between the Tax Commissioner and the Secretary of the
8 Department of Health and Human Resources.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX

§11-21-97. Refundable credit for certain married persons.

1 (a) Legislative Intent – The Legislature finds that there are certain persons who receive
2 public assistance that, due to the means test required by the public assistance program, are
3 dissuaded from getting married. This is commonly referred to as a marriage penalty because a
4 person receiving the benefit and living with his or her partner already would receive a reduced
5 benefit if he or she were to get married. The intent of this section is to reduce the impact of any
6 actual marriage penalty for the first five taxable years after marriage.

7 (b) Definitions – For the purposes of this section, unless the context clearly shows
8 otherwise:

9 (1) “Public assistance benefit” means any monetary benefit received by a person from a
10 public assistance program for the person or his or her minor dependents; and

11 (2) “Public assistance program” includes any state or federal program that provides a
12 public assistance benefit based, at least in part, on a person’s income. Examples of public
13 assistance programs include Temporary Assistance for Needy Families (TANF), Supplemental
14 Nutrition Assistance Program (SNAP), Medicaid, or the Children’s Health Insurance Program
15 (CHIP).

16 (c) Creation of refundable tax credit – There is hereby created a refundable credit against
17 the taxes imposed by this article to all persons who can prove the following:

18 (1) Prior to getting married, he or she received a means tested public assistance benefit;

19 (2) He or she was married within the previous five taxable years and is still married at the
20 time of filing;

21 (3) After becoming married, he or she lost or had a reduction in the public assistance
22 benefit he or she received prior to marriage due to a change in the means test analysis that
23 included the earnings of his or her spouse;

24 (4) The dollar amount of the difference in benefits received between the time prior to
25 becoming married and the time after becoming married, solely due to the impact of the marriage
26 on the means test, and extrapolated to an annualized amount; and

27 (5) He or she is filing a joint tax return with his or her spouse;

28 (d) Amount of refundable tax credit – The refundable credit authorized by this section is
29 for an amount equal to the lesser of the actual annualized amount proven as required by §11-24-
30 97(c)(4) of this code and \$5,000.

31 (e) Time limitation – The refundable credit authorized by this section shall be available to
32 eligible persons for a period of five consecutive years.

33 (e) Rulemaking – The tax commissioner may promulgate procedural rules in accordance
34 with §29A-3-1 et seq. of this code to expand upon the process required to obtain the credit
35 authorized by this section.

36 (f) Confidential information – The tax commissioner may enter into a written agreement
37 with the Secretary of the Department of Health and Human Resources to create a protocol for the
38 sharing of confidential information in order to confirm information regarding public assistance
39 recipients means tests generally and with respect to specific tax filers. All information exchanged
40 pursuant to this authorization shall enjoy the same level of confidentiality and protection in the
41 hands of the tax commissioner as if it were in the hands of the Department of Health and Human

42 Resources.